

COOPER GRACE WARD -(RACQ)
Requirement # 1685271
File 540158/1
Volume 1 of 1 ORIGINAL

QUEENSLAND FLOODS COMMISSION OF INQUIRY
T AFFIDAVIT OF GRAHAM IAN DALE SWORN 1 SEPTEMBER 2011

FCI

Date:

27/10/11 jm

Exhibit Number:

891

QUEENSLAND FLOODS COMMISSION OF INQUIRY

I, **GRAHAM IAN DALE** c/- 2649 Logan Road Eight Mile Plains, Brisbane in the State of Queensland, General Manager, say on oath:

BACKGROUND

1. I am the General Manager, Personal Insurance Claims of RACQ Insurance Limited (**RACQ Insurance**).
2. This affidavit is provided on behalf of RACQ Insurance in response to a notice served on me by Justice C E Holmes, Commissioner of Inquiry, pursuant to section 5(1)(d) of the Commissions of Inquiry Act 1950 to provide information in respect of the matters listed in correspondence from Ms Jane Moynihan dated 22 August 2011 (First Letter of Inquiry).
3. Copies of the First Letter of Inquiry and Commissioner Justice C E Holmes letter of 25 August 2011 and are Exhibits 1 and 2 to this affidavit.

RESPONSE TO FIRST LETTER OF INQUIRY

4. The matters set out below are not, or are not necessarily, matters of which I have direct knowledge other than by having regard to the records of RACQ Insurance (which I have done in order to provide this affidavit).

Issue 1.1

5. The account provided by Ms Sihvola as outlined in paragraph 1 of the First Letter of Inquiry does not accord fully with RACQ Insurance's records.

Issue 1.2

6. RACQ Insurance's records show that:
 - a) Ms Sihvola made a claim on her policy by telephone at 6.27pm on 13 January 2011. (The transcript of this conversation which is Exhibit 34.a is mistakenly dated 11 January 2011. This date was erroneously inserted by RACQ Insurance's solicitors when producing it for provision to the Financial Ombudsman Service (**FOS**). They have told me that it should be dated 13 January 2011.)

Signed: 

AFFIDAVIT
Filed on behalf of RACQ Insurance

Taken by: 

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b) When making her claim, a discussion took place between Ms Sihvola and RACQ Insurance's telephone operator. That conversation, which was electronically recorded, was to the following effect:

- (i) basic information was obtained from Ms Sihvola such as the time and date of the incident, verification of her full name, the postcode and address of the affected property, telephone contact details and details of any criminal offences committed by Ms Sihvola:
- (ii) Ms Sihvola was told that her policy did not cover "Flood", that her policy did cover "Flash flood and stormwater run-off" up to 50% of her sum insured or \$25,000, whichever was higher. The definition of Flash flood and stormwater run-off was read out to her and she was also told that her claim would be lodged and as with all of RACQ Insurance's customers who had been affected by the recent floods, a loss adjuster would inspect the property and report back and that this could not happen until the water had receded. Ms Sihvola was informed the loss adjuster would call to make arrangements.
- (iii) Ms Sihvola was given some information about what to keep and what to throw away once she returned to her house and to keep photographs of everything.
- (iv) Ms Sihvola was then told that her claim number was [REDACTED]. She was told that her excess was \$300 and would be applicable once the claim was accepted, which would also affect her no claim discount. She was told that if she had any concerns or queries she could call 137 202 seven days a week.
- (v) In response to a question from Ms Sihvola about the "building itself", the operator stated that Stream would look at the building and "then MYI Freemans possibly the next loss adjusters and they will look at the contents portion".

7. In its 'business as usual' claims handling processes, RACQ Insurance uses a company called Stream Build Assist (**Stream**) to assess building property damage claims and MYI Freemans Ltd (**MYI Freemans**) and other RACQ Insurance employed loss adjusters for contents claims. Stream are specialists in the field of building damage and have the expertise to manage all aspects of building damage claims including causation, initial make-safes for homes, preparing scopes of works, organising competitive quotations for repair works, arranging builders and supervising the repair works.

8. In October 2010 and again in mid-December 2010, severe storms occurred in Brisbane and surrounding regions. These storms caused significant property damage. RACQ

Signed:

[REDACTED]

Taken by:

[REDACTED]

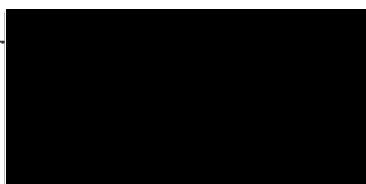
Insurance received approximately 1,650 household claims from the mid-December storms alone. Stream was already heavily occupied with the management of claims from these events when the Queensland Floods occurred.

9. When the December flooding events occurred in Queensland (ex-Tropical Cyclone Tasha) I made the decision that MYI Freemans, who are also a contracted service provider for RACQ Insurance, would take the loss adjusting lead on claims from this event which occurred outside South East Queensland. When the January flood events happened these were centred around South East Queensland and I made the decision that MYI Freemans would take the loss adjusting lead for claims arising from these events also.
10. Taking the loss adjusting lead for claims for these events meant that the MYI Freemans loss adjuster would be the primary loss adjusting contact for the customer and carry out initial inspections to understand the circumstances of the loss, assess the emergency needs of the customer and, as appropriate, settlement of contents claims. This approach meant that Stream would be able to focus on the repair and reinstatement aspects of the large numbers of anticipated building claims once approved. These decisions were made because of the unique circumstances of these events and to ensure best utilisation of these service providers to deliver service to our customers.
11. The script provided to our operators was then to only state "Your claim has been referred to a Loss Adjuster who will contact you to arrange a date and time to view the damage" (and I note that in substance this operator did so as recorded in the fourth row on page 4 of the transcript which is Exhibit 34.a). However, in suggesting that there might have been two loss adjusters attending, it seems the operator who spoke to Ms Sihvola on 13 January 2011 was referring to the business as usual practice.
12. I had satisfied myself that MYI Freemans had the resources and expertise to provide the loss adjusting services I required of them in support of our management of claims from these events.

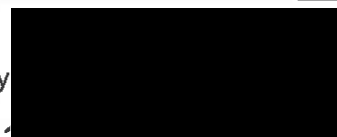
Issue 1.3

13. The records that RACQ Insurance has in relation to the telephone conversation are:
 - a) the transcript of the electronic recording of the conversation between and Ms Sihvola and the operator which is the first transcript in the bundle of transcripts exhibited to this affidavit as Exhibit 34; and
 - b) a copy of the electronic recording on a disk which is exhibited to this affidavit as Exhibit 35.

Signed:



Taken by



Issue 2.1

14. The dates on which RACQ Insurance contacted Ms Sihvola, the mode of each communication and details of when and how Ms Sihvola was informed of the appointment of the loss adjuster (along with other relevant events in the chronology) are set out in the schedule which is Exhibit 3 to this affidavit. Ms Sihvola was informed of the appointment of a loss adjuster in the telephone conversation on 13 January 2011. MYI Freemans were instructed to arrange an assessment of Ms Sihvola's claim on 17 January 2011 (see Exhibit 36). The report prepared by MYI Freemans dated 23 February 2011 records that MYI Freemans contacted Ms Sihvola on 24 January 2011.

Issue 2.2

15. The records of the communications referred to in Exhibit 3 are identified in that Exhibit. These include notes entered onto RACQ Insurance's ClaimCenter computer system by the member of the claims department who undertook the relevant activity. Exhibit 4 to this affidavit is a print out of activities from ClaimCenter relating to Ms Sihvola. Copies of all correspondence passing between RACQ Insurance and Ms Sihvola about her claim are included in Exhibits 6 to 32 to this affidavit.

Issue 2.3

16. No law firm or other firm managed Ms Sihvola's claim. MYI Freemans were appointed to undertake loss adjustment duties. The MYI Freemans office dealing with Ms Sihvola's claim was the Gold Coast office. Cooper Grace Ward Lawyers provided advice and assistance in relation to the dispute resolution process. However the claim was managed solely by RACQ Insurance.

Issue 3.1

17. As to the MYI Freemans site report relevant to Ms Sihvola (Exhibit 42):
- a) the material in the first and third boxes on page 1 is accurate;
 - b) the material in the second box is accurate save that I am not certain whether Ms Sihvola was in fact contacted on 24 January 2011;
 - c) the material in the fourth box on page 1 is accurate save that the policy inception and expiry dates are wrong (the policy being renewed on 16 April 2010);
 - d) the material in the box headed "Reserve" on page 2 is correct;
 - e) as to the rest of the report, I have no reason to doubt the accuracy of the material provided.
18. Further, the information contained in MYI Freemans's Site Report in respect of Ms Sihvola's property as outlined in paragraph 3 of the First Letter of Inquiry generally

Signed:

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accords with RACQ Insurance's records. The records of RACQ Insurance (aside from the MYI Freemans Site Report itself) indicate that:

- a) On 17 January 2011 RACQ Insurance emailed its instructions to MYI Freemans (see Exhibit 36).
 - b) On 19 January 2011 MYI Freemans emailed RACQ Insurance confirming receipt of instructions (Exhibit 37).
 - c) On 1 February 2011 MYI Freemans attempted to call Ms Sihvola but her phone appeared to be disconnected (see Exhibit 38).
 - d) On 9 February 2011 MYI Freemans received a call from Ms Sihvola and made a notation to call Ms Sihvola back as soon as possible (see Exhibit 39).
 - e) On 17 February 2011 MYI Freemans made contact with Ms Sihvola and arranged to undertake an assessment on 18 February 2011 (see Exhibit 40).
 - f) On 18 February 2011 MYI Freemans attended Ms Sihvola's property.
 - g) On 22 February 2011 MYI Freemans completed a flood checklist in relation to Ms Sihvola's property (see Exhibit 41).
19. On 28 February 2011 MYI Freemans provided RACQ Insurance with a copy of its report dated 23 February 2011 (see Exhibit 42).

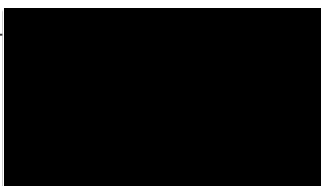
Issue 3.2

20. A copy of RACQ Insurance's instructions to MYI Freemans is Exhibit 36 to this affidavit

Issue 3.3

21. In relation to Ms Sihvola's account and observations of the inspection, I agree that one, not two, loss adjusters attended her property. The purpose of all inspections carried out by loss adjusters of flood affected properties was to enable the loss adjuster to prepare a report to RACQ Insurance on the general nature and extent of the damage and to state whether a report by a hydrologist was required. Due to the large numbers of claims that RACQ Insurance received and which were required to be assessed, the amount of time that loss adjusters could spend at each property was necessarily limited. However, I consider that it was not necessary for the loss adjuster to spend a lot of time on an individual inspection as the necessary information could be obtained in a relatively short space of time.
22. The information contained in MYI Freemans report of 23 February 2011 (Exhibit 42) including the photographs were, in my view, sufficient to enable a preliminary view to be formed about the nature of the damage suffered by the property and whether the property had suffered water inundation as claimed.

Signed:



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23. In addition to preparing its Site Report, MYI Freemans also completed a Flood Checklist which sets out, amongst other things, Ms Sihvola's observations of the inundation of her property (Exhibit 41). This suggests to me that Ms Sihvola was asked relevant questions by the loss adjuster and that information was provided.
24. With respect to the comment "nor did [the loss adjuster] seem aware of [Ms Sihvola's] particular circumstances", I consider that RACQ Insurance had provided MYI Freemans with sufficient information to enable it to carry out an inspection of Ms Sihvola's property. The instructions provided to MYI Freemans (Exhibit 36) contained Ms Sihvola's name and address, her contact numbers, details of her policy and a summary of the information Ms Sihvola provided to the operator when making her claim. This information was sufficient to inform the loss adjuster of Ms Sihvola's circumstances for the purposes of carrying out an inspection of the type required in the circumstances of the Queensland Floods.
25. With respect to the comment that the loss adjuster "could not answer Ms Sihvola's questions, apparently because he did not have the information to do so...", I repeat what I have said above; namely, that RACQ Insurance had provided MYI Freemans with sufficient information to enable it to carry out an appropriate inspection of Ms Sihvola's property. I do not know what questions Ms Sihvola put to the loss adjuster which he was allegedly unable to answer but if the questions posed were outside of his knowledge or level of authority, for example, "when will I be paid?" or "is my loss covered?", a loss adjuster would be likely to refer Ms Sihvola to RACQ Insurance.

Issues 4.1- 4.2

26. The decision on Ms Sihvola's claim was made on 31 March 2011 and the decision communicated to her on 7 April 2011.

Issue 4.3

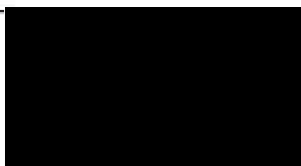
27. As set out in RACQ Insurance's submission to the Queensland Floods Commission of Inquiry dated 11 May 2011 (**the Submission**), the steps taken by RACQ Insurance to determine inundation claims arising from the Queensland Floods were as follows:
- a) A loss adjuster was appointed to carry out an inspection of affected properties.
 - b) The loss adjuster prepared a report on the nature and extent of the damage to the property and made a recommendation as to whether a report by a hydrologist was required.
 - c) Assuming a hydrologist's report was required, RACQ Insurance's hydrologist, Water Technology, was instructed to prepare a report on a geographical basis for the "catchment" region in which the individual customer's property was located.

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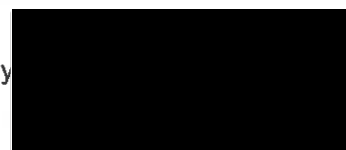
Taken by:

- d) The reasons for the decision to instruct Water Technology to report on a geographical basis are set out in the Submission. In summary, this decision was made as, given the large number of claims that were required to be investigated across Queensland, the limited number of hydrologists who were available and the likelihood of common factual issues affecting the various regions in which floods occurred, it was considered this was the fastest way to have reports prepared.
 - e) Having decided to have hydrological investigations carried out in a region, it was then necessary to prepare lists of all inundation claims that fell within the relevant region and to apply Water Technology's findings to those individual properties. Given the number of claims that RACQ Insurance had received and the fact that claims continued to be made after investigations had commenced (and in many instances after they had been completed), this was a time consuming task.
 - f) Given the factual complexities of the Queensland Floods and the wording of RACQ Insurance's policy (which as set out in the Submission covered Flash flood and stormwater run-off but not Flood as those terms are defined in the Policy), RACQ Insurance obtained legal advice on policy response before making its final decision on claims.
28. As also referred to in the Submission, the above steps were taking place in the context of a large number of claims (including flooding across large parts of Queensland, earlier hail and storm damage, and, after 2 February 2011, damage from Cyclone Yasi), which placed heavy demands on the RACQ Insurance claims team, hydrologists and loss adjusters. In particular, in the last 10 days of March RACQ Insurance received Water Technology reports with respect to many other areas allowing decisions to be made with respect to many claims. All this contributed to the time taken when dealing with claims at that time.
29. The steps that were taken to determine Ms Sihvola's claim and the dates of those steps are set out below:
- a) On 17 January 2011 MYI Freemans were instructed to arrange an assessment and report on Ms Sihvola's claim.
 - b) On 2 February 2011 RACQ Insurance's hydrologist, Water Technology, was formally briefed to investigate the cause of inundation in Brisbane (Water Technology had been informally engaged by RACQ Insurance around 14 January 2011). As part of this brief, RACQ Insurance provided Water Technology with a list of addresses for claims where to that time a loss adjuster had reported indicating inundation had occurred and recommending hydrological investigation. At that point RACQ Insurance had not received the MYI Freemans

Signed:



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report in relation to Ms Sihvola's claim. As further reports were received, updated lists were provided to Water Technology.

- c) Water Technology provided its initial report into the Brisbane region on 2 March 2011. A copy of the body of that report is Exhibit 46. That particular report took into account a list of claims where a loss adjuster had reported indicating inundation had occurred and recommending hydrological investigation which was current as at about 22 February 2011.
 - d) An updated list of claims was provided to Water Technology on 14 March 2011 (current as at about 9 March 2011). That updated list incorporated additional claims in respect of which a loss adjuster had reported as mentioned above recommending hydrological investigation. By this time that included Ms Sihvola's claim. Additional claims were also included in that list as a result of internal reconciliation conducted by RACQ Insurance.
 - e) Water Technology then completed its further report into the Brisbane region (which considered Ms Sihvola's claim) which I received on 21 March 2011. A copy of that report is Exhibit 47 (again excluding schedules).
30. I received Water Technology's first report into the Brisbane Region dated March 2011, along with certain legal advice, on 2 March 2011. The report included schedules of claims essentially divided into two categories, those where the report confirmed the cause to be Flood (Schedule A) and those where further investigations were required to determine the cause (Schedule B). I read Water Technology's report and the legal advice. I discussed the report with the CEO of RACQ Insurance, Bradley Heath who had also reviewed the report. The hydrological evidence indicated that in general the flooding in the Brisbane region was "Flood" for the purposes of RACQ Insurance's household Product Disclosure Statement. A list of claims where the cause had been determined within the first report was then prepared for action by the Dedicated Response Team. When I received Water Technology's further report on 21 March 2011, I read it. It attached revised schedules which included Ms Sihvola's property in Schedule A, thus being one where the hydrological evidence indicated inundation by Flood.
31. After I had made a decision as to the cause of inundation in respect of those claims, there are various processes within RACQ Insurance to be followed to check whether there is some particular demonstrated reason for a claim to be accepted or declined irrespective of that decision. This is dealt within the Dedicated Response Team. Additionally, they would also consider whether the customer is eligible for a payment from the Special Fund referred to in paragraph 15 of the Submission.
32. Then on 31 March 2011 a Team Leader within the Dedicated Response Team determined that Ms Sihvola's claim was declined.

Signed:

Taken by:

33. Once the process of individually reviewing claims had been completed, operators within the Dedicated Response Team then telephoned customers to inform them of their claims decisions. This was a very time consuming process as it was often necessary to offer comfort and support to customers, particularly where their claims were being declined.
34. As mentioned above, Ms Sihvola was notified of her claim decision by telephone on 7 April 2011.

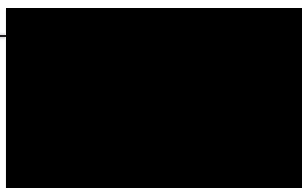
Issue 4.4

35. RACQ Insurance relied on the following information in making its decision on Ms Sihvola's claim:
- a) the information provided by Ms Sihvola when she submitted her claim on 13 January 2011;
 - b) reports of Water Technology dated March 2011 and 18 March 2011 (Exhibits 46 and 47);
 - c) legal advice.
36. RACQ Insurance had further information in relation to Ms Sihvola's claim. This included MYI Freeman's Site Report (Exhibit 42) and Flood Checklist (Exhibit 41). It also included the correspondence and communications between Ms Sihvola and RACQ Insurance concerning her allegation that she was told her policy covered Flood. But to that date (and indeed subsequently) RACQ Insurance has been unable to find anything to support the contention that Ms Sihvola was told her policy covered her for Flood.
37. The documents referred to in paragraphs 35 (b) and (c) were not provided to Ms Sihvola as Ms Sihvola did not contend that the cause of inundation of her property was other than Flood, but rather contended that she had been told that her policy covered her for Flood. Further, those documents were privileged.
38. I believe the MYI Freeman's Site Report was provided to Ms Sihvola in the course of the FOS review process referred to below. Further, a copy of each of the Water Technology reports relating to Brisbane (excluding the schedules) was provided to Ms Sihvola by letter dated 19 August 2011. A copy of that letter (excluding attachments) is Exhibit 32.

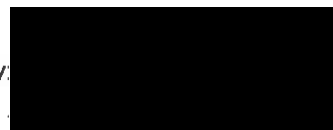
Issue 4.5

39. There were many factors that influenced the timing of the determination of Ms Sihvola's claim. They are:
- a) the volume of claims RACQ Insurance had to deal with;
 - b) the need to obtain a loss adjuster's report and the time it was provided to RACQ Insurance;

Signed:



Taken by:



- c) the need to obtain a hydrologist's report and the time when those reports were provided to RACQ Insurance;
 - d) the time taken for the Dedicated Response Team to consider the claim (and eligibility for a payment from the Special Fund) following the determination made by me as to the causation of loss and then to communicate it to Ms Sihvola.
40. Her claim was, I believe, dealt with in a timely manner in the context of all of the circumstances.

Issue 4.6

41. Ms Sihvola was advised of her claim decision by telephone on 7 April 2011 and this was confirmed by a letter dated 7 April 2011. I note that the telephone conversation on 7 April 2011 does not appear in the ClaimCenter notes for the matter (Exhibit 4). However, I have reviewed our records and confirm that a call was made to Ms Sihvola on 7 April 2011. The purpose of this call was to inform Ms Sihvola of the outcome of her claim and eligibility for a payment from the Special Fund. This is the same date as the letter sent to her by RACQ Insurance informing her that her claim had been declined. A copy of the record confirming that a call was made to Ms Sihvola on 7 April 2011 is Exhibit 10 and a copy of the letter to Ms Sihvola on that date is Exhibit 11.

Issue 5.1

42. Ms Sihvola wrote to RACQI on 4 May 2011 in a letter addressed to the Customer Dispute Resolution Department (Exhibit 13) stating that she was dissatisfied with the decision to decline her claim and that she "was told on the phone, prior to the flood, my Home & Contents insurance included flood cover".

Issue 5.2

43. The procedure which was adopted was as follows.
- a) First, [REDACTED] conducted a review of the RACQ Insurance information in respect of the claim. [REDACTED] had responsibility for performing a final review of complaints prior to consideration by the IDR Manager. This is effectively a final review of the claim by the Claims Division before it proceeds to Internal Dispute Resolution. The purpose of this is to ensure that RACQ Insurance had followed the appropriate processes, that nothing has been overlooked and that everything that can be done on RACQ Insurance's part to resolve the matter has been done.
 - b) In the event that she identified the need for any further investigation, the claim would have been passed back to operations to undertake those further investigations. She did not, however, identify any such need in respect of Ms Sihvola's claim.

Signed:

Taken by:

- c) [REDACTED] completed this review on 11 May 2011 and determined that the file should proceed through the IDR process.
- d) The matter was then passed to the IDR Manager's Assistant on 11 May 2011.
- e) The IDR Manager's Assistant prepared a "brief" of all of the material relating to the claim to be provided to the IDR Manager.
- f) [REDACTED] (who no longer works for RACQ Insurance) was the IDR Manager who conducted the review of Ms Sihvola's dispute. The details of the information available to [REDACTED], and the steps he took, are set out below.

Issue 5.3

- 44. The information available to the IDR Manager of RACQ Insurance consisted of RACQ Insurance's complete internal records relating to the claim and all communications between RACQ Insurance and Ms Sihvola, both written and oral.
- 45. In particular, this information included:
 - a) five recordings of telephone conversations between Ms Sihvola and RACQ Insurance between 16 April 2009 and 13 January 2011 which had been retrieved (Exhibit 35);
 - b) the correspondence between RACQ Insurance and Ms Sihvola (Exhibits 6, 7, 8, 9, 11, 12, 13, 14 and 15);
 - c) the report by MYI Freemans dated 23 February 2011 (Exhibit 42);
 - d) the reports by Water Technology dated March 2011 and 18 March 2011 (Exhibits 46 and 47);
 - e) the notes from the RACQ Insurance ClaimCenter system (Exhibit 4).
- 46. As I did not personally undertake the IDR review of Ms Sihvola's claim, I am not able to say with certainty what information in fact was relied upon by RACQ Insurance in deciding the dispute. The person who undertook the IDR Review (Mr [REDACTED]) no longer works at RACQ Insurance and I have not spoken to him about the matter. However, I know that the practice of the IDR Manager was (and still is) to review all information relevant to a complaint, and to ask for further information if not all relevant information was available. I have no reason to believe this practice would not have been followed in this situation. The complaint made by Ms Sihvola was that she was advised prior to the loss that the policy provided cover for flood. The policy did not cover flood. In the circumstances I believe that the information that would have been relied on by [REDACTED] to decide the dispute would have been the terms of the policy, the fact that the inundation was caused by flood and the absence of any information in RACQ Insurance's records in support for Ms Sihvola's allegations.

Signed:

Taken by

47. Exhibit 5 to this affidavit is a copy of notes maintained by [REDACTED] in relation to his review of the complaint by Ms Sihvola. They record:
- a) The nature of Ms Sihvola's complaint (that 'she believes she was told she had flood cover').
 - b) That 'call recordings listened to for flood cover'.
 - c) 'No Cogen comment regarding flood cover', (as explained below that is a reference to part of RACQ Insurance's records).
 - d) The decision made was 'Insured claim declined-no flood cover'.
48. RACQ Insurance received a letter from Ms Sihvola on 18 May 2011 (her letter is dated 16 May 2011) requesting additional time be allowed prior to a final IDR decision so that additional information could be sought (see Exhibit 16). There is also another letter from Ms Sihvola dated 16 May 2011 regarding the dates of the alleged conversation (see Exhibit 17). I do not know when this second letter dated 16 May 2011 was received by RACQ Insurance. I do not know whether these letters were reviewed by the IDR Manager before his decision was made on 18 May 2011. However, RACQ Insurance had identified the existence of recordings for these additional telephone call recordings and they were available to the IDR Manager when considering the dispute.
49. Transcripts of the five recordings were provided to the insured. Three were provided under cover of a letter dated 12 May 2011 and a further two were provided under cover of a letter dated 18 May 2011 (see Exhibits 15 and 18).
50. Ms Sihvola did not request anything other than the recordings mentioned above. Had she done so, that information would have been provided. In any event, the essence of her complaint was that a misrepresentation had been made to her at a much earlier time and was not concerned with the dealing with her claim otherwise.

Issue 5.4

51. On 18 May 2011, [REDACTED] reviewed the decision in respect of Ms Sihvola's claim and affirmed the original claim decision. This was conveyed to Ms Sihvola in writing on the same day (see Exhibit 19). This letter also outlined the existence of her right to make a complaint to FOS should she wish to further dispute the claim decision.

Issues 5.5 and 5.6

52. Copies of all documentation and correspondence exchanged between RACQ Insurance and Ms Sihvola regarding Ms Sihvola's dispute are included in Exhibits 13 to 32.

Issue 6

53. Paragraph 6 of the First Letter of Inquiry states that Ms Sihvola's complaint to the FOS is continuing. ~~This is no longer correct. Ms Sihvola's complaint was determined by FOS in~~

Signed:

[REDACTED]

Taken by:

[REDACTED]

favour of RACQ Insurance on 12 August 2011. A copy of the determination is at Exhibit 31. In response to the matters raised in paragraph 6 of the First Letter of Inquiry, I respond as follows.

Issue 6.1

54. Copies of all documentation Ms Sihvola submitted to FOS in the possession of RACQ Insurance are attached as Exhibits 21, 22 and 27.

Issue 6.2

55. Copies of all documentation RACQ Insurance submitted to FOS in response to Ms Sihvola's complaint are attached as Exhibits 23 and 28.

Issue 6.3

56. Copies of all correspondence from FOS to RACQ Insurance about Ms Sihvola's complaint are contained in Exhibits 21, 22, 27 and 31.

Issue 7.1

57. I confirm that RACQ Insurance cannot locate any recording of an alleged telephone conversation as referred to in point 7 of the First Letter of Inquiry.

Issue 7.2

58. The efforts made to locate the alleged recording referred to by Ms Sihvola are described below.
- a) Calls received from external sources to the main contact numbers, namely 131 905 for RACQ Club and 137 202 for Teleclaims, are recorded by a system called Verint. Not all calls with customers are recorded, as at some peak call times, an overflow of calls may be diverted to 'mini switches' which are areas set up in RACQ branches where staff can assist with these calls. Most telephone calls to branches are not recorded. The recordings for some periods have been lost but not for any of the specific days identified by Ms Sihvola (those being identified in Exhibits 9 and 12).
 - b) Calls made and recorded on the Verint system are searched as follows:
 - (i) Date and time: Searches can be performed by searching for particular calls during a period of time on a given day. For example, this type of search would identify a list of all calls made between 1.00pm and 2.00pm on 1 January 2011. As a matter of practicality, this method of searching is only appropriate where there is some certainty about the date and time at which the relevant call occurred. This is because of the numbers of calls RACQ receives each day. By way of example, between 11.00am and

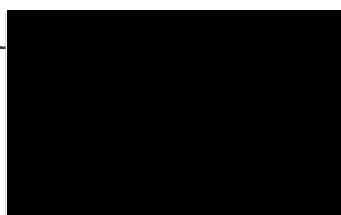
Signed:

Taken by:

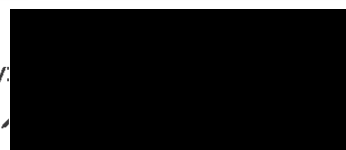
12.00pm on 16 April 2010, the period where a telephone call with Ms Sihvola was identified, RACQ Insurance had received 497 other calls.

- (ii) Phone number dialled from: A search can be undertaken for any date period to locate any call received from a particular phone number. This search is dependent upon the caller having 'own number sending' activated on their phone.
 - (iii) RACQ/RACQI consultant: If the insured can provide the name of the consultant with whom they spoke, a search can be undertaken purely on this name, or by reference to a date/time range which is then narrowed down by reference to the consultant's name.
- c) In relation to the telephone call which Ms Sihvola alleges she had with RACQ Insurance in which she was told she had flood cover, Ms Sihvola was unable to provide the name of the consultant to whom she says she spoke nor initially the date of the alleged call.
- d) The fact that Ms Sihvola could not identify a reasonable potential number of dates for the alleged conversation made it impractical to carry out a date and time search. Similarly, it is impractical for RACQ Insurance to try to speak with all possible consultants with whom she may have had some dealing over a number of years as there would be many hundreds including many no longer working for RACQ. Consequently, RACQ Insurance searched all numbers listed on Ms Sihvola's policy as her contact numbers. However, searches undertaken by RACQ Insurance indicated that Ms Sihvola's number was 'silent' or did not have an 'own number sending' activated (see Exhibit 33).
- e) RACQ Insurance's internal records evidencing its searches are contained in Exhibit 33. On 12 March 2011 (in response to Ms Sihvola's letter of 9 March 2011) Bradley Heath, CEO of RACQ Insurance, sent an email seeking an update on the status of the matter. [REDACTED] sent an email to Mr Heath advising that all of RACQ insurance's technical options for locating the call had been exhausted based on the currently available information, and that Ms Sihvola was going to seek further information to assist in trying to identify the call.

Signed:



Taken by:



- f) Ms Sihvola subsequently provided a number of possible times and dates for the alleged phone call. Copies of those calls were located, however they did not contain the alleged conversation that Ms Sihvola referred to.
- g) In addition, RACQ Insurance reviewed all comments on RACQ Insurance's Cogen Policy system to see if there was a note made in relation to the alleged call from Ms Sihvola. The Cogen Policy system is a computer system used by RACQ and RACQ Insurance to input and store data relating to customer policies such as customer details and policy details. The data is entered into the system by employees of RACQ and RACQ Insurance. The system has the capacity to record notes taken by customer service operators when speaking with insureds. There was no note made in relation to Ms Sihvola's alleged phone call.

Issue 7.3

- 59. Copies of Ms Sihvola's requests for recordings of telephone conversations with RACQ Insurance are contained in Exhibits 6, 7, 8, 9, 12, 13, 17, and 20.

Issue 7.4

- 60. RACQ Insurance provided Ms Sihvola with all recordings of all conversations that she requested and which RACQ Insurance was able to locate. No recordings have been withheld.

Issue 7.5

- 61. Copies of the recordings supplied to Ms Sihvola are Exhibit 35.

Issue 8.1

- 62. A copy of Ms Sihvola's contract of insurance which applied in January 2011 (comprising the PDS, SPDS and certificate of insurance) are Exhibits 43, 44 and 45.

Issue 8.2

- 63. Copies of all correspondence from RACQ Insurance to Ms Sihvola are contained in Exhibits 11, 14, 15, 18, 19, 25 and 30.

SWORN by **GRAHAM IAN DALE** on 1 September 2011
at Brisbane

in the presence of:




**Barrister/Solicitor/Justice of the Peace/
Commissioner for Declarations**

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