STANDING COMMITTEE ON PUBLIC ACCOUNTS

Review of Auditor-General's Report No 5 of 2006: Rhodium Asset Solutions Limited

AUGUST 2008

Report 16

Committee Membership

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Resolution of Appointment[1]

The Legislative Assembly appointed the Standing Committee on Public Accounts on 7 December 2004 to:

(i) examine:

(A) the accounts of the receipts and expenditure of the Australian Capital Territory and its authorities; and

(B) all reports of the Auditor-General which have been presented to the Assembly;

(ii) report to the Assembly any items or matters in those accounts, statements and reports, or any circumstances connected with them, to which the Committee is of the opinion that the attention of the Assembly should be directed;

(iii) inquire into any question in connection with the public accounts which is referred to it by the Assembly and to report to the Assembly on that question; and

(iv) examine matters relating to economic and business development, small business, tourism, market and regulatory reform, public sector management, taxation and revenue and sustainability.

[1] Legislative Assembly for the ACT, Minutes of Proceedings, Tuesday 7 December 2004, p. 12.

TABLE OF CONTENTS

RECOMMENDATIONS

RECOMMENDATION 1

3.14 The Committee recommends that all ACT Government Boards ensure that they keep accurate and adequate records of their proceedings.

RECOMMENDATION 2

3.31 The Committee recommends that ACT Government agencies, including Territory-owned Corporations, include relevant bodies in their IT project planning earlier, including during business needs assessments.

RECOMMENDATION 3

3.63 The Committee recommends that the ACT Government, drawing on the findings in Auditor-General's Report No 1 of 2007 *Credit Card Use, Hospitality and Sponsorship*, create a general policy on hospitality that reflects community expectations and instruct Territory-owned Corporations that the policy applies to them as per Section 17A of the *Territory-owned Corporations Act 1990.*

RECOMMENDATION 4

3.64 The Committee recommends that the ACT Government create a general policy on gifts that reflects community expectations and instruct Territory-owned Corporations that the policy applies to them as per Section 17A of the *Territory-owned Corporations Act 1990.*

RECOMMENDATION 5

3.65 The Committee recommends that every Territory-owned Corporation:

a) develops a policy on those matters that relate to the way in which all staff undertake their responsibilities, such as credit card use, insurance policies, financial management, records management and recruitment activities;

b) promulgates these policies to all, or appropriate, staff as necessary;

c) monitors adherence to these policies;

d) notifies the shareholders of any problems that have arisen through the lack of observance of any policies;

e) regularly reviews these policies to ensure they remain relevant and appropriate; and

f) provides these polices on the Corporation's web site.

RECOMMENDATION 6

4.14 The Committee recommends that section 17(4) of the *Territory-owned Corporations Act 1990* be amended to require the portfolio Minister to provide a copy of a direction and a statement setting out the estimated net reasonable expense of complying with it within 5 sitting days of the issue of a direction.

RECOMMENDATION 7

4.26 The Committee recommends that ACT Cabinet review its procedures for potential conflicts of interest to ensure that voting shareholders of Territory-owned Corporations delegate to a separate decision-maker any Ministerial powers that relate to current or proposed TOC activity.

RECOMMENDATION 8

4.31 The Committee recommends that the ACT Government establish a mechanism whereby voting shareholders of Territory-owned Corporations can resolve differences of opinion so that Territory-owned Corporation Boards can be clear on what the shareholders' expectations are.

RECOMMENDATION 9

4.33 The Committee recommends that the voting shareholders of Territory-owned Corporations report to the Legislative Assembly on their interactions with the corporations' Boards on a six monthly basis.

RECOMMENDATION 10

4.34 The Committee recommends that the *Territory-owned Corporations Act 1990* be amended to require that the Board supply the voting shareholders with a draft business plan and a draft Statement of Corporate Intent and that the shareholders must respond to these documents within 30 days.

RECOMMENDATION 11

4.39 The Committee recommends that any newly established Territory – owned Corporation be required to provide the voting shareholders with copies of its policies and procedures in the areas of human resources, hospitality, sponsorship, records management, credit card use, financial management and any other relevant areas within six months of establishment.

RECOMMENDATION 12

4.51 The Committee recommends that the Treasurer explain to the Legislative Assembly before the last day of sitting of the Sixth Assembly why the ACT Government required Rhodium to take a contract against its best commercial interests without providing it with compensation as set out in the *Territory-owned Corporations Act 1990*.

RECOMMENDATION 13

4.55 The Committee recommends that voting shareholders provide any new Territory-owned Corporations with a clear statement of the ACT Government's expectations of the company.

RECOMMENDATION 14

4.56 The Committee recommends that the ACT Government review the *Territory-owned Corporations Act 1990* with a particular focus on improving and clarifying the governance provisions.

1 INTRODUCTION AND CONDUCT OF THE INQUIRY

Referral of the inquiry

Auditor-General's Performance Audit Report No 5 of 2006: Rhodium Asset Solutions Limited

1.1 Auditor-General's Performance Audit Report No 5 of 2006: Rhodium Asset Solutions Limited (the Auditor-General's Report) was presented to the Legislative Assembly on 19 September 2006 and subsequently referred to the Committee for inquiry.[2]

1.2 The review by the Auditor-General was prompted by the Board of Directors of Rhodium Assets Solutions Limited (Rhodium) raising concerns about management practices within the corporation. The Auditor-General's Report presents the results of a performance audit intended to provide an independent opinion to the Legislative Assembly on whether Rhodium had an appropriate corporate governance, accountability and control framework to:

- Promote accountability and transparency in the management of the organisation; and
- Ensure that management practices and decisions made are prudent and in accordance with sound business practice.

1.3 The performance audit was to examine in detail any systemic deficiencies in accountability and governance, and Rhodium's administrative and control framework.[3]

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[2] Legislative Assembly for the ACT, Sixth Assembly, Minutes of Proceedings No. 2, Thursday 7 December 2004, p. 16.

[3] ACT Auditor-General's Report No. 5 of 2006: *Rhodium Asset Solutions Limited*, p. 6.

Terms of reference

1.4 The Committee's terms of reference were to examine the issues raised by the Auditor-General's Report and report to the Legislative Assembly for the ACT.

Conduct of the inquiry

1.5 The Committee received a briefing from the Auditor-General on the Report.[4] The Committee resolved on 11 October 2006 to inquire further into the report.

1.6 On 25 January 2007 the Committee invited written submissions from the shareholders, directors and management of Rhodium, other Territory Owned Corporations and experts in government business enterprises. On 4 April 2007 the Committee invited oral submissions. On 7 December 2007 the Committee wrote to the Treasurer requesting Rhodium's Board minutes. The Committee received the minutes on 1 May 2007.

Submissions

1.7 The Committee received four submissions. The individuals and organisations that lodged submissions are listed at **Appendix A**.

1.8 The Committee extends its thanks to the Treasurer and the Rhodium Board for making board minutes from the relevant period available to the Committee.

Public hearings

1.9 The Committee held public hearings on 28 March, 10 May, 13 June, 14 June and 8 November 2007. Witnesses who attended the public hearings are listed at **Appendix B**.

1.10 The Committee met on 13 and 14 August 2008 to discuss the Chair's draft report, which was adopted on 15 August 2008.

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[4] 11 October 2006

Structure of the report

1.11 This report begins with a brief history of Rhodium and the key findings of the Auditor-General's Report. It then examines in turn each of the problems raised in the Auditor-General's Report. The report does not attempt to reproduce the detailed information found in the Auditor-General's Report but instead summarises the key findings for analysis of their wider implications.

1.12 In many cases the issues are subject to contradictory evidence, between witnesses and within their evidence, and much documentary evidence is lacking. The Committee does not attempt to definitively conclude which parties were at fault, but rather, to identify where processes and practices were poor or poorly executed. The Committee presents this report with the aim of highlighting the lessons that can be learned from these events and proposes some steps to mitigate the risk of such events recurring. The ACT Government has responsibility for three other Territory-owned Corporations[5] and is still the owner of Rhodium. The penultimate chapter of this report draws some lessons from the Rhodium experience which may be useful in relation to these Territory-owned Corporations.

Acknowledgements

1.13 The Committee wishes to recognise the efforts of the former Secretary and the former Chair of the Committee in advancing this inquiry. The Committee thanks all those who contributed to the inquiry by making submissions, providing additional information or appearing before it to give evidence.

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[5] ACTEW, ACTTAB and Totalcare.

2 RHODIUM'S OPERATIONS AND AUDIT FINDINGS

2.1 This chapter summarises the events around Rhodium's creation, operation and subsequent accusations of impropriety. A timeline is attached as **Appendix C.**

The Creation of Rhodium

2.2 Rhodium was created out of the fleet business of Totalcare Industries Limited (Totalcare). Totalcare was a Territory Owned Corporation (TOC) that ceased to operate as a commercial entity when Rhodium was created. Totalcare's non-fleet management functions had earlier been transferred to ACT Government Departments, following significant financial losses by the corporation. The Board of Totalcare made a number of decisions prior to Rhodium's establishment that had a significant impact upon Rhodium. They included appointing in October 2005 Rhodium's CEO, Ms Deborah Clark, who had managed the transition from Totalcare to Rhodium, and approving its major IT development. Ms Clark was reappointed as CEO in May 2005.

2.3 Rhodium was incorporated in December 2004 and became a TOC in January 2005. As a TOC Rhodium's voting shareholders were ACT Government Ministers: initially Mr Stanhope MLA and Mr Quinlan MLA, with Mr Quinlan MLA replaced upon his retirement by Ms Gallagher MLA.

2.4 As a TOC, Rhodium had the following objectives established by legislation:

(a) to operate at least as efficiently as any comparable business; and

(b) to maximise the sustainable return to the Territory on its investment in the corporation or subsidiary in accordance with the performance targets in the latest statement of corporate intent of the corporation; and

(c) to show a sense of social responsibility by having regard to the interests of the community in which it operates, and by trying to accommodate or encourage those interests; and

(d) if its activities affect the environment—to operate in accordance with the object of ecologically sustainable development.[6]

2.5 In December 2004 the voting shareholders appointed a board for Rhodium consisting of:

- Chair (Mr Bob Samarcq, former senior executive with Commonwealth Department of Industry, former Director of External Relations at Telstra, current Chief Executive with Clubs ACT)
- Deputy Chair (Ms Margaret Coaldrake, Chief Executive of Minter Ellison Consulting, previously a senior executive in both the State and Commonwealth public sectors, has a wealth of experience as a Chair and member of numerous boards at Federal, State and community level[7].)
- Director (Ms Melanie Willis, formerly Director Investment Banking with Deutsche Bank, on the Board of the WHK Group Limited (WHG), Aevum Limited (Ave) and Hydro Tasmania[8]) and

[6] *Territory-owned Corporations Act 1990* s 7 (1).

[7] From http://www.minterellison.com/public/resources/file/eb52030242d95e8/ContactCard.pdf accessed on 11 August 2008.

[8] From http://www.hydro.com.au/Documents/Corporate/Annual%20Reports/2006/contents/directors.html accessed on 11 August 2008.

- a further member appointed in April 2005 (Mr Ian Meikle, former Chief Executive of the *Canberra Times* and former editor of *The Australian*).

2.6 The Board received remuneration for their roles. Contrary to what is stated in Rhodium's Annual Report,[9] the Remuneration Tribunal does not determine the level of board remuneration but is consulted, consistent with the practice of other TOCs. Board remuneration is not disclosed in annual reports.

2.7 Rhodium's main business activities upon creation were asset management services, and in particular vehicles, and leasing services, with a range of products including novated leases, operating leases and some non-vehicle business. All ACT Government agencies were required to lease all passenger and light commercial vehicles through Rhodium upon its creation and, while the financing mechanism for these leases has changed since then, Rhodium continues to be the ACT Government's fleet provider.

2.8 Rhodium had 29 staff in January 2005, many of whom had previously worked in Totalcare, and this had increased to 34 in July 2006. In August 2008 Rhodium had 53 staff, comprised of 15 contractors and 38 employees covered by the collective agreement.

Development of Rhodium and the Emergence of Issues

2.9 In its first year of existence Rhodium faced many challenges. Staff retention and recruitment were difficult, with many existing staff lacking the experience or skills for a commercial operation. Various policies ranging from the strategic level, such as business plans and risk management documents, to the operational, for example a credit card policy, were lacking. The Committee heard that the financial management system was outdated and the Enterprise Architecture Project was intended to implement an IT solution to this problem.

[9] Rhodium Annual Report 2005-06, p. 25.

As a new commercial entity seeking business, Rhodium had to establish its brand and build relationships with existing and potential clients.

2.10 Addressing these challenges was made more difficult by illnesses of key staff and the death of the Operational Leasing Technical Manager in a motorcycle accident on 1 May 2005.

2.11 The IT project required particular attention. In June 2005 a Chief Operating Officer (COO) was appointed with the intention that the position would focus on guiding the IT project. The first COO terminated his contracted after only ten weeks and a process of recruitment for a replacement commenced.

2.12 On 12 September 2005 Mr Naveed Aslam, was appointed as COO.[10] On 14 December 2005 Mr Aslam approached the former CEO about her intentions to repay a $10,000 cash advance she had received from Rhodium. The advance had been transferred to the former CEO after she was robbed in Paris. There was apparent confusion about whether the transfer had come from the former CEO's personal account or Rhodium's, no invoice was issued to the former CEO and the Board had not been informed. Around the same time the COO indicated to the former CEO that he was uncomfortable signing off her credit card statements and that it may be more appropriate for these to be approved by the Chair.

2.13 On 2 February 2006 the former CEO, after consulting with the Board, terminated Mr Aslam's employment. Following his departure from Rhodium Mr Aslam informed the Board about his concerns regarding the unrepaid cash advance, the credit card statements and other issues including employment practices.[11] He also expressed doubts about the Frontier and Bynx IT project which he later described as 'a debacle from day one.' [12] The Board engaged KPMG on 18 February 2006 to review these issues and informed The Chief Minister about the allegations of impropriety three days later.[13]

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[10] Please note that all subsequent references to the COO refer to Mr Aslam.

[11] Auditor-General's Report, p. 5.

[12] *Transcript of Evidence*, 8 November 2007, p. 122.

[13] *Transcript of Evidence*, 28 March 2007, p. 18.

2.14 On 14 March 2006 the former CEO sent a letter to the Chair informing him that, for health and family reasons, she was resigning effective 31 March 2006.

Developments after the CEO's resignation

2.15 In the period leading up to the former CEO's resignation and in the months that followed, the Board issued a number of policies including a personal relationships policy and a credit card policy in March, an entertainment policy in May and a Code of Conduct and a Governance policy in July 2006.

2.16 KPMG provided three reports to the Board on: 3 March 2006 on the $10,000 cash advance and credit card use; 15 March 2006 on financial management; and 5 April 2006 on corporate expenditure.

2.17 In May 2006 the Board received an independent report on the IT project that characterised it as very high risk with a low probability of successful implementation within budget. The Board decided to exercise its "no go" option on the project at this point. Between $400,000 and $700,000 had been spent on the project before it was cancelled.[14]

2.18 In June 2006 the Board contracted with Max Network, part of Maximus Solutions Australia, for executive management services, including provision of a CEO, Ken Moore.

2.19 On 6 June 2006, concerns about the allegations of impropriety were raised in the Legislative Assembly.[15] The following day the Chief Minister advised the Assembly that he would be asking the Auditor-General to investigate and report.[16] The Chief Minister wrote to the Auditor-General on 13 June. The Auditor-General provided an interim report on 29 June with the final report being tabled in the Assembly on 19 September 2006.

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14 Auditor-General's Report, p. 73.

15 *Debates, Weekly Hansard*, 6 June 2006, pp 1752-1754.

16 *Debates, Weekly Hansard*, 7 June 2006, pp 1846-1847.

The Auditor-General's Report

2.20 The Auditor-General's Report contained the following audit opinions:

- Rhodium's corporate governance and accountability framework generally conforms to the governance provisions of the applicable legislation and good governance principles.
- During the period subject to Audit, the effectiveness of the application of these governance principles was constrained by an absence of formalised policies and procedures, and deficiencies in the control environment, risk management practices, financial management and reporting, and human resource management practices.
- It is therefore unlikely that Rhodium's internal corporate governance practices were sufficient to provide assurance to the Board and shareholders that:
- Rhodium's accountability and management processes were effective; and
- Rhodium's resources were managed effectively and efficiently.
- Many of the management practices and decisions examined during the audit were not prudent, and reflected insufficient care in using taxpayers' money.
- Rhodium's Board acted promptly to enhance its internal control and financial management practices to address these deficiencies, but needed to carefully monitor the activities of the company to ensure the desired outcomes are achieved.

2.21 The Auditors made findings in the following areas:

- Rhodium's operations
- Governance and accountability framework
- Internal control environment and framework
- Management decisions and practices
- Employment practices
- Information technology system redeployment project

2.22 The Auditor-General's Report contains the following six recommendations:

1 Rhodium should, as a priority, enhance the control environment and structure by developing and implementing formal policies and procedures, including Chief Executive Financial Instructions.

2 Rhodium should:

- address the inadequacy in financial controls; and
- improve its financial management information and reporting system.

3 Rhodium should ensure staff are fully aware of their responsibilities to contribute to the effective management of business and integrity risks.

4 Rhodium should develop and implement a records management policy and guidelines to ensure compliance with the *Territory Records Act 2002*.

5 Rhodium should develop recruitment policies and guidelines and improve record keeping practices to facilitate transparency in recruitment decisions.

6 Rhodium should develop, for each major project undertaken:

- a comprehensive business case, which describes the rationale, expected benefits and costs for the project, and identifies risks and appropriate strategies to manage those risks; and
- a project management plan, which clearly defines the roles and responsibilities of key personnel (and contractors) and incorporates a mechanism to report regularly to the Board on progress and significant developments.

2.23 The Committee notes that the Rhodium Board and new management acted swiftly on the Auditor-General's Report's recommendations. At the same time uncertainty over Rhodium's future has continued. A process for sale was begun in November 2006. Since that time staff morale has remained low due to uncertainty about the company's future and the significant attention paid by the media and the ACT community to the events at Rhodium.

2.24 On 22 July 2008, the Chief Minister issued a media release announcing that there had been a “breakdown in negotiations for the planned sale” of Rhodium. The release stated that the Government:

> will bring in a service provider to take over management of, and wind down, existing Rhodium leases . . . [and] will call a tender for a new ACT Government fleet agreement as part of a separate procurement.[17]

2.25 The Committee is advised that the wind down period is expected to take three or four years. The Chief Minister’s Department will facilitate applications by Rhodium employees to join the ACT public service.

[17] ACT Government Media Release “ACT Gvoernment says “no deal” on Rhodium sale”, 22 July 2008.

3 GOVERNANCE AND MANAGEMENT FAILURES

3.1 This chapter considers the main areas detailed in the Auditor-General's Report and raised during the Committee's public hearings where concerns were raised about the decisions made and practices followed at Rhodium. Some of these issues raise matters that have implications beyond the events at Rhodium.

Governance

3.2 As a TOC, Rhodium had two voting shareholders (Ministers). It was governed by a Board of three (and later four), which had an Audit, Risk and Compliance sub-committee comprised of two Board members and an independent chartered accountant, and a senior management team. The senior management team comprised the CEO and the three positions reporting directly to her, including the COO who had four managers reporting to him.

3.3 The governance issues at Rhodium can be examined at two levels: first the relationship between the shareholding ministers, the board and management and second, the day to day interactions between the board and management.

3.4 The following chapter looks more closely at the roles of various players within a Territory Owned Corporation structure, including views about the responsibilities of shareholding ministers. The different views of the former CEO, the Board and the shareholders about the direction of the company was the source of much uncertainty and remained unresolved through the process of the Auditor-General's Inquiry and was expressed in much of the evidence presented to the Committee.

3.5 The former CEO, and to a lesser extent the Board, wanted to compete for market share with existing private sector providers with the aim of significantly growing Rhodium's business. The shareholding Ministers (or at least one of them) wanted Rhodium to focus largely on a role of stewardship of the ACT Government fleet with additional revenue from other contracts as opportunity arose. The Treasurer told the Committee that when the former CEO and Board presented the shareholders with the business plan he had expressed an attitude of ‘we'll think about it'. He said that the shareholders had a ‘disinclination to hasten' given differing views of the future of Rhodium.[18]

3.6 The Chief Minister said he did not think that uncertainty would affect the operation of Rhodium, using the example of the uncertainty over the sale of Telstra to justify this view. He asserted that the board could propose other business opportunities to the Government for consideration but that:

> [I]n the meantime, get on with the business of providing the ACT government with a fleet and maximise the opportunities and return to the ACT government through the business that you have accumulated to this point[19].

3.7 The Committee notes that Totalcare's 2005 annual report records that, "[u]p to the date of transfer, Fleet achieved significant growth in expanding its client base into the private sector".[20] The former CEO observed that Rhodium was growing substantially in a highly competitive market. This suggests that Rhodium's "status quo" was one of growth rather than one of managing existing business.

3.8 On 24 December 2004 the voting shareholders requested the Board to provide them with a business plan within six months. The draft business plan was completed in April 2005 and identified a number of areas for possible expansion. The Board did not receive any feedback on the business plan and it was eventually overtaken by development of the Statement of Corporate Intent, a less detailed document.

3.9 The Chief Minister indicated that internal policy and practice were "matters of internal company management around which the government has no involvement".[21] This was an area for Rhodium management to handle, with

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[18] *Transcript of Evidence*, 28 March 2007, p. 7.

[19] *Transcript of Evidence*, 28 March 2007, p. 11.

[20] Totalcare Annual Report, 2005, p. 6.

[21] *Transcript of Evidence*, 28 March 2007, p. 14.

the Board providing supervision and advice. It is clear from the Auditor-General's Report that there was a failure to put in place appropriate policies and that management practices were poor whether measured against public or private sector benchmarks.

3.10 The work of the Board in developing policies after the resignation of the former CEO, including in the areas of personal relationships, credit card use and entertainment shows the policy vacuum under which Rhodium had previously been operating.

3.11 The Board was aware of this absence of policy. The Chair of the Board told the Committee regarding policies and procedures inherited from Totalcare:

> I would not say "nothing in place". There were practices in place, some not terribly good.[22]

3.12 The Board met monthly with the former CEO presenting information and other members of the management team present from time to time. The Chair said that, "Initially, for probably the first four or five months of the establishment of Rhodium, I would have met with the CEO on average about three times a month".[23] The former CEO said that she, "met with Mr Samarcq every week in a formal meeting. I would have contact with him most business days and would see him at a range of functions as well."[24]

3.13 The Committee has examined the Board minutes for the period concerned. One of the difficulties the inquiry encountered was the lack of detail in the minutes. In some key areas, for example the issues around the Brumbies sponsorship, the Committee heard evidence about the Board's reaction but this is not clearly reflected in the minutes. The Committee believes that more detailed Board minutes that captured the Board's initial response to proposals and information would have been helpful in assessing the adequacy of the Board's governance.

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[22] *Transcript of Evidence*, 10 May 2007, p. 25.

[23] *Transcript of Evidence*, 10 May 2007, p. 24.

[24] *Transcript of Evidence*, 8 November 2007, p. 152.

RECOMMENDATION 1

3.14 **The Committee recommends that all ACT Government Boards ensure that they keep accurate and adequate records of their proceedings.**

3.15 The former CEO had been tasked to produce written policies by June 2005. The Chair of the Board characterised this as an indication of the work the Board wanted done with the expectation that it would be progressively completed, not that everything would be ready by that date.[25] The former CEO did not meet this deadline and the Board does not appear to have pressed on this issue. The Chair of the Board conceded that, "we were probably a bit more lenient than we should have been."[26] On Rhodium's problems generally the Chair remarked "If things were happening, they were not percolating up to the board, certainly not naturally, sometimes, in retrospect, I guess there were elements that were being concealed."[27]

3.16 Given the problems that Rhodium's parent organisation (Totalcare) experienced, it would have been preferable if the Board had reviewed Totalcare's existing instead of accepting their adoption by Rhodium management. There was no indication prior to the events of February 2006 that the Board was unhappy with the former CEO's performance. Indeed in a letter to the former CEO dated 17 November 2005 they concluded that she had "performed very well under quite difficult circumstances."[28]

3.17 Regarding the responsibility of the Board Treasury expressed the following to the Auditor-General:

> Treasury considers a critical element of good corporate governance includes the maintenance of high standards of integrity and ethical behaviour by senior management. The experience of Rhodium highlights the difficulties that a Board faces when this basic requirement is not fully met by senior management.[29]

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[25] *Transcript of Evidence*, 10 April 2007, p. 26.

[26] *Transcript of Evidence*, 10 April 2007, p. 24.

[27] *Transcript of Evidence*, 10 May 2007. p. 25.

[28] Correspondence from Chair of the Board to Ms Deborah Clark, 17 November 2005.

[29] Auditor-General's Report, p. 12.

3.18 The Committee notes that one of the roles of the Board is to supervise the CEO. The Board appeared to be getting all its information from the former CEO, making itself very dependent upon her interpretations and opinions. The Chair told the Committee that the former CEO had:

> a disposition to like autonomy and to be seen as the centre point of the organisation. The board, I must admit, was not unhappy with that necessarily, because we are part-time members; we have got other activities. A couple of the board members were Sydney based.[30]

3.19 The management of Rhodium engaged in seriously unacceptable behaviour and this is examined further in the rest of this chapter. The Committee believes that management may have concealed some of these activities from the Board. However, any such concealment would only have needed to be perfunctory given the lack of scrutiny by the Board. The Board has admitted that it was content to let the CEO take the lead. The Auditor-General notes that there was no internal audit undertaken during the first eighteen months of Rhodium operations.[31]

3.20 The Committee believes that the Board failed in its duty. The Board failed to ensure that reasonable polices and practices were in place. The Board put its faith in an untried CEO and failed to adequately supervise her to ensure that she carried out her duties proficiently. The Committee does not believe that the fact that the Board members were busy with other work has any relevance to the job they agreed to do as Board members. The Board was clearly highly qualified and experienced and it is unfortunate that members did not exercise their skills until after the departure of the former CEO.

3.21 The Committee acknowledges that since the improprieties came to light the Board has significantly improved its performance. It has increased its focus on the company's practices and moved to quickly establish appropriate policies.

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[30] *Transcript of Evidence*, 10 May 2007, p. 28.

[31] Auditor-General's Report, p. 29.

IT project

3.22 Rhodium inherited an inefficient finance system that proved inadequate to manage its leasing and asset management business. A number of processes were manual and the system was not able to provide the desired information quickly and reliably. The former CEO told the Committee that:

> The systems were not coping with the business and particularly with the growth. I think the finance systems were inadequate.[32]

3.23 The Board was also aware of these problems. According to the minutes of the Board meetings, members sought more detailed, useful and up to date financial data. As can be seen in discussion of other issues below, the poor financial processes contributed to problems in other areas, including the cash advance given to the former CEO and the use of corporate credit cards.

3.24 In October 2004 the Totalcare Board, having earlier received a consultants report on options for their system, began the Enterprise Architecture Project which was intended to address the corporation's IT deficiencies.[33]

3.25 In January 2005 the former CEO briefed the Rhodium Board on the project and in the same month Requests for Proposal were sent to three suppliers. [34] In February 2005 Rhodium submitted a funding proposal for the project to its shareholders. The proposal recommended against doing nothing or attempting to upgrade the existing system and instead proposed replacing the system to allow Rhodium to "meet its business needs in a timely manner, for a fixed cost, at minimum risk".[35] The cost of the project was presented as $3 million. Cabinet agreed to supply $1 million and $500,000 in working capital.[36]

3.26 When the former CEO updated the Board in April 2005, the project cost had been revised down to $1.6 to $2 million, with the amount unfunded by Cabinet to come from working capital plus profits and/or borrowing. In June the Board

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[32] *Transcript of Evidence*, 8 November 2007, p. 140.

[33] Auditor-General's Report, p. 70. The timetable for the project is set out in detail on this and subsequent pages of the Report.

[34] Auditor-General's Report, p. 70.

[35] Auditor-General's Report, p. 71.

Auditor-General's Report, p. 71.

sought a gap analysis[37] to obtain better estimates of the cost of the project. On the same day as the Board meeting the former CEO appointed the consultant as prime contractor for the project. In November 2005 Rhodium and the consultant entered into an agreement worth $1.2 million with the expectation that other work not covered in the agreement would cost an additional $1.5 million.

3.27 In February 2006 the former CEO signed the software licence and maintenance agreement with the software vendor and approved upfront payment of 50 per cent of a ten year licence fee worth $397 600. The consultant advised against signing before the "Go/No Go" decision had been made as there was no requirement to sign earlier and there may be difficulties obtaining a refund should the project not proceed.[38]

3.28 The consultant provided the gap analysis, which estimated an increase in the project cost to $1.489 million plus, around $200,000 for additional minor projects, in April 2006. In May 2006 Rhodium management provided the Board with an independent assessment that assessed the project as "very high risk . . . with a low probability of successful implementation" within the $1.5 million budget. The Board decided to exercise its "No Go" option. It was estimated at the time that Rhodium had spent between $400,000 and $700,000 on the system that was not going to be implemented.

3.29 The Committee believes that IT projects present particular difficulties. Governments in other jurisdictions have suffered from high profile and expensive IT project failures[39] while the ACT Government has recently faced issues with the Firelink and Chris21 systems.

3.30 The Committee believes that ACT Government agencies should have recourse to independent advice at all stages of IT projects. The Committee is aware of the expertise in the procurement aspects of such projects within Procurement

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[37] "In information technology, gap analysis is the study of the differences between two different information systems or applications, often for the purpose of determining how to get from one state to a new state. A gap is sometimes spoken of as "the space between where we are and where we want to be."" from http://searchcio-midmarket.techtarget.com/sDefinition/0,,sid183_gci831294,00.html accessed on 14 August 2008.

[38] Auditor-General's Report, p. 73.

[39] See for example Victorian Auditor-General *Project Rosetta (Streams 1 and 2)* May 2008.

Solutions. The ACT Government's IT expertise resides with InTACT but it only has a role if the project will interact with InTACT systems. ACT Government IT projects may benefit from greater involvement of relevant bodies at an earlier stage of the process in order to better determine needs and proposed solutions.

RECOMMENDATION 2

3.31 **The Committee recommends that ACT Government agencies, including Territory-owned Corporations, include relevant bodies in their IT project planning earlier, including during business needs assessments.**

Employment practices

3.32 In February 2006, the former COO informed the Board that he felt that preferential treatment was being given to employing relatives of the former CEO at Rhodium. The Auditor-General found that five close relatives of the former CEO were employed at Rhodium in 2005.

3.33 The Auditor-General's Report documents a number of problems with recruitment practices including an absence of: declarations of potential conflicts of interest; proper selection processes; transparent recruiting methods such as advertising; and trustworthy performance assessments.

3.34 The former CEO told the Committee that in Totalcare there were "several staff members who had their brothers, godsons and so forth already working in the organisation" and that many of these staff came across to Rhodium.[40] Rhodium had great difficulty recruiting new staff. The former CEO told the Committee that she was not involved in the selection processes for anyone related to her, that these people were not paid any more than others in similar positions and that she did not employ "five close relatives"[41].

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[40] *Transcript of Evidence*, 8 November 2007, p, 155.

[41] *Transcript of Evidence*, 8 November 2007, p, 156.

3.35 Mr Aslam claimed that there was "a culture of fear" at Rhodium.[42] He said that he raised with the Board, upon his departure, "the general sort of culture, that there was a degree of nepotism there, sort of favouritism that appeared to be there."[43]

3.36 The Board had requested the former CEO to develop Human Resource (HR) policies by June 2005. Some HR policies dealing with email usage and drugs were finalised and issued in June.

3.37 The Committee notes that staffing problems reflect two of the recurring themes of the Auditor-General's Report and the public hearings of the Committee. The first is the legacy of Totalcare, an organisation with significant internal policy and practice problems that were inherited by Rhodium. The "family business" approach was apparently carried across to Rhodium. The second is the poor documentation in vital areas. It is possible that the former CEO declared conflicts of interest and kept herself completely separate from the recruitment process (although the Committee notes that the Auditor-General finds that the former CEO was responsible for the performance assessments of staff related to her). There is, however, no documentation to show this. The Committee accepts that there may be occasions when relatives, former colleagues and associates of senior management will have the ideal skill set for a particular position. In those cases clear, recorded declarations of interest, both for the corporation's files and for the Board, are vital.

3.38 The Committee also notes the Auditor-General's findings on the recruitment of contractors.[44] These show a similar pattern to those of permanent employees in that documentation is sparse. Of concern to the Committee is the degree to which Rhodium was dependent upon contractors for work which would normally be done by permanent staff. It indicates a lack of in-house expertise and informed oversight and guidance.

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[42] *Transcript of Evidence*, 8 November 2007, p, 119.
[43] *Transcript of Evidence*, 8 November 2007, p, 136.
[44] Auditor-General's Report, p. 66.

CEO Remuneration

3.39 The former CEO's initial contract was signed in October 2004, including a provision for an employer contribution to a vehicle, and her contract was rolled over when Rhodium was established. Effective from March 2005 the former CEO's contract was renewed until 28 February 2006, with increased total remuneration but without a provision for vehicle expenses.[45] In December 2005 the former CEO's contract was renewed for a fixed term until 30 June 2007. The former CEO had expressed concern that the COO was receiving greater remuneration than she was. This contract included provision for a performance bonus and a vehicle lease.[46]

3.40 There were indications that the former CEO was accustomed to mixing company and personal expenses and not accounting adequately for these. This practice was highlighted by the incident which led to her departure from the company. On 28 June 2005 the former CEO was travelling overseas when she called Rhodium staff and asked for assistance. The former CEO advised that her wallet, credit cards and identification had been stolen and that she had been unable to contact her personal banker. The Acting CEO stated that he believed that the former CEO was requesting the transfer of $10,000 of Rhodium funds that she would repay later. The former CEO has said that she was requesting that they approach her bank and arrange the transfer from her personal account. Senior management discussed the transfer and agreed to provide the advance.

3.41 The Auditor-General has found that the advance was not within the scope of arrangement from the financial delegation approved by the Board, was not properly documented and did not result in the former CEO receiving an invoice. The Board was not made aware of the advance until the former COO raised it with them in February 2006. The former CEO repaid the entire advance, including transfer fees, in two instalments in February 2006.

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[45] Auditor-General's Report, p. 54.

[46] Auditor-General's Report, p. 57.

3.42 The Committee regards this incident, along with the corporation's approach to credit card use and entertainment, as indicative of a lack of accountable and transparent procedures in decision-making and financial management among Rhodium's senior management. Regardless of what the former CEO believed she was requesting, the prompt and unconsidered approval by senior management of a large advance of company funds to the former CEO for purely personal reasons is poor practice. The lack of documentation and follow-up by either the former CEO or other managers is reprehensible.

3.43 The Committee notes the former CEO's statement that she was simply unaware that the $10,000 advance was from company funds until the former COO raised the matter with her in December 2005.[47] Nonetheless it is of great concern that a person holding, and reappointed to, a senior management position did not make a reconciliation of her own accounts and investigate the basis for the advance.

3.44 The other aspect of the former CEO's remuneration that was examined by both KPMG and the Auditor-General was the purchase of a Lexus vehicle. The former CEO's original contract did not include provision for a vehicle while, as she noted, the COO's did. The renegotiated contract effective from 1 December 2005 included provision for the former CEO to lease a car at Rhodium's expense. The Chair of the Board informed the Committee that the Board had asked the former CEO to finalise the part of the new contract pertaining to the vehicle. The Chair said that he was unaware that the Lexus was substantially more expensive that the former CEO's previous car (which had not been part of her remuneration package) and was unaware that Rhodium had actually purchased the Lexus rather than leased it.[48]

3.45 The former CEO said that in September 2005 she had begun leasing the Lexus in her own right. She said that she had no responsibility for the purchasing and leasing of vehicles and was unaware that the Lexus had been purchased

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[47] *Transcript of Evidence*, 8 November 2007, p. 144.
[48] *Transcript of Evidence*, 10 April 2007, p. 41.

by Rhodium.[49] The Auditor-General notes that the National Asset Service Manager authorised purchase of the vehicle.[50]

3.46 The Committee considers that this was a failing by the Board to properly scrutinise the finalised contract. Whether the Lexus was “slipped in” to the contract as the Chair suggests[51] or was included due to a misunderstanding, the Board should have noticed the change. Ideally the contract would not have specified a particular vehicle but a value up to which Rhodium would cover.

Credit card use

3.47 The use of corporate credit cards by Rhodium’s senior management was the subject of detailed investigation by KPMG and resulted in Rhodium seeking reimbursement from a number of the former senior managers for some expenses considered to be personal rather than business related. The Auditor-General found that :

- Rhodium had not issued a policy on the use of credit cards;
- some expenditure on corporate credit cards was of a personal or potentially personal nature, and was repaid by the cardholder. However, not all personal expenditure was identified by the cardholder as such;
- the majority of the expenditure was not supported by properly certified transaction dockets to substantiate purchases;

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[49] *Transcript of Evidence*, 8 November 2007, pp. 150-151.
[50] Auditor-General’s Report, p. 57.
[51] *Transcript of Evidence*, 10 April 2007, p. 40.

- most of the credit card statements had not been signed by the cardholder (to confirm expenditure, and that all expenditure was of business nature) or by an appropriate independent reviewer (to subsequently authorise the expenditure). Reviews of credit card statements did not commonly identify potentially anomalous or personal transactions;

- invoices for hospitality and entertainment and other expenses did not always indicate the purpose of the expenses and the details of attendees; and

- expenditure on hospitality, travel, accommodation and meals was at times in excess of reasonable expenses. [52]

3.48 The Committee considers that the way in which corporate credit cards were used by members of senior management at Rhodium is not appropriate in the public or private sector. Regardless of whether Rhodium was reimbursed for individual personal transactions made with the cards, and evidence presented to the Auditor-General and to this Committee indicates that this was not consistently done, the use of corporate credit cards for personal use showed poor judgment and lax standards across senior management.

3.49 The Committee notes that the Chair of the Board said that practice varies in regard to whether the board of a corporation would normally see credit card acquittals.[53] The Committee believes that the Board, which was aware of the failings of Totalcare, should have exercised greater oversight in this area during the start-up phase in order to set standards and establish higher expectations of management.

Sponsorship, entertainment and gifts

3.50 In 2005-2006 discretionary expenses on sponsorship, promotional products, hospitality and entertainment by Rhodium were estimated to exceed $500,000.

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[52] Auditor-General's Report, p. 46.

[53] *Transcript of Evidence*, 10 April 2007, p. 42.

3.51 Rhodium entered into a number of sponsorship agreements intended to promote its brand, attract clients and as part of its social responsibilities to the community. It carried over some of its sponsorship arrangements from Totalcare while others were developed by Rhodium management.

3.52 The Auditor-General's Report outlines the following findings on Rhodium's sponsorships:

> The development and provision of a number of sponsorships was not made in accordance with good business practices and the Board Sponsorship Policy issued in July 2005. Audit review of the sponsorships disclosed that:
>
> - the decisions to propose sponsorship deals were, in most cases, not adequately documented and the cost-benefits of the sponsorship proposals had not been carefully considered;
> - no written agreement or contract existed for some sponsorships, exposing Rhodium to potential legal risks with no assurance of benefits received;
> - total expenditure on sponsorships (and donations) for 2005-06 amounted to $201 800, more than double the approved budget;
> - the sponsorship arrangement with Monte Racing, which commenced before the implementation of the Board Sponsorship Policy, was not documented or supported by a formal agreement; in short, it was not based on good business practice;
> - there was inadequate reporting to the Board on sponsorships, which demonstrated a lack of accountability and transparency; and
> - it is doubtful that some sponsorships would provide any substantive marketing benefits to Rhodium. [54]

3.53 One sponsorship of particular note was that with the Brumbies Rugby club. Rhodium was to provide the club with eleven vehicles and receive advertising and branding at games and events, as well as opportunities for corporate hospitality. The deal, which was intended to replace a number of other sponsorships, was presented to the Board in January 2006. Most of the vehicles had been purchased and delivered to the Brumbies prior to the Board meeting.

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[54] Auditor-General's Report, p. 43.

The total value of the deal was $460,000, greatly exceeding the former CEO's delegation of $100,000 for all sponsorship deals for a year, and so should have been approved by the Board.[55]

3.54 The former CEO claimed that the Board was fully aware of the sponsorship deal and that:

> The Brumbies sponsorship went to the board. It was a document that went to the board. I discussed it with Mr Samarcq beforehand. Some of my senior managers actually prepared that paper. It was discussed with him. He said we would present it to the board, and they approved it, and he attended the opening session.[56]

3.55 The Committee notes that the Board minutes of 19 January 2006 include as an attachment information on the Brumbies deal "that has been recently approved". There is no indication in the minutes that the Board disagreed that the deal had been properly approved, or sought an explanation for why the CEO had exceeded her delegation or in any other way indicated that it had any concerns with the deal or the way in which it had been concluded.

3.56 The Auditor-General reported that Rhodium spent about $233 000 on corporate entertainment in the 2005-06 year. This included sporting events and meals for which no guest lists were available.[57] In addition from mid August 2005 to early February 2006, arrangements were made to procure promotional products, including Royal Doulton glassware, glass decanters, Executive putting sets, Waterman pens, and cheaper items with a total value of $33 000 from one supplier.[58] Rhodium has been unable to return this material but expects to be able to dispose of much of it during the course of its business.

3.57 The former CEO explained this expenditure with reference to the company's market position:

> it was about advancing what the formal governance vision was for growing the business. We were in a highly competitive fleet business. We

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[55] Auditor-General's Report, p. 51.

[56] Transcript of Evidence, 8 November 2007, p. 157.

[57] Auditor-General's Report, p. 54.

[58] Auditor-General's Report, p. 55.

> obviously had to try and compete with our competitors—very strong competition . . . We were basically looking at what other large fleet organisations were doing for their customer base.[59]

3.58 The Committee acknowledges that to compete effectively Rhodium may well have had to aggressively promote itself to gain brand recognition and market share. If a TOC is to compete effectively with private sector companies it may have to engage in expenditure that would not be appropriate for a normal government agency. The Committee believes that some of the reported expenditure may have been acceptable if part of a clear marketing plan, approved by the Board and properly documented. As it was, this expenditure was largely unapproved by the Board, there was little or no documentary evidence to show the expenditure had been directed at appropriate targets and there is a suggestion that Rhodium employees personally benefited from some events.

3.59 The former CEO said that the Board received gifts from Rhodium for Christmas.[60] When asked about entertainment expenditures, such as attendance at major sporting events such as the NRL Grand Final and the Melbourne Cup, the CEO said that, “Board members also attended some of those functions, as did the Treasurer”.[61] The Chair said that he was the only director to attend such an event, and he had attended two cricket matches.[62] The absence of written records of attendances at these events makes it impossible to assess these claims and counter-claims.

3.60 In many ways expenditure in these areas was the most visible and so it is of greatest concern that the Board was unaware of it. As noted above, Board scrutiny of credit card acquittals would have uncovered some of this expenditure and presumably would have brought it to a halt earlier.

3.61 The Committee is aware that TOCs are established in order to allow them to compete effectively with the private sector. As discussed in the next chapter,

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59 *Transcript of Evidence*, 8 November 2007,p. 162.

60 *Transcript of Evidence*, 8 November 2007, p. 161.

61 *Transcript of Evidence*, 8 November 2007,p. 158.

62 *Transcript of Evidence*, 10 March 2007, p. 51.

however, so long as a TOC is owned by the Government it will be subject to community expectations about prudent use of taxpayer funds and assets. A policy that acknowledges that TOC hospitality practices may differ from the core public sector but sets out basic standards of accountability and transparency would assist in meeting the community's legitimate expectations.

3.62 The Committee welcomes the evidence provided by the boards of ACTEW and ACTTAB that they have reviewed their polices and practices in light of the Auditor-General's Report and are confident that they do not have the same weaknesses as Rhodium. The Committee believes, however, that the ACT Government must ensure that taxpayer funds are being adequately managed.

RECOMMENDATION 3

3.63 **The Committee recommends that the ACT Government, drawing on the findings in Auditor-General's Report No 1 of 2007 *Credit Card Use, Hospitality and Sponsorship*, create a general policy on hospitality that reflects community expectations and instruct Territory-owned Corporations that the policy applies to them as per Section 17A of the *Territory-owned Corporations Act 1990.***

RECOMMENDATION 4

3.64 **The Committee recommends that the ACT Government create a general policy on gifts that reflects community expectations and instruct Territory-owned Corporations that the policy applies to them as per Section 17A of the *Territory-owned Corporations Act 1990.***

RECOMMENDATION 5

3.65 **The Committee recommends that every Territory-owned Corporation:**

a) **develops a policy on those matters that relate to the way in which all staff undertake their responsibilities, such as credit card use, insurance policies, financial management, records management and recruitment activities;**

b) **promulgates these policies to all, or appropriate, staff as necessary;**

c) **monitors adherence to these policies;**

d) notifies the shareholders of any problems that have arisen through the lack of observance of any policies;

e) regularly reviews these policies to ensure they remain relevant and appropriate; and

f) provides these polices on the Corporation's web site.

4 TERRITORY-OWNED CORPORATION GOVERNANCE

> A halfway house is a very dangerous place to be.[63]

Government Business Enterprises

4.1 Governments frequently engage in activities that are also performed or could be performed by the private sector. In some cases, companies formed to perform services previously the function of a government department. In others, they are set up to perform services that would otherwise be purchased from the private sector. Totalcare first came into life as a government agency and was restructured as a TOC in an attempt to solve problems that had evolved over its lifetime. Various forms of Government Business Enterprises (GBEs) can be found in western liberal democracies, and they are often a precursor to the sale of the enterprise, as was planned for Rhodium. In this Chapter, such entities are considered more broadly, in an attempt to draw some broader lessons relevant to the Rhodium experience.

4.2 Many governments of developed nations have sought to improve their management of such commercial activities by establishing GBEs. In the 1980s the Fourth Labour Government of New Zealand and the Greiner Liberal Government of New South Wales pioneered a "corporate" model for GBEs.

4.3 The aim of GBEs is to create a more commercial focus for the government activity. Government agencies, because of their many accountabilities, obligations and diverse stakeholders, are often unable to focus sufficiently upon commercial objectives to gain the efficiencies and innovations that private firms can.

4.4 Various reasons have been advanced for moving government activities onto a "more commercial" footing. Some governments have decided that the relevant

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[63] Professor Stephen Bartos, *Transcript of Evidence*, 14 June 2007, p. 79.

activities were best left to the private sector and so established GBEs as a way of creating an entity suitable for privatisation. This was the stated aim of New Zealand's State Owned Enterprise (SOE) model and, although many SOEs were sold, over twenty years later many have been retained as SOEs.

4.5 Privatisation is not always the policy behind GBEs. In many cases Government business assets have been built up over many years and the Government is the monopoly provider. This is frequently the case with utilities such as electricity, gas, and water provision. Privatising a monopoly in such a way with the aim of creating a fair and competitive market is not simple. A privatised monopoly may have to be subject to heavy regulation to prevent abuse of its market position. Many governments have instead opted to create GBEs, allowing the monopoly to be controlled without the need for a potentially cumbersome regulatory model.

4.6 Successful GBEs can also provide significant revenue to governments. GBEs can be seen as long term investments that provide a return on the government's investment (which may have been accrued over decades) thereby providing revenue from a source other than taxation.

4.7 The risk that governments run by creating and retaining GBEs is that the result will be an organisation that is caught between the two cultures of the private and public sectors, and therefore does not really satisfy the requirements of either type of organisation. As will become clear in the discussion of Rhodium and other TOCs below, it is not always clear what standards GBEs should be held to.

ACT Territory-owned Corporations and shareholder powers

4.8 The *Territory-owned Corporations Act 1990* sets out the model of GBE chosen for the ACT. Section 7 of the Act reads:

> (1) The main objectives of a territory-owned corporation or subsidiary are—
>
> (a) to operate at least as efficiently as any comparable business;

and

(b) to maximise the sustainable return to the Territory on its investment in the corporation or subsidiary in accordance with the performance targets in the latest statement of corporate intent of the corporation; and

(c) to show a sense of social responsibility by having regard to the interests of the community in which it operates, and by trying to accommodate or encourage those interests; and

(d) if its activities affect the environment—to operate in accordance with the object of ecologically sustainable development.

(2) The main objectives of the company are of equal importance.

4.9 Section 7 of the Act illustrates the difficult situation that the Boards and management of TOCs operate in. The first two objectives of operating as efficiently as a private sector company and of maximising returns are effectively the core objectives of any private company. The social responsibility and ecologically sustainable development obligations, which are given equal significance, are areas that private sector firms may choose to give lesser weight to or ignore completely. So while TOCs are to be as efficient and profitable as a comparable private firm they have obligations that a private firm does not.

4.10 Only Ministers are allowed to be voting shareholders of TOCs. They hold the shares on trust for the Territory.[64]

4.11 Part 3 of the Act sets out accountability requirements for TOCs. These include the provision of information to voting shareholders[65] which includes informing them about significant developments[66], controls on the acquisition

[64] *Territory-owned Corporations ACT 1990* s 13 (5).

[65] *Territory-owned Corporations ACT 1990* s 15.

[66] *Territory-owned Corporations ACT 1990* s 16A.

and disposal of subsidiaries, and controls to prevent the TOC effectively changing the fundamental nature of its business.[67]

4.12 Part 3 also sets out the ways in which voting shareholders may direct a TOC. Section 17 reads:

> (1) If—
>
> (a) the voting shareholders of a territory-owned corporation request it or a subsidiary to perform, cease to perform or refrain from performing an activity or to perform an activity in a way that is different from the way in which the directors intend to perform the activity; and
>
> (b) the directors of the company advise the voting shareholders that compliance with their request would not be in the best commercial interest of the company;
>
> the voting shareholders may, by written direction, require the company to comply with the request.
>
> (c)The company must comply with a lawful direction.
>
> (3) The directors of a company are not taken to be in breach of any duty under a law or the constitution of the company only because of their compliance with a lawful direction.
>
> (4) The Portfolio Minister must present to the Legislative Assembly—
>
> (a) a copy of a direction; and
>
> (b) a statement setting out the estimated net reasonable expense of complying with it;
>
> within 15 sitting days of the issue of the direction.
>
> (5) The Territory must reimburse the company for the net reasonable expense of complying with a direction.

[67] *Territory-owned Corporations ACT 1990* s 16.

4.13 Section 17 sets out the requirements that any such directions be tabled by the voting shareholder in the Legislative Assembly and that the government is to reimburse the TOC for the cost of complying with the direction. This section sets out a clear mechanism whereby a TOC can act contrary to its commercial interests and ensures that any such acts are transparent. The Committee believes that the 15 sitting days allowed for the shareholder to inform the Legislative Assembly of a direction to a TOC is too long.

RECOMMENDATION 6

4.14 **The Committee recommends that section 17(4) of the *Territory-owned Corporations Act 1990* be amended to require the portfolio Minister to provide a copy of a direction and a statement setting out the estimated net reasonable expense of complying with it within 5 sitting days of the issue of a direction.**

4.15 Section 17A reads:

> (1) After consulting with the directors of a territory-owned corporation or subsidiary, the voting shareholders may tell the corporation or subsidiary the general government policies (the ***applicable policies***) that are to apply to the corporation or subsidiary.
>
> (2) The directors of the territory-owned corporation or subsidiary must ensure that the applicable policies are, as far as practicable, complied with by the corporation or subsidiary.
>
> (3) A notice under subsection (1) is a notifiable instrument.

4.16 The final legislative control over the governance of a TOC (although there are additional controls on a TOC's finances and, specifically, borrowing) is in Section 20, which requires a TOC to forward a draft Statement of Corporate Intent to its voting shareholders and reach agreement on any changes proposed by them.

4.17 The Auditor-General's Report contains some comments that have raised concerns about the way in which she has interpreted the Act and the nature of TOCs. One such comment reflects on the role of the shareholders in providing direction for a TOC and others comment on the degree to which public sector standards should apply to TOCs. Each of these areas is examined below.

The Rhodium shareholders

4.18 One comment by the Auditor-General regarding the role of the shareholders in Rhodium gained particular focus in submissions and at the Committee's hearings. In a section considering Rhodium's strategic direction the Report reads:

> Audit considers that the uncertainty of Rhodium's future, and a lack of clear directions from the shareholders, made it difficult for the Board to provide and commit to appropriate long-term business strategies to drive Rhodium in achieving the best outcome for the shareholders.[68]

4.19 This comment raised concern at ACTEW who sought legal advice to clarify the responsibility of TOC shareholders. This legal advice stated that:

> It is clearly established that it is the directors of a corporation formed under the Corporations Act who are responsible for setting the strategic direction of the corporation, and not its shareholders . . . it would be completely wrong to suggest that voting shareholders bear any responsibility or duty to determine the direction of the TOC . . . [a]s to the issue of uncertainty . . . in some circumstances, the legal duty of the board may in fact be to "tread water" rather than commit to long term strategy.[69]

4.20 The Committee contrasts the statement that voting shareholders do not "bear any responsibility or duty to determine the direction of the TOC" with the extensive powers available to voting shareholders under the Act, and particularly sections 17 and 17A, as outlined in paragraphs 4.11-4.16 above. The Auditor-General told the Committee that there "is no legal responsibility for the shareholders to provide input" but that "the shareholders could not stay away from certain involvement . . . to ensure that the board's strategic direction reflects the objective of the government".[70]

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[68] Auditor-General's Report, p. 29.

[69] Sub 3, advice from Mallesons, p. 5.

[70] *Transcript of Evidence*, 14 June 2007, p. 89.

4.21 The legal advice notes that in the case where a shareholder is considering sale the duty of the Board may be to "tread water". If the shareholders fail to clearly indicate that they are considering sale, either as a short- or long-term goal, the Board may have reason to be unsure. "Treading water" may cause them to miss commercial and market opportunities that would provide the sustainable returns and efficiencies that they are obligated by legislation to pursue.

4.22 During the Chief Minister's appearance before the Committee he was clear that the idea that the shareholders should have a role beyond that outlined in ACTEW's legal advice caused him "surprise and . . . some disquiet"[71] and went on to say that the legal advice suggests:

> that the Auditor-General's Office has misconstrued in a legal sense the nature of the relationship between a territory-owned corporation and the shareholders, to the point where, if one weren't careful in one's interpretation of the comments which the Auditor-General has made, there is a serious prospect of both shareholders and directors of our territory-owned corporations being in breach of the law.[72]

4.23 The Committee agrees that this is an area that needs clarification. While the Committee understands the concern that this comment has raised, the Committee does not believe that the Auditor-General intended to suggest that shareholders should have overstepped their legal authority. What the comment does recognise, however, is the influence that shareholders have over TOCs.

4.24 A TOC is likely to be aware of shareholders' views on a range of issues through direct meetings, the media and through discussions with other members of the community.

4.25 The Committee notes that one consequence of the small size of the ACT jurisdiction is that voting shareholders are also likely to hold multiple Ministerial portfolios. This presents the potential for conflicts of interest to arise. While not at issue in the case of Rhodium, it is not difficult to envisage

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[71] *Transcript of Evidence*, 23 March 2007, p. 2.
[72] *Transcript of Evidence*, 23 March 2007, p. 3.

cases where a Minister has a role both as a voting shareholder and a portfolio Minister with statutory powers. These powers may well involve decision making that could be to the advantage or disadvantage of TOCs and their strategic directions. In such cases the Committee believes that it is vital that the role of voting shareholder and relevant Minister are separated. This may require a voting shareholder to delegate the relevant decision or exercise of Ministerial power to another member of the Cabinet. Failure to do so could leave the Government exposed to challenges under both administrative and corporations' law.

RECOMMENDATION 7

4.26 **The Committee recommends that ACT Cabinet review its procedures for potential conflicts of interest to ensure that voting shareholders of Territory-owned Corporations delegate to a separate decision-maker any Ministerial powers that relate to current or proposed TOC activity.**

4.27 While legally the strategic direction is the responsibility of the Board, it is difficult to envisage a Board adopting a strategic direction that is not fully agreed by the shareholders. It is no doubt likely that a more established corporation such as ACTEW could engage in robust discussion should it be needed. In Rhodium's case the Committee is left with the impression from the Board minutes of an organisation still finding its way and waiting for a political decision. As the Chair put it the Board was, "looking for . . . some guidance from the government in terms of its expectations of us."[73] The Board was getting "not formal but informal mixed messages about Rhodium's future."[74]

4.28 Rhodium's June 2005 Statement of Corporate Intent (SCI) sets out the following business objectives:

- Achieve sustained growth to maximise market value by 2009/2010
- Develop new business segments to support a diversified national asset portfolio in the corporate and government sectors

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[73] *Transcript of Evidence*, 10 May 2007 p. 22.
[74] *Transcript of Evidence*, 10 2007, p. 22.

- Support individuals to be productive, flexible, committed and satisfied team players;

4.29 It is difficult to reconcile these objectives, which must have been approved by the shareholders as the SCI was tabled in the Legislative Assembly, with the Chief Minister's statement that they wanted Rhodium to "get on with the business of providing the ACT government with a fleet".[75] The former CEO noted that there was a difference of opinion between the shareholders.[76] The Chief Minister told the Committee that, "there was not unanimity across government in relation to the extent to which Rhodium as a business would optimally achieve the government's policy objective".[77]

4.30 The Committee believes that the shareholders of Rhodium failed in their duty. They failed to give guidance to the Board in what was expected of it and sent mixed messages about Rhodium's future.

RECOMMENDATION 8

4.31 **The Committee recommends that the ACT Government establish a mechanism whereby voting shareholders of Territory-owned Corporations can resolve differences of opinion so that Territory-owned Corporation Boards can be clear on what the shareholders' expectations are.**

4.32 It is clear that this uncertainty affected planning and recruitment. As the COO suggested, the idea that Rhodium was just going to be a fleet manager for the ACT Government made him wonder whether it would be worth staying with the corporation.[78] The Committee is of the view that the shareholders were indecisive and held different views about the direction they wanted Rhodium to take and this contributed to uncertainty within the corporation. This uncertainty, while it contributed to the pressure under which Rhodium operated and affected staff morale, cannot, however, explain or excuse the

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[75] *Transcript of Evidence*, 28 March 2007, p. 11.
[76] *Transcript of Evidence*, 8 November 2007, p. 140.
[77] *Transcript of Evidence*, 28 March 2007, p. 7.
[78] *Transcript of Evidence*, 8 January 2007, p. 123.

management decisions at question but may in part explain why they occurred and went unnoticed and unchecked by the Board.

RECOMMENDATION 9

4.33 **The Committee recommends that the voting shareholders of Territory-owned Corporations report to the Legislative Assembly on their interactions with the corporations' Boards on a six monthly basis.**

RECOMMENDATION 10

4.34 **The Committee recommends that the *Territory-owned Corporations Act 1990* be amended to require that the Board supply the voting shareholders with a draft business plan and a draft Statement of Corporate Intent and that the shareholders must respond to these documents within 30 days.**

Public Sector Standards

4.35 In a number of places, the Auditor-General's Report makes reference to the relevance of public sector standards for TOCs. The following comments are each taken from a different part of the Report:

> It is recognised that as a TOC, Rhodium needs to operate and compete within a commercial environment. For this reason, a TOC is not always required to comply with the standards and rules applied to Government departments. Nevertheless, being a Government business and operating with taxpayers' money, there is community expectation that the Rhodium Board and management should ensure that decisions on public money are exercised with due care and integrity.[79]

> Some costs incurred on the credit cards included payments for meals and expensive wines, hire of movies, mini-bar purchases and accommodation

[79] Auditor-General's Report, p. 34.

in luxurious hotels, for entertainment, hospitality and travel expenses by Rhodium management and staff. Audit considers these costs were often not in line with good practices, such as the Public Sector Management Best Practice Notes, and were at times excessive.[80]

Rhodium, being a TOC, does not have to comply with Government policy in determining its executives' remuneration. The Board has the authority to determine the remuneration of the CEO and other executives. However, it is the expectation of the community that TOCs, which operate with taxpayers' moneys, will follow better practice in remunerating their executives and staff, including benchmarking against similar positions in the TOC sector and Government Senior Executives.[81]

The *Public Sector Management Act 1994* (PSM Act) establishes a foundation for human resource management in the ACT Public Sector. The legislation is supported by Standards and guidelines, which together set a personnel practices framework based on sound management and better practice. As a Territory Owned Corporation, Rhodium is not required to comply with the PSM Act. Nevertheless, as a Corporation funded from public money, the community would expect Rhodium to be guided by the general principles inherent in the PSM Act, and manage its human resources in a manner consistent with good business practice.[82]

Appointment, transfer, and promotion of public sector employees in the ACT is governed by the PSM Act. The Act does not apply to TOCs, in part because the Government has recognised that TOCs need the flexibility to respond to a competitive and commercial market environment. Nevertheless, the PSM Act outlines basic good practice principles for human resource management that can be applied to public

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[80] Auditor-General's Report, p. 47.
[81] Auditor-General's Report, p. 57.
[82] Auditor-General's Report, p. 62.

> and private sector employment. For example, the principles of merit and procedural fairness are integral to any sound recruitment processes.[83]

4.36 The Auditor-General was careful in all of the above statements to note that TOCs are not bound to follow public sector standards. ACTEW sought legal advice on these issues. That advice reiterated that TOCs are not bound by such standards and that at times they may have a duty to take actions not consistent with public sector standards. The issue was summed up by the Chief Minister:

> And then the auditor says, "We think this should operate with a governance strain which is consistent with the operations of government." We say, "No. If we wanted that then we wouldn't have created it as a corporation."[84]

4.37 The Committee makes two observations about the applicability of public sector standards for TOCs. The first is that the Auditor-General's comments should be read in the context of the environment that was in operation in Rhodium. In key areas such as human resources and employee expenditure there were few controls in place and even basic standards such as transparent recruitment systems were absent. Rhodium began without policies, a situation that would not be acceptable in the public or private sector.

4.38 When TOCs are established they are expected to compete with the private sector. Clear internal policies should be a priority in order to allow the corporation to focus on its market position. Rhodium's policy framework should have been either established by the transitional Board or been the Board's key priority in its first six months.

RECOMMENDATION 11

4.39 **The Committee recommends that any newly established Territory – owned Corporation be required to provide the voting shareholders with copies of its policies and procedures in the areas of human resources, hospitality, sponsorship, records management, credit card**

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[83] Auditor-General's Report, p. 68.

[84] *Transcript of Evidence*, 28 March 2007, p. 5.

use, financial management and any other relevant areas within six months of establishment.

4.40 The Committee's second observation on the issue of public sector standards for TOCs concerns community expectation. The Chief Minister is right in saying that the point of establishing a TOC is to create a body that can operate differently from government agencies. The community, however, is unlikely to distinguish between a TOC and a Government department as both are created out of taxpayer contributions. Shareholders, Boards and senior managers at TOCs should be aware that they are subjected to greater scrutiny than their private sector counterparts. This scrutiny comes from the media and community and through the accountability mechanisms of the Legislative Assembly such as the Public Accounts and Estimates Committees.

Rhodium as a TOC

4.41 The ACT has had four TOCs in its history of self-government: ACTEW, ACTTAB, Totalcare and Rhodium.[85] ACTEW is a monopoly provider of the essential service of water and so, it could be argued, should be a GBE because of the difficulties of privatising it successfully and the important social and environmental impacts of its functions. ACTTAB's business is gambling, an area traditionally heavily regulated by government. Managing ACTTAB as a GBE could be justified by arguing that having government control of this agency is more efficient than regulation or as a significant revenue earner for the government.

4.42 Rhodium did not, and does not, provide a service significantly different from the private sector, nor is car fleet management an area of particular community concern where an argument for government involvement can be made on social or regulatory efficiency grounds. It could be argued that Rhodium should be a TOC, rather than privatised or having its operations run by a government agency, on financial grounds. If Rhodium was able to provide a financial return to the government through its activities, and provide savings

[85] Various other ACT Government bodies have corporation in their titles (eg EPIC) but they are not governed by the *Territory-owned Corporations Act 1990.*

through government fleet management services, then this could be argued as sufficient justification for Rhodium to be constituted as a TOC.

4.43 In fact the reason that Rhodium was constituted as a TOC was because the Government was unable to transfer its functions from Totalcare to a government agency. At the time of Rhodium's creation Mr Quinlan MLA informed the Assembly that legal advice indicated that the Territory could not become both lessor and employer under some of the leases.[86] Mr Quinlan stated that Rhodium:

> Is only an enterprise of convenience inasmuch as we need a third party to allow novated leases to continue to be in place; otherwise it would not exist. We do not intend to get out there and try to compete with Hertz, Avis or anybody else.[87]

4.44 The former CEO, when asked about the return Rhodium was providing to the Government, said that:

> Firstly, we were never going to achieve those great returns in the first two to three years. It was about building the business and getting into the marketplace to achieve those returns. Secondly, there were the indirect returns to government through stamp duty, workforce, sponsorship of community and government activities, and a whole range of those things. Thirdly, in the first year, for a revamped organisation we did give some good returns.[88]

4.45 It appears, therefore, that at the time of its creation Rhodium could have been expected to provide reasonable returns to the government, although it was operating in a highly competitive market.[89] To achieve this, however, it would have had to market itself, develop products and compete with the other businesses operating in the market.

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[86] Legislative Assembly for the ACT, Hansard, 7 December 2004, p. 102.

[87] Legislative Assembly for the ACT, Hansard, 9 December 2004, p. 237.

[88] *Transcript of Evidence*, 8 November 2007, p. 162-163.

[89] The Committee notes that recent external changes to the market that affected the attempted sale of Rhodium would also have impacted significantly upon the company's profitability had the government decided to retain it.

4.46 Mr Aslam, the former COO, observed that at the time he was employed the shareholder (Mr Quinlan), "saw the role of Rhodium as being the fleet manager to the ACT and, I guess, to do ancillary government type business".[90] The Chief Minister later suggested to the Committee that Rhodium had a "core business of providing a fleet for the ACT government".[91] The ACT Government contract amounted to 35 per cent of Rhodium's business and it was not driving growth.

4.47 This raises the question of whether Rhodium could be effective as a TOC if the objective was not to seriously pursue greater returns. The ACT Government contract was never going to provide significant profit to Rhodium. Treasury, which negotiates the fleet contract and advises on Rhodium's financial approach, is recorded in the Board minutes to have been keen to get "value for money" from the fleet contract. It is difficult to see a focus on the 35 per cent of the business with the lowest possibility of growth as consistent with a Board acting in the best commercial interests of the company. The Committee believes that it may have been appropriate for the Government to have issued a direction to Rhodium under Section 17 of the Act. Provision for directions exists for just this type of circumstance, where the Government desires a TOC to take an approach that may not be in its best commercial interests. The issuing of such a direction would have been a transparent way of approaching the matter and may have resolved much of the uncertainty facing Rhodium, although it would have exacerbated difficulties in attracting private sector expertise to join the company.

4.48 In this context the Committee notes the following from Rhodium's 2006-2007 Annual Report:

> In June 2006, the Government advised, in the context of awarding Rhodium the ACT Government Fleet contract, that Rhodium was to move to a cost recovery only basis for the provision of these fleet

[90] *Transcript of Evidence*, 8 November 2007, p. 123.
[91] *Transcript of Evidence*, 28 March 2007, p. 11.

> management services and that these services were not to cross-subsidise Rhodium's other product lines.[92]

4.49 When questioned about the impact this direction would have on Rhodium's sale price the Acting CEO Mr Ken Moore told the Committee:

> it is very clear that in selling Rhodium cost recovery only cannot survive into the commercial world and the sale documents that the government has issued on the ACT fleet product make that very clear to the buyers—that cost recovery only will die with Rhodium's sale—and they would have priced their tender responses accordingly.[93]

4.50 This makes it clear that the ACT fleet management contract, as currently held by Rhodium, would not be acceptable to any private sector firm. A cost recovery only contract is not in a company's best commercial interests as it creates obligation upon a company without any possibility of profit. Section 17 of the Act was designed to address exactly this kind of situation and yet no direction under this section has been tabled in the Legislative Assembly. The Government appears to have forced Rhodium to take a tender on non-commercial terms without providing it with compensation, in contrast to the provisions of the Act, thereby forcing Rhodium into an untenable position. This undermines the whole rationale of establishing Rhodium as a TOC. It appears that the shareholders have failed to comply with the *Territory-owned Corporations Act 1990*.

RECOMMENDATION 12

4.51 **The Committee recommends that the Treasurer explain to the Legislative Assembly before the last day of sitting of the Sixth Assembly why the ACT Government required Rhodium to take a contract against its best commercial interests without providing it with compensation as set out in the *Territory-owned Corporations Act 1990*.**

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[92] Rhodium Asset Solutions, Annual Report 2006-07, p. 9.

[93] *Transcript of Evidence*, 11 December 2007, p. 74.

4.52 If Rhodium's primary role was as manager and provider of the ACT fleet, its focus should have been on management rather than on commercial opportunity. Such a managerial role could have been achieved by placing the Totalcare fleet management business under a government agency, with management rights to the novated leases that created legal issues being sold to the private sector.. This would have provided a break from the Totalcare culture by allowing the business to become part of a wider departmental culture. It would also have avoided the role confusion experienced by Rhodium.

4.53 The alternative would have been to establish Rhodium as a TOC and allow it to pursue a commercially driven growth strategy, subject to the limits on borrowing and risk that come with seeking funding from Treasury. Discussion between management, the Board and the ACT Government shareholders as to whether it was desirable for Rhodium to greatly expand its non-vehicle leasing business or to focus instead on marketing and expanding its vehicle related leasing products could still have occurred. This would have provided Rhodium with a clear direction. Should the government then reach a decision to privatise the TOC, it would have been operating in a commercially viable fashion (assuming it had been competently managed) making it more attractive to potential purchasers. The Committee believes that establishing Rhodium as a TOC and then discouraging it from focusing on its growth opportunities hindered the company in either preparing for privatisation or effectively managing its assets.

4.54 On 13 August 2008 the Committee received a briefing from Treasury officials about the attempt to sell Rhodium and the plans for Rhodium's future given that the sale process was unsuccessful. As a consequence of what has happened with Rhodium, the failure to sell Rhodium has seen the dramatic reduction in the value of Rhodium and the winding up of the Corporation thereby loosing the ACT taxpayers significant funds.

RECOMMENDATION 13

4.55 **The Committee recommends that voting shareholders provide any new Territory-owned Corporations with a clear statement of the ACT Government's expectations of the company.**

RECOMMENDATION 14

4.56 **The Committee recommends that the ACT Government review the *Territory-owned Corporations Act 1990* with a particular focus on improving and clarifying the governance provisions.**

5 CONCLUSION

5.1 The unfortunate events at Rhodium Asset Solutions Ltd do not reflect well on any of the participants. Management, led by the former CEO, engaged in ill-advised spending, treated company assets and business as personal benefits and failed to establish policies and practices of even a basic acceptable standard. The Board failed in its duty to supervise management and did not place any priority on addressing key areas where they were aware of weaknesses. The shareholders, while not directly responsible for the day to day failures and questionable behaviour at Rhodium, failed to establish and communicate its expectations to the company.

5.2 The Committee has made some recommendations on specific areas that should be addressed in the short term and has recommended a wider review of the *Territory-owned Corporations Act 1990* to address the concerns that all parties share about the confusion of governance roles.

5.3 The Committee wishes to thank the organisations and individuals who participated in the inquiry, and to the government for making confidential documents available to the Committee.

5.4 The Committee has made 14 recommendations in relation to its inquiry into Auditor-General's Report No 5 of 2006: *Rhodium asset solutions Ltd*

Dr Deb Foskey MLA

Chair

15 August 2008

APPENDIX A: List of submissions

List of written submissions received by the Committee

No 1	ACT Government
No 2	Professor Roger Wettenhall
No 3	ACTEW Corporation Ltd
No 4	ACTTAB Ltd
No 5	ACTTAB Ltd - Supplementary

APPENDIX B: List of witnesses

Witnesses who appeared before the committee at public hearings

Public Hearing of Wednesday 28 March 2007

- Mr Jon Stanhope, Chief Minister and Treasurer
- Mr Neil Bulless, Acting Executive Director, Finance and Budget Division,
- Department of Treasury
- Mr Tony Hays, Senior Manager, Budget Management and Analysis Branch,
- Finance and Budget Division, Department of Treasury
- Mr Ken Moore, Acting Chief Executive Officer, Rhodium Asset Solutions Ltd
- Mr Bob Samarcq, Chair, Rhodium Asset Solutions Ltd
- Ms Megan Smithies, Acting Under Treasurer, Department of Treasury

Public Hearing of Thursday 10 May 2007

- Mr Ken Moore, Acting Chief Executive Officer, Rhodium Asset Solutions Ltd
- Mr Bob Samarcq, Chair, Rhodium Asset Solutions Ltd

Public Hearing of Wednesday 13 June 2007

- Mr Tony Curtis, Chief Executive Officer, ACTTAB Ltd
- Mr Con Kourpanidis, Chairman, ACTTAB Ltd Board
- Mr Ted Quinlan, Deputy Chairman, ACTTAB Ltd Board
- Mr John Robertson, Executive Director, ACT Procurement Solutions, Shared Services Centre, ACT Department of Treasury

Public Hearing of Thursday 14 June 2007

- Professor Stephen Bartos, Director, National Institute of
- Governance, University of Canberra
- Mr Michael Costello, Managing Director, Actew Corporation Ltd
- Mr Michael Lai, Senior Audit Manager, ACT Auditor-General's Office
- Mr Rob Nicholas, Director, Performance Audits and Corporate Services, ACT Auditor-General's Office
- Ms Tu Pham, Auditor-General
- Mr Jim Service, Chair, Actew Corporation Ltd Board
- Mr Bernie Sheville, Director Financial Audits, ACT Auditor-General's Office

Public Hearing of Thursday 14 June 2007

- Mr Naveed Aslam, former Chief Operating Officer, Rhodium Asset Solutions Ltd
- Ms Deborah Clark, former Chief Executive Officer, Rhodium Asset Solutions Ltd

APPENDIX C: Timeline of Significant Events related to Rhodium

October 2004	Totalcare Board approves IT development. Totalcare Board appoints Ms Deborah Clark as CEO.
December 2004	Rhodium incorporated. Rhodium Board appointed. Shareholders ask Board to supply a business plan.
January 2005	Rhodium becomes a TOC.
April 2005	Additional director appointed to the Board. Board supplies shareholders with a draft business plan
May 2005	New contract for CEO signed, effective from 1 March 2005
June 2006	CEO had been directed to supply written policies to the Board by this date. First Chief Operating Officer engaged. CEO requests cash advance
July 2005	Rhodium transfers $10,000 to Clarks in France
August 2005	Rhodium begins acquiring promotional items/gifts from single provider
September 2005	First COO terminates contract Second COO employed. CEO acquires Lexus at own cost.
November 2005	CEO's performance assessment – "performing very well".

December 2005	New CEO contract effective – includes right to lease a car at Rhodium's expense. Rhodium purchases the Lexus the CEO was using. COO approaches CEO about $10,000 and credit card statements.
January 2006	Board advised about Brumbies sponsorship deal
February 2006	COO position terminated COO informs Board about possible improprieties. KPMG engaged to review credit card use and other issues. CEO repays $10,000 cash advance. Treasurer informed of allegations of impropriety.
March 2006	KPMG reports on cash advance and credit card use. CEO resigns. KPMG reports on financial management.
April 2006	KPMG reports on corporate expenditure. Board receives IT gap analysis
May 2006	Board receives independent report indicating the IT project is high risk. IT project terminated.
July 2006	Mr Ken Moore appointed acting CEO. Chief Minister requests the Auditor-General to investigate.
September 2006	Auditor-General reports
November 2006	Government announces intention to sell Rhodium
July 2008	Government announces sale process was unsuccessful and that Rhodium will be wound down.