

Investigation into the Financial Affairs of the
Hospitality Association for Northern Ireland

Publication of a report under Article 12C.–(1)(b) of the Industrial
Relations (Northern Ireland) Order 1992 (amended)

By the Northern Ireland Certification Officer for Trade Unions and
Employers' Associations

17th July 2003

Hospitality Association for Northern Ireland (HANI)
Financial Investigation.

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17th July 2003

Hospitality Association for Northern Ireland (HANI)
Financial Investigation.

Northern Ireland Certification Officer's Publication of the Inspector's Final Report

1. The Background

1.1 Following receipt of certain information, and an enquiry from a solicitor, about the operation of HANI - an unincorporated employers' association, I became concerned that it may be in breach of the Industrial Relations (Northern Ireland) Order 1992 (the 1992 Order). I invited its representatives to meet with me in May 1999, after which it became clear to me that HANI did not have its assets vested in trustees and that other financial irregularities may have occurred.

1.2 I considered there was good reason to exercise my powers pursuant to Article 12A.-(2) of the 1992 Order to require HANI to provide me with a number of relevant documents. Following examination of these it appeared that the circumstances warranted me appointing an inspector to investigate HANI's financial affairs.

1.3 I invoked Article 12B.-(1) of the 1992 Order which gives me "the power to appoint an inspector to investigate the financial affairs of an employers' association in circumstances which appear to me to suggest that:

- (a) the financial affairs of the employers' association are being or have been conducted for fraudulent or unlawful purpose,
- (b) that persons concerned with the management of these financial affairs have, in connection with that management, been guilty of fraud, misfeasance or other misconduct,
- (c) that the employers' association has failed to comply with any duty imposed on it by the 1992 Order in relation to its financial affairs, or
- (d) that a rule of the association relating to its financial affairs has not been complied with."

1.4 On 27th September 1999, I appointed Ms K Linnell as an inspector to investigate HANI's financial affairs and report to me. At that time she was a

senior manager in the Forensic Department of H.W. Fisher & Company, Chartered Accountants, specialising inter alia, in Forensic Accounting”.

1.5 The inspector’s terms of reference required her to:

- a) investigate the financial affairs of HANI from January 1996 onwards;
- b) establish whether HANI’s funds had been properly spent and properly accounted for in that period;
- c) establish if HANI has or had been wound up and if so whether this had been conducted properly in accordance with its rules;
- d) make a final written report under Article 12.-C. (1)(b) of the 1992 Order;
- e) prepare a transcript of the examination of any person, under the Police and Criminal Evidence Act 1984 (PACE) caution, in the course of her investigation; and
- f) report on any matter the Certification Officer specifically drew to her attention.

In relation to (f) above, I received an anonymous letter alleging that; HANI’s Chief Executive and staff had claimed from it certain expenses which included private and personal costs; that cheques had been forged by persons who had no lawful authority to sign cheques; and generally that there was a lack of proper accounting records and internal controls. A copy of this letter was drawn to the inspector’s attention and she was asked to report upon the issues it raised.

1.6 Ms Linnell’s final report was submitted to me on 31st March 2000. As required by statute, (Article 12C,-(6) of the 1992 Order), I now publish her report (Appendix A).

2. Inspector's Findings & Recommendations

2.1 The following is a summary of the main findings and recommendations taken from the inspector's final report.

2.2 The inspector found that HANI's Council failed in a number of respects to comply with the 1992 Order; and principally "in its statutory duty to keep proper accounting records and to maintain a satisfactory system of control of its accounting records, its cash holdings and all its receipts and payments".

2.3 It also failed: -

(a) "to appoint trustees of the assets of the association; (b) to submit proper annual returns to the Certification Officer and (c) it breached its own rules in a number of respects".

2.4 The inspector recommended that appropriate legal proceedings be considered against HANI under the 1992 Order.

2.5 The inspector also found:

"there is no record of the VAT raised by HANI in 1998, in relation to a training scheme, having been repaid to HM Customs & Excise"; she recommended that HM Customs & Excise be alerted to the issue of the unpaid VAT;

"evidence of frauds having been perpetrated by HANI staff" and recommended that this evidence be forwarded to the police;

"that the auditor and his immediate predecessor each breached the 1992 Order and in particular completed misleading and incomplete reports, which they declared as auditors to the Certification Officer". Mr Cunningham (HANI's auditor from 1996) admitted to the inspector at interview that he hadn't read the legislation before signing the Auditor's Certificate. She recommended that appropriate legal proceedings be taken against the auditors under the 1992 Order;

"that the auditor and his immediate predecessor have each breached their professional code of practice". She recommended that this matter be referred to the auditors' professional body, the Institute of Chartered Accountants of Ireland;

"no evidence that cheques had been unlawfully signed" and

"no evidence that HANI has or had been wound up".

Although the inspector did not find any evidence that HANI has or had been wound up she found evidence "that it had ceased its normal activities, which have been continued by NIHF" (the NI Hotels Federation).

3. Legal Proceedings and Referrals

3.1 In June 2000 my office forwarded a copy of the inspector's report together with instructions to the Department of the Director of Public Prosecutions. The Chief Constable was requested by the Director on 2nd October 2000, under Article 6(3) of the Prosecution of Offences (Northern Ireland) 1972, to carry out an investigation into certain matters highlighted by the inspector's report.

3.2 A police investigation file in relation to the financial affairs of HANI was received by the Department of the DPP on 29th June 2001 and an interim Direction was issued to the Chief Constable on 10th August 2001 for certain additional enquiries to be carried out. Following a request from the The DPP's Office I instructed the inspector to assist the police with their further enquiries, and they interviewed her over several days, in London. My office also assisted the police over this time by providing the additional information sought by them.

3.3 After consideration of all the evidence and information contained in the police investigation file, it was concluded by the police that there was sufficient evidence to support a prosecution against HANI for an offence contrary to Article 13(1) of the 1992 Order. Relevant extracts of the legislation are attached at **Appendix D**.

3.4 A final direction to prosecute issued to the Chief Constable on 2nd November 2001 (the issuing and service of summonses in all criminal matters is the responsibility of the Police). The Department of the DPP made a number of enquiries regarding the progress of the issue and service of the summons and on 11th April 2002 it was advised that the summons had finally been issued for a court date on 11th June 2002.

3.5 The DPP prosecuted HANI for failing in its statutory duty to keep proper accounting records and for failing to maintain a satisfactory system of control of its accounting records, its cash holdings and all its receipts and payments.

3.6 On 16th December 2002, HANI pleaded guilty to these charges at Belfast Magistrates Court and was fined £500. The Magistrate awarded my office maximum costs of £5,000.

3.7 It was further considered by the Police that the evidence uncovered by the inspector in the course of her investigations "was insufficient to support prosecution against any other person or persons for any offence". This meant that the Police took no prosecution action in regard to HANI staff, its auditor or his immediate predecessor.

3.8 I have referred the inspector's final report to the auditors' professional regulatory body, the Institute of Chartered Accountants of Ireland (ICAI) for its consideration and action, as it deems appropriate.

3.9 I have also referred the inspector's final report to HM Customs & Excise for its information and action as it deems appropriate.

4. Procedure adopted prior to my Statutory publication of Inspector's Report: Opportunities for parties to provide comments

4.1 I am required by statute to publish the inspector's final report made to me under the 1992 Order. I do so now without malice.

4.2 It was always understood by my office and that of the DPP, that an extract only from the inspector's report would be served on HANI with the summons and that the inspector's final report together with my report would not be published until after the HANI court case (16 Dec 2002).

4.3 My office received a phone call on 23 May 2002, from a journalist, claiming that his newspaper had a photocopy of the inspector's report in its entirety. The journalist was told by my staff that this could not have emanated from my office and that it did not have the status of a public document. I subsequently learned (June 2002) that the complete inspector's report was inadvertently served on HANI with the summons by the police process office.

4.4 Immediately following HANI's prosecution (16 Dec 2002), my office forwarded copies of the inspector's report to the parties named in it with an invitation to them to provide me with any representation they may wish to make, on the understanding that I would publish these together with any comments of my own arising out of my consideration of all the material assembled. The representations received together with my comments are attached in **Appendix B**. For ease of reference the responses are listed in alphabetical order.

4.5 I have taken the steps outlined in 4(4) above to be fair to those named by the Inspector in the course of her investigations. She did not set out to target individuals per se but rather to examine the correctness and completeness of HANI's books and records, the way in which these were maintained and whether they truly reflected the operations of HANI and to ensure that the requirements of the 1992 Order were being followed. This was the main focus of her work and indeed my primary concern as Certification Officer and was reflected in the terms of reference I gave her.

4.6 I gave the inspector the opportunity to examine all the representations made from the parties and she has advised me that, after revisiting her records and notes she remains of the opinion that her final report to me accurately reflects the facts as she uncovered them. She remains confident in her statements and conclusions and she has considered that no changes to her report are necessary.

4.7 In early January 2003 I requested HANI to make copies of the inspector's report available to its membership for their information. Copies of it were placed in a number of hotels throughout the Province and Mr Felix Mooney (HANI President) wrote to members inviting them to examine the report.

4.8 On 24 January 2003 another journalist enquired as to the status of the inspector's report and my office confirmed that it was a public document in that full copies of the report had been served in May 2002 by the police with the summons to HANI and its office bearers. The journalist was also advised that my

statutory publication of the report would occur in 2003. A number of articles about the inspector's report appeared in the press and my office received complaints from all the parties named in the report. The parties were informed that my statutory publication had not taken place and would not take place until a reasonable period had expired, to enable them to forward comments, which would be included in my report.

5. Police Investigation into HANI

5.1 On 28 February 2003, I received correspondence from Mr John Dallat MLA, enclosing a response he had received from Police to queries that arose out of material contained in the HANI (inspector's) report. In his letter to me, Mr Dallat writes "Please accept this as a formal document which you are free to use in relation to the ongoing HANI investigation and final report on the subject."

5.2 A summary of the Police response to Mr Dallat is attached at **Appendix C** for information. It deals specifically with:

- (1) the copy invoices for items of equipment which a former employee of HANI purchased outright, using a HANI credit card and the duplicate hire purchase invoices – (reference paragraphs 10.1 and 10.2 of the inspector's report) and
- (2) the gift of a motor vehicle to the same former HANI employee, when she left in 1997 – (reference paragraphs 12.4 and 12.5 of the inspector's report)

5.3 In June 2003 I advised the Police that I would publish a summary of its response to Mr Dallat.

6. Conclusions and follow up action

6.1 In my statutory role as a regulator of Employers' Associations my primary purpose in mounting this investigation was to examine the internal financial affairs of HANI to ensure it was properly complying with the requirements of the legislation in relation to these matters. The inspector's main conclusions explicitly stated that HANI's council breached several parts of the 1992 Order in relation to its financial affairs, inter alia, it failed to keep proper accounting records and to maintain a satisfactory system of control of its accounting records. It was clear to me from the inspector's findings that the books and records of HANI were inadequate.

6.2 The inspector also concluded that HANI had failed in its statutory duty to appoint trustees of its assets and to submit proper annual returns to me in the financial years 1996 to 1999. HANI has not refuted these findings. Moreover, because of the inspector's findings, my office will seek an assurance from HANI that the returns submitted by it, for the financial years 2000 and 2001, have been prepared in accordance with the legislation.

6.3 The inspector found no evidence that the association had or has been wound up and as a consequence the exact status of HANI needs to be clarified and all these outstanding matters resolved to my satisfaction. To this end my office is continuing its liaison with HANI to ensure that all returns are submitted in accordance with the law and that sound financial systems are operating to prevent a recurrence of the situation, which had developed in HANI from 1996. I will be commenting further on these matters in my next annual report.

6.4 Other matters which came to light in the course of the inspector's investigations into the correctness and completeness of HANI's books and records appeared to me to suggest that a criminal offence had been committed. I referred these matters to the appropriate prosecuting authority.

6.5 After some considerable time had elapsed during which period the Police interviewed the inspector (and I understand a member of HANI staff) I learned that the Police considered the evidence insufficient to support prosecution of any (my emphasis) other person or persons (my emphasis) for any offence.

6.6 I have referred the inspector's report to the auditors' professional regulatory body (ICAI). My office will liaise and assist it as appropriate. I will be interested to learn what action the Institute proposes to take in this case. I will report on this in my next annual report.

6.7 I have referred the inspector's report to HM Customs & Excise and my office will liaise and assist it as appropriate. I will report on this in my next annual report.

6.8 I would like to thank the inspector, Ms Linnell, for her final report and HANI officials for the co-operation afforded to my office.

6.9 A copy of my statutory report has been placed on HANI's public file in my office; a copy (excluding the inspector's final report) has been placed my office website (www.nicertoffice.com).

S McElrea
NI Certification Officer

Appendix A

The inspector's final report

**INSPECTOR'S REPORT TO THE NORTHERN
IRELAND CERTIFICATION OFFICER INTO THE
FINANCIAL AFFAIRS OF THE HOSPITALITY
ASSOCIATION OF NORTHERN IRELAND**

PART I

1. INTRODUCTION

- 1.1 Following receipt of information about, and an enquiry into the operation of the Hospitality Association of Northern Ireland (HANI), an unincorporated employers' association, the Certification Officer became concerned that the association may be in breach of the Industrial Relations (Northern Ireland) Order 1992. He invited HANI's representatives to meet with him on 13 May 1999 for discussions, after which it became clear to him that HANI did not have its assets vested in trustees; he also considered that other financial irregularities might have occurred.

- 1.2 The Certification Officer considered there was good reason to exercise his powers in Article 12 A.-(2) of the 1992 Order to require HANI to provide a number of relevant documents. The documents obtained included minutes of HANI's Council meetings covering the period from September to December 1998, and three bank statements relating to HANI ; these are attached. Following his reading of the documents it appeared to the Certification Officer that the circumstances warranted him appointing an inspector to investigate the financial affairs of HANI.

2. MY APPOINTMENT

- 2.1 I was appointed by the Certification Officer under Article 12 B.-(1) of the 1992 Order on the 27th September 1999 to investigate the financial affairs of HANI, and to report to him.

3. MY TERMS OF REFERENCE

3.1 The terms of reference of my appointment required me: -

- 1) to investigate the financial affairs of HANI from January 1996 onwards ;
- 2) to establish whether HANI's funds had been properly spent and properly accounted for in that period ;
- 3) to establish if HANI has or had been wound up and if so whether this had been conducted properly and in accordance with its rules ;
- 4) to make a final written report under Article 12.-C. (1) (b) of the 1992 Order;
- 5) to prepare a transcript of the examination of any person, under the Police and Criminal Evidence Act 1984 (PACE) caution, in the course of my investigation ; and
- 6) to report on any matter the Certification Officer specifically drew to my attention.

4. MY MODUS OPERANDI

4.1 I visited the offices of HANI and also those of its auditor, Wilkinson & Maxwell and Company, Chartered Accountants.

4.2 I interviewed the following people:

- a) Mr S Small, HANI's Honorary President since April 1998;
- b) Mr N Morrison, HANI's Chief Executive until his retirement in September 1998;
- c) Mr A Good, HANI's Honorary Treasurer since April 1998 who, from May 1998 also carried out a range of paid consultancy work for HANI; and
- d) Mr F Cunningham of Wilkinson & Maxwell and Company, HANI's auditor.

All interviews were recorded under PACE caution, except for that with Mr Small, and transcriptions were subsequently prepared. Mr Catchpole, a partner in McKinty & Wright, solicitors, who was advising HANI in respect of certain aspects of its affairs, attended the interviews of Messrs Small, Good and Cunningham. I also had discussions with Mr Stuart, an employee of HANI for the periods from May 1993 until November 1997 and from October 1998 for one month until he was employed by NIHF from November 1998 to date. Mr. Stuart carried out work on behalf of HANI and then NIHF recharged HANI for this work.

4.3 During my investigation the Certification Officer received an anonymous letter alleging that; HANI's Chief Executive and staff had claimed from it certain expenses which included private and personal costs; that cheques had been forged by persons who had no lawful authority to sign cheques; and

generally that there was a lack of proper accounting records and internal controls. A copy of this letter was drawn to my attention and I was asked to report upon the issues it raised.

5. SUMMARY OF MY MAIN FINDINGS AND RECOMMENDATIONS TO THE CERTIFICATION OFFICER

5.1 My investigations found that HANI's Council failed in a number of respects to comply with the 1992 Order but principally in its statutory duty to keep proper accounting records and to maintain a satisfactory system of control of its accounting records, its cash holdings and all its receipts and payments.

5.2 It also failed:-

- a) to appoint trustees of the assets of the association ;
- b) to submit proper annual returns to the Certification Officer ; and
- c) it breached its own rules in a number of respects.

I recommend that appropriate legal proceedings be considered against HANI under the 1992 Order.

5.3 I also found that there is no record of the VAT raised by HANI in 1998, in relation to a training scheme, having been repaid to HM Customs & Excise ; I recommend that HM Customs & Excise be alerted to the issue of the unpaid VAT.

5.4 I found evidence of frauds having been perpetrated by HANI staff and I recommend that this evidence be forwarded to the police.

5.5 The auditor and his immediate predecessor each breached the 1992 Order and in particular completed misleading and incomplete reports, which they declared as auditors to the Certification Officer. Mr Cunningham admitted to me that he hadn't read the legislation before signing the Auditor's Certificate. I recommend that appropriate legal proceedings be taken against the auditors under the 1992 Order.

5.6 The auditor and his immediate predecessor have each breached their professional code of practice. I recommend that this matter be referred to the auditors' professional body, the Institute of Chartered Accountants of Ireland.

5.7 I found no evidence that HANI has or had been wound up. I did find evidence that it had ceased its normal activities, which have been continued by NIHF.

5.8 I found no evidence that cheques had been unlawfully signed.

PREFACE

In this part of my report, I have set out the key issues and events surrounding my investigations, together with my findings and comments. It is based on my examination of all the documents to which I had access plus the information I received during my interviews and discussions with the people listed in paragraph 4 above.

PART 11

6. HANI's "SELECT" TRAINING SCHEME

- 6.1 HANI and a consortia of 6 further education colleges led by the Belfast Institute of Further and Higher Education (BIFHE) received funding for NVQ training under a European initiative for Peace and Reconciliation in Ireland, known as "Select".
- 6.2 The project was structured to run from 15 September 1997 to 1 September 1998. A letter of offer in the sum of £1.37 million - the bulk of which would go to the colleges - was issued and signed on behalf of HANI by its then Chief Executive, Mr Morrison, on 13 June 1997. HANI received an initial payment of £30,000.
- 6.3 The letter of offer required, inter alia, the creation of a separate bank account and that Output Related Funding (ORF) procedures would apply. Although clear guidelines were issued, I found that HANI did not set up the necessary financial structures to make claims in the prescribed ORF format.
- 6.4 HANI understood that it would be able to claim £155 for each person trained, once his or her training had been successfully completed. It subcontracted its training obligation to another organisation How Limited (HOW) at a price of £100 per person which was invoiced by HANI to Select with a £55 uplift by HANI to cover what it considered to be its administration costs.
- 6.5 Proteus, the body responsible for managing Select at the time, disallowed the £55 administration costs on the grounds that it represented a profit. Proteus also found evidence of double claims of certain items as HANI had also raised additional invoices for capital items and re-imburement of disbursements. Proteus upon discovering these discrepancies from the ORF prescribed scheme stopped all payments to HANI and later tried to claw back funds already paid. HANI found itself facing legal claims from Proteus and How, for unpaid subcontract payments, the amounts of which were such that HANI was threatened with potential insolvency when this situation crystallised in late 1998.

7. SALIENT POINTS EMERGING FROM MY EXAMINATION OF HANI MINUTES AND MY COMMENTS

7.1 HANI COUNCIL MEETING - 3 SEPTEMBER 1998

HANI's auditor, Mr Cunningham, briefed Council on it's potentially insolvent financial position resulting from contingent claims from Proteus and How. He advised that without a rescue package HANI could be insolvent in a matter of weeks. On the basis of this briefing Council decided to seek legal advice.

7.2 HANI COUNCIL MEETING - 29 SEPTEMBER 1998

The auditor advised that one solution to the potential insolvency was for the current organisation together with its liabilities to be "parked or frozen". Although Council members over the preceding two years would remain liable for any shortfall, a "new HANI" in the form of a limited company could be set up to continue representing the industry and that this should be done as quickly as possible. Liabilities should then be reduced as far as possible by "argument and agreement" and dealt with speedily.

(Note: In this situation, it is likely that all members, not just members of the Council, could be liable for any shortfall. In the light of this, it is surprising that the auditor did not refer to the potential winding up of HANI during his address to the members at the Open Meeting on 3 December 1998 (see paragraph 7.6 below).)

The auditor advised that a new company could be set up within two weeks at a cost of £200 - he offered his Company's services to introduce improved financial controls.

HANI Council decided that a total shut down of its operations was not an option, resolving that "HANI Limited" be set up as quickly as possible and the existing association "frozen".

(Note: "HANI Limited" was incorporated on 26 March 1999 as the Northern Ireland Hotels Federation Limited (NIHF).)

This meeting also discussed a joint training partnership between HANI and an organisation known as Kiang who were represented by David Raymond. According to HANI staff he is a trade member of HANI and owner of Kiang. The joint partnership became known as HOSSTT - Hospitality, Tourism, Training.

7.3 HANI COUNCIL MEETING - 6 OCTOBER 1998

The President, Mr Small, reported that HANI had no money to trade on yet despite its current account being overdrawn it's activities continued. He stated that NIHF had been set up as an umbrella group for future development, but that in order to progress matters there was a need to let things settle down in regard to HANI and a need to secure sponsorship. He had travelled extensively to keep key members informed.

(Note: in interview Mr Morrison also claimed to have travelled extensively to inform key members).

Proteus had carried out an audit at HANI and were raising questions on Select financial claims. Proteus had also proposed a review of HANI's earlier European funded projects, placing all future projects on hold pending a satisfactory resolution of their enquiries.

Council agreed total shutdown wasn't an option, although it was accepted that some of its members might have to resign in the event of insolvency. It agreed to give first consideration to the small traders to whom HANI owed money.

(Note : in effect HANI's Council preferred these small creditors and had HANI ultimately proved insolvent this would constitute an unfair preference, which is illegal).

Discussions also covered the need for clear financial and legal advice; the importance of working to a settlement with Proteus in the long-term interest of the hospitality industry; and the use of a newsletter to keep members informed with a positive message. It was also confirmed that key partners knew of the current situation and would be kept informed of developments.

7.4 SPECIAL COUNCIL MEETING - 13 OCTOBER 1998

[no minutes were prepared]

I was told that this meeting had been attended by HANI Council, its past Presidents, its auditor and its solicitor to discuss issues in depth. It resolved the best way forward was to "freeze" HANI although allowing it to remain in existence to defend its case against Select whilst allowing the industry to develop through another representative body.

The hospitality industry was to be represented by a newly formed company to undertake the task. The company was to be known as NIHF.

7.5 HANI COUNCIL MEETING - 24 NOVEMBER 1998

HANI President, Mr Small, who had been briefed the previous evening by HANI's auditor and its solicitor, advised Council that the NIHF was now incorporated.

(Note : this was not correct as incorporation only occurred on 26 March 1999).

Mr Small advised that the question of liability for the potential deficit was uncertain but might extend to all HANI members, that HANI staff had been made redundant; HOW's solicitors were demanding payment; Kiang Ltd had taken over HANI's lease of the building and had offered employment to a former HANI staff member (the offer was declined); and that as damaging rumours were being spread he wanted to talk to members and the trade press.

Mr Small also discussed making a financial contribution from HANI funds to NIHF for training to be carried out by HOSTT. The training was intended to be advertised in HANI's newsletter.

(Note: in my view the rules of HANI did not contain any provision to give Mr Small the power to make such a donation from HANI or NIHF funds. HOSTT is a company formed by Mr D Raymond - a trade member of HANI and owner of Kiang Limited. NIHF representatives had two non-executive places on the HOSTT board. Mr. Good claimed in his interview there was no formal connection between NIHF and HOSTT. If the NIHF representatives took up the offer of places on the HOSTT board then clearly this statement is incorrect.)

Council was aware that an open meeting was to be held in early December 1998 and it was proposed that Council members should not "say too much" about training and that a case be made to explain Kiang's role.

(Note: In his evidence to me Mr Morrison said that "I think they (Council) felt it was better to keep the details to a small number of people... I think that was the right thing to do".)

7.6 HANI OPEN MEETING - 3 DECEMBER 1998

The President advised that Council "parked" the association in October 1998. He'd travelled extensively to keep key members informed, any member attending branch meetings had been kept fully informed and NIHF had been set up as an umbrella group for future development.

The auditor advised of a £117,000 deficit; HANI staff were made redundant; minor creditors were paid; further expenditure had ceased as had trading in October 1998. Negotiations were underway with a training provider to continue the lease and other costs of the offices, and negotiations were also ongoing with all the major creditors and the Training and Employment Agency.

(Note : The President did not take this opportunity to advise members of their potential liability - despite the fact that under his "duty of care" to the membership as a whole he ought to have made them aware of this and the underlying facts. Mr. Catchpole stated at interview that he considered that individual members were not liable in what was a "grey" area of law.]

Discussions also covered a new membership drive for NIHF.

(Note: The President and the auditor misled the members. The auditor, under the legislation, is entitled, although not required, to address any meeting he attends on any matter that concerns him as auditor.¹ It is arguable that the planned winding-up of HANI should have been brought to the attention of its members during this meeting.)

Nevertheless, the auditor's actions appear to have compromised his independence and professional integrity, in that they promoted the interests of council members above those of ordinary members. In addition, information was misleadingly withheld from those ordinary members, such as their potential exposure to personal liability.

(Note : taking the advice of the President and auditor as recorded in the December 1998 minutes, ordinary members [as distinct from Council and key members] would probably have concluded that HANI had closed down in October 1998. This was

¹ Schedule 1 to Industrial Relations Order 1992 – Schedule 1, paragraph 17(b)

incorrect. The President and the auditor misled the members. Additionally, the auditor did not fulfil his duty either under the HANI rule 35 to report on events which effect the correctness of the balance sheet nor his separate statutory duty to report to the Certification Officer.)

8. EXAMINATION OF NEWSLETTERS PUBLISHED BY HANI IN 1998 / 1999

HANI's newsletter - "**H**Appen**N**ings" - was introduced in June 1998. Three issues were published in 1998 ; in July / August, September and December.

The July / August 1998 issue records a lack of communication amongst members and proposes wider use of the newsletter for this purpose.

(Note: It is silent on the serious financial difficulties being faced by HANI.)

The September 1998 issue is also silent on this matter despite the fact that Mr Small had held discussions with Proteus, and he had been made fully aware of the scale of the mismanagement and financial problems that HANI faced.

The December 1998 issue (which was published after the open meeting held on the 3 December) referring to the Select scheme said it "appeared" HANI "might" be asked to refund substantial monies and had not received the monies to which it felt entitled.

HANI did not publish any further newsletters. Subsequently, NIHF published a newsletter entitled "HAPPENINGS", the first edition of which was published in February 1999 and which contained no references to HANI's difficulties.

9. INVESTIGATIONS INTO HANI COUNCIL

My investigations revealed that the Council knew it faced significant financial and legal difficulties in August 1998. Mr. Cunningham was asked by HANI to undertake the preparation of an additional set of accounts for the seven-month period up to July 1998. It is recorded in the minutes of the HANI council on 3 September 1998 that "prior to the Council meeting members were briefed by Frank Cunningham, Accountant, on the Association's financial position in the context of difficulties encountered with the ORT programme and Proteus, the ESF managing company. Members noted that, unless some form of rescue package could be achieved over the next few weeks, the Association could be in an insolvent situation."

(Note: In my interview with Mr. Cunningham he stated that "there was a potential liability of £120,000..... if everything went through with claims as Proteus were putting them through" and that this was a worst case scenario.)

The extent of these difficulties was clear: HANI faced a potential deficit of £117,000; and civil action was being threatened by at least one major creditor, which potentially effected every member of HANI.

These difficulties chiefly stemmed from a joint training venture in 1997 - 98 between HANI and a number of further education colleges, funded by the Training & Employment Agency. The scheme, which provided European funding, was known as "Select".

In October 1998 on advice from its auditor and its solicitor the Council decided to "freeze" HANI and establish NIHF.

No goodwill payment was considered or any charge made for the sale of the membership list or other data by HANI to any third party for marketing purposes. The database was simply given to NIHF without consideration of attempting to realise any value for HANI's creditors.

On 1 February 1999 NIHF began trading, although it was only incorporated subsequently on 26 March 1999. It is not illegal for a company to trade prior to incorporation as long as it does not use the word "limited". I could not find any evidence that NIHF did trade prior to incorporation using the word limited.

NIHF's first bank statement dated 1st. April 1999 reveals an opening lodgement of £20,540. This sum had accumulated since the beginning of February 1999 and represented membership fees, which would have in the ordinary course of events been paid to HANI as income from its members.

HANI's Council faced legal claims, potential insolvency with the potential deficit being levied upon any or each of its members. It had the means at its disposal through its newsletter to inform all of its members of its financial difficulties, their individual potential liability and its decision to "freeze" HANI.

Although the newsletter began in June 1998 as a monthly publication to communicate matters relating to HANI to its members - yet its September 1998 issue gave no indication whatsoever of the difficulties faced or the plan to create NIHF despite the President's meeting with Proteus in August 1998 and the advice from Mr. Cunningham.

No HANI newsletter was published in October or November 1998. The December 1998 issue gave limited information about the financial difficulties, even though this was almost four months after the Council learned of these claims and after significant decisions had been taken by the Council.

Although HANI's rules do not differentiate between its members or their rights, its Council minutes show that it's Council misled those of its members not considered "key partners", which were those members relying solely on the HANI newsletters. HANI's Council delayed for several months the release of any information to certain members.

On the other hand the President made extensive efforts to appraise "key partners" of the financial difficulties and the possibility of legal actions against HANI, to "keep them on board".

HANI Council decided to give preferential treatment to small creditors. If insolvent, the decision to do so and the making of such payments may breach the Insolvency (Northern Ireland) Order 1989².

HANI's Council instructed its auditor to sell its assets. The only record I could find of the valuation, negotiation and subsequent offers and sale of the assets was an invoice raised by John Stuart at the HANI office on the verbal instructions of the auditor after the negotiations for sale had been completed.

(Note: Mr. Morrison said to me in his interview that HANI had a good working relationship with the auditor.)

HANI Council members co-signed cheque payments to re-imburse themselves for expenditure and without independent supporting evidence or authorisation.

10. INVESTIGATIONS INTO HANI STAFF

CATHERINE WILLIAMSON (NEÉ MCGLINCHY)

- 10.1 I found evidence that Mrs Williamson, a former HANI employee, perpetrated at least three frauds. Copy invoices of items of equipment which she purchased outright using a HANI credit card and the fraudulent duplicate hire purchase invoices are attached at Appendix 3.
- 10.2 I found that these fraudulent invoices were used to claim grant aid from Select. At least one of the fraudulent invoices was initialled by HANI's honorary treasurer at the time, Mr M Williamson. This gave an impression of having been properly vouched internally. See Appendix 4.

NEVILLE MORRISON

- 10.3 I also found that on a visit to the USA in 1998, its former chief executive, Mr. Morrison, offset the cost of limousine hire and taxi fares which, he claimed, he had incurred on HANI business, against his wife's accommodation costs. He did not quantify the sums involved, simply claiming that one cost cancelled out the other. As a consequence this claim could not be properly vouched, HANI's treasurer at the time, Mr Good recommended payment of his overall claim for £762.
- 10.4 In interview the former Chief Executive accepted that by failing to identify these costs it was an inevitable consequence that HANI's books and records could not be correct. At his interview he distanced himself from any responsibilities for the management and control of staff and finance, describing his chief function as public relations.

² SI1989/2405 Insolvency (Northern Ireland) Order 1989

- 10.5 In regard to financial management and control he also claimed that the auditor was responsible, further claiming that the auditor was being paid to do "a proper job" and that the auditor visited HANI each month, except for the end of year audit when his visits would be even more frequent. He denied any knowledge of fraudulently signed cheques.
- 10.6 It is a matter of fact that Mr Morrison was HANI's Chief Executive for over five years. In that time he signed statutory returns to the Certification Officer, he signed cheques on behalf of HANI, he signed the letter of offer for European training grants under the Select scheme. On the evidence available I do not accept his contention that he had no responsibility for staff and finance within HANI.
- 10.7 I am supported in my view by the evidence given by HANI's President who said "we would have had a chief executive working in the office doing administration... Neville Morrison... the day to day administration was probably handled by him, form filling was done on a routine basis". I am of the opinion that Mr. Morrison was responsible as Chief Executive for the control and the day to day administration of the HANI office.

ALASTAIR GOOD

- 10.8 I found that HANI's treasurer also undertook other paid consultancy work for it. Mr. Good was first appointed to do this in May 1998. HANI staff did not maintain any record of the hours worked by him in this consultancy role. Consequently, HANI could not properly, or independently vouch the validity of his claims, therefore they failed to maintain a satisfactory system of control over HANI's receipts and remittances.

11. EXAMINATION OF MR GOOD'S FINANCIAL CLAIMS AND ROLE AS TREASURER

- 11.1 I found that Mr Good in his role as HANI treasurer frequently co-signed his own cheque payments for the work he invoiced as a consultant. He submitted his bills for "professional services" in the name of "Hospitality Resource Professional Services".
- 11.2 Since he began this consultancy work in May 1998 up to December 1998 he invoiced and was paid a total of £13,690 plus VAT of £2,395.75. An examination of his invoices reveals that no details of the hours he worked or the rate he was paid was ever given. HANI staff did not maintain any independent record of his hours - see 10 (8) above. His final invoice in this period dated 11th. January 1999 refers to work done between 14th. December 1998 and 8th. January 1999 which does not break down that element completed prior to 31st. December 1998 for inclusion in the HANI accounts. See Appendix 5. This final invoice is not "transparent" in that it did not identify the costs to be allocated prior to the 31 December 1998 year end and into the 1999 accounting period – it would have been more appropriate to render separate invoices for each accounting period.
- 11.3 The auditors working papers (see paragraph 13 (12) below) reveal that Mr Good, acting as treasurer, made an advance payment to himself as a consultant for the paid work he was doing for HANI. He co-signed his invoice for approval and the cheque as treasurer without sufficient supporting and explanatory documentation.
- 11.4 Mr. Good should not have signed his own cheques for two reasons; firstly, this contravened good internal control practice; and secondly, the resulting financial records were insufficient and incomplete as they did not reflect independent verification. On similar grounds Mr. Good as treasurer should not have approved Mr. Morrison's expense claim as it was incomplete and did not provide enough detail to allow the payment to be verified and independently approved in an acceptable manner.
- 11.5 In my interview with Mr. Good I asked him about HANI's failure to record invoices until they were paid which meant that the records were incomplete and that it was difficult to identify who all the creditors were at any particular moment in time. As a consequence HANI could have been trading whilst insolvent as the accounting records were inadequate for management control purposes. Mr. Good confirmed that he had great difficulty in identifying costs and revenues and that it had caused him "utmost concern". He was not aware of receiving any letters of weakness or representation from the auditor relating to the financial year 1998. (see 13.4 below)

12. EXAMINATION OF THE WORK OF THE AUDITOR

12.1 In evidence before me Mr Cunningham confirmed that he had not read the 1992 Order before completing his audit and he now accepts that the 1992 Order had been breached in a number of ways.

Specifically the auditor :

- a) prepared and signed - off misleading and incomplete audit reports which were not true and fair ;
- b) failed to qualify his 1998 audit report and did not provide a "going concern" qualification ;
- c) failed to comment in his 1998 audit report on the need for improved financial management, or the adequacy of the underlying accounting records;
- d) failed to identify fraudulent duplicate invoices for equipment ostensibly hired but still at the HANI premises at the time of my inspection thereby casting reasonable doubt on his whole audit procedure;
- e) failed to report to the Certification Officer that HANI's Council did not have trustees appointed;

(Note : At his interview he said to me that "it never came up" but he should have checked that officers and Council were complying with the specific requirements of the legislation.)

- f) compromised his independence as auditor and professional integrity by agreeing to act in and by effecting the sale of HANI assets without any market valuation and by arranging to assign the lease on HANI's office accommodation to Kiang Ltd. (see paragraph 7.6 above) ;
- g) sold HANI assets to a related third party (a trade member of HANI) without going to tender;
- h) admitted that he was not qualified to properly value these assets ;
- i) did not obtain an appropriate valuation ;
- j) did not have any written documentation of any sort prior to the sale of these assets or the transfer of the lease;
- k) did not maintain adequate records for audit purposes nor did he keep HANI's Council and its members properly informed about negotiations and details of the sale of HANI assets;

(Note : Mr. Good stated at his interview that the sale of HANI assets had been dealt with by Mr. Cunningham.)

(l) did not comply with Auditing Standards.

(m) failed to report material weaknesses in HANI's financial controls to the Council

- 12.2 I am unable to rule out the possibility of alleged fraud in the sale of HANI assets as questions remain unresolved as to which assets the auditor arranged to be sold and which were retained by HANI. Although the invoice appears to be quite specific (see Appendix 6) there is the matter of the two computers apparently retained for use by John Stuart and Alastair Good. I was able to determine that the net book value of the total HANI assets at 31 December 1998 comprised of computer equipment of £743 and fixtures and fittings of £6,605 [see paragraph 13 (13)].
- 12.3 I was unable to reconcile the contradictory statements from HANI staff and the auditor as to what may or may not have been sold. There remains considerable confusion on this matter. In interview, HANI's treasurer could not clarify this position. It depends on which evidence is accurate, if indeed any is, the first note in the auditors working papers mentions a figure of £45,000 and the actual invoice for sale was for £15,000, whether there is or is not a difference of £30,000. [see 13(13)].
- 12.4 During my examination of its accounts I also noted that HANI made a gift of a motor vehicle to a former employee, Mrs C Williamson, when she left in 1997. I could not identify any power in its rules to allow HANI to make this gift. The vehicle was written off at a loss of £3,179, which represented the net book value. This item should have been separately disclosed and drawn to the attention of the Certification Officer and to HANI's membership.
- 12.5 Additionally, the vehicle's motor insurance was subsequently paid by HANI, months after the employee's departure in October 1997, on 9 February 1998 at a cost of £501.80. I could not identify any receipt from Mrs Williamson to reimburse HANI for this sums. If possible the returned cheque should be obtained to confirm exactly who had signed it.
- 12.6 HANI visa statements show the purchase of a mobile phone from Dixons on 29 January 1997 for £289.99 with a further one-off payment to Cellnet on 23 April 1997 for £169.20. I could not find any evidence of the existence of mobile phones at HANI, or of their disposal in HANI's books and records. Mr. Stuart and Mr. Good were unable to provide me with any assistance in locating the mobile phone.
- 12.7 HANI paid for Xmas gifts for VIPs and gifts for scheme contestants and books for a library. I did not find any receipts or a comprehensive list of the recipients of these gifts nor any consideration of the PAYE implications of entertaining. I found no evidence of any library at the HANI premises. I can only conclude that these items might be personal to the staff members concerned and that proper records were not retained at HANI.

13. WILKINSON & MAXWELL'S WORKING PAPERS 1996 - 1998 AND MY OBSERVATIONS

- 13.1 Auditors are required by Auditing Standards to consider at the planning stage the impact of relevant laws and regulations on an entity.³
- 13.2 The working papers relating to item concerning the review of statutory compliance had been annotated as “not applicable”, apparently on the grounds that the entity was not a company. This omission to the audit programme is unacceptable and it is inexplicable to me why the auditor did not pick this point up on his review of the audit file before completion and signing off his audit report. In this case the auditor subsequently signed-off the statutory financial returns to the Certification Officer for at least three separate years. In particular he specifically signed the declaration which clearly reads “The return complies with Paragraphs 18 to 21 of Part 1 of Schedule 1”. The auditor could therefore not have been unaware of the existence of the legislation.
- 13.3 The working papers clearly show that the underlying books of HANI were incomplete and clearly breach the requirements of the 1992 Order. This should have been obvious to the auditor. For example, several HANI creditors were carried forward from year to year without any clear explanation of their origin or purpose. Similarly there were various bank balances brought forward from year to year which showed no movement and their origins and purpose were not clearly identified. Furthermore, purchase invoices were not entered into the accounts until they were paid, with the effect that the accounting records did not show the total liabilities of HANI at any given time.
- 13.4 The 1992 Order requires the auditor to consider if HANI maintained a satisfactory system of control over its transactions - HANI did not. The failure to comply with this statute should also have given rise to a negative statement in the report to the Certification Officer, which was not made, nor was a letter of weakness concerning these deficiencies written to HANI. Furthermore, the auditors' working papers did not record evidence of these management control failures in every year, which they should have done.
- 13.5 It is a matter of fact that the auditor signed-off returns to say that the accounts, accounting records and officers complied with the law, when they clearly did not. Moreover, Mr. Cunningham told me he had never read the 1992 Order before completing these audit certificates and furthermore, he did not consider properly the underlying questions before giving his audit opinion, which he is required to do. I conclude that he acted improperly.
- 13.6 The Fundamental Principles, which underpin any chartered accountant's behaviour, place a duty on an auditor to:
- Refuse to accept or carry out work which he is not competent to undertake, unless he obtains the advice and assistance of a competent person; and

³ SAS 120 “Consideration of law and regulations”

- To carry out his work with due skill and care and with regard to the professional and technical standards expected.⁴

The auditor and his predecessor did not comply with their professional duty, in that, by not being familiar with the relevant legislation, they were not competent to carry out this assignment, and did not show the necessary skill and care. I recommend that this matter be referred to their professional body, the Institute of Chartered Accountants in Ireland.

- 13.7 Auditors are required by Auditing Standards to report in writing any material weaknesses which they identify in the accounting or internal control systems.⁵ They should also investigate whether points raised in earlier letters have been satisfactorily resolved.

A letter was prepared and sent to the HANI treasurer, as the representative of the HANI Council, in respect of the 1995 audit. The permanent notes book prepared at the time of the 1995 audit states that “none of the management letter suggestions implemented from last year except for VISA payments.” These notes also include a schedule prepared by the auditors headed “State of accounts”, which describe a number of failures in the accounting and control system. These include:

- (a) Inadequate computer system
- (b) Incomplete opening balances
- (c) Absence of bank reconciliations
- (d) Incomplete posting of bank transactions
- (e) Incorrect and incomplete posting of payroll transactions
- (f) Absence of documentation
- (g) Absence of controls over purchase invoices
- (h) Incomplete posting of petty cash transactions

Some of these points are raised in the 1995 management letter, which has been annotated by the auditors in the following year, and forms part of the 1996 working papers file. The 1996 letter is however incomplete as it does not include, as an example, the absence of HANI bank reconciliations.

Auditors should report to management material weaknesses and inadequate controls within the accounting system that they identify, and should also consider whether issues raised in previous reports have been adequately resolved. As no such letter was sent in respect of 1996 or subsequent years, this indicates, by inference, that the Auditors were satisfied that all matters raised in their previous letter had been dealt with; and that there were no matters to report in subsequent years.

However, the absence of proper records (described in paragraph 13.3 above) and of controls (see paragraph 13.4 above) should have been identified by the

⁴ Ethical Guide for Members – “The Fundamental Principles” – The Institute of Chartered Accountants in Ireland
(as updated in March 1995)

⁵ SAS 610 “Reports to directors or management”

auditors and raised in a letter to management for 1996 and subsequent years. From his working papers Mr. Cunningham was aware of these deficiencies.

- 13.8 The auditor should, in respect of each audit, obtain appropriate written representations from the Officers of the Council of HANI as confirmation of matters held out as fact by the HANI management to the auditors.⁶ Letters were provided in the financial years 1996 and 1997 ; the auditor confirmed he failed to obtain such a letter for the 1998 year.
- 13.9 Auditors are required to obtain sufficient appropriate audit evidence to be able to draw reasonable conclusions on which to base their audit opinion.⁷ A significant amount of HANI's income in 1997 and 1998 was derived from Select training grants. A number of HANI's financial claims were not made in accordance with grant conditions, some were fraudulent / double claims and were subsequently disputed. The auditor would have been expected to consider whether, in fact, claims had been properly made in accordance with those conditions so as to ensure that the anticipated income would ultimately be realisable and not subject to any recourse on the part of the organisation providing the grant.
- 13.10 The working papers show that a separate unaudited set of accounts was prepared in July 1998 soon after difficulties with Select came to light at the request of the HANI officers. These were never published but they do highlight a problem with VAT. Under Select, HANI was involved with six further education colleges, and invoices were raised through BIFHE. In August 1998 HM Customs & Excise ruled that HANI and the colleges were in a joint venture and VAT should not be charged on invoices between the parties. As a result £14,700.64 of VAT on the invoices raised by HANI would have to be repaid to HM Customs & Excise. I could find no evidence to show that this sum had been repaid nor had been properly adjusted in HANI's records.
- 13.11 From the auditor's own description of the state of the accounting system it is clear that proper accounting records have not been kept, which is a breach of the legislation. The Auditor should have referred to this breach in his report and he failed to do so.
- 13.12 The auditor's 1998 working papers reveal that Mr Good, acting as treasurer, made an advance payment of £600 to himself and without any proper explanation this advance for consultancy work was included within debtors but it was not separately identified in the accounts. Any advance to an officer of an unincorporated employers' association, in whatever capacity he is acting, should be separately identified in the accounts as a related party transaction. In my opinion the auditor should have referred to this in his 1998 audit report. He failed to do so.

⁶ SAS 440 - "Management representations"

⁷ SAS 400 - "Audit evidence"

(Note : The auditor should have ensured that the accounts included full disclosure of related party transactions such as those where Mr. Good acted as a consultant.)

- 13.13 The working papers record the value of HANI assets sold to Kiang Ltd. as £47,000, however, the subsequent invoice raised by Mr Stuart (on verbal instruction from the auditor) was significantly reduced to £17,625, including VAT. [see 12 (2) & 12(3)]
- 13.14 The poor standard of bookkeeping at HANI was such that monies simply reverted back to general funds as their origin and purpose were unknown. For example two un - named bank accounts were only discovered when the bank sent a letter to the auditors. These accounts weren't recorded in HANI's books. A £148 lodgement into the business account could not be identified, and it may be that these monies did not even belong to HANI.
- 13.15 Two further bank accounts, "The Hospitality Association of Northern Ireland Number 2" current account and the "Saving Trading and Current Salaries" account were closed in May 1996, and the balances were transferred to general funds. There were other transactions carried forward from year to year ; for example, pre-payments of £1,610, and the trade members account of £3,174, which arose when HANI took over the trade members bank account. I couldn't identify the nature of these transactions but can confirm that all of them were written off in the accounts for the year ended 31 December 1998.
- 13.16 I identified several payments by HANI after the period when it was alleged to have ceased trading in October 1998. The amounts total £16,096.30 including Mr Good's consultancy payments, staff salary, photocopier hire, telephone, postage, and insurance. I conclude that contrary to the advice given to members and the Certification Officer by the auditor, HANI did not cease trading either in October 1998 or to the date of my inspection.

14. MY COMMENTS ON HANI'S 1998 ANNUAL RETURN AND AUDIT REPORT TO THE CERTIFICATION OFFICER

- 14.1 Although the balance sheet at 31 December 1998 shows a deficit of £38,507, the accounts have been prepared on the basis that HANI is a going concern – there is no disclosure to show otherwise.

However, in his report the Auditor states that: “The Association has ceased operations since the year end and is in the process of winding up. Full provision has been taken for debts which may not be realisable or are the subject of a dispute.” This remark is misleading as provisions should be made in any circumstances where debts are not expected to realise their full value, not just on the winding up of an entity.

It is also misleading in that the decision to wind up HANI had not been taken at the time the audit report was signed.

Furthermore, the audit report does not comply with relevant auditing standards.

The auditor is required to consider whether the accounts should give disclosures relating to the going concern basis in order to give a true and fair view.⁸ As HANI had a deficiency of net assets and was being wound up this should have been referred to in the 1998 accounts (it is not sufficient to give this information in the auditor's report alone). There were no such disclosures, and the auditor should therefore have qualified his report on the grounds of disagreement.

14.2 The audit report was unqualified. This is indefensible and unacceptable. Specifically the auditor did not comment on :

- a) the inadequacy of the underlying accounting records ;
- b) the need for improved financial management ;
- c) HANI's failure to appoint trustees ;
- d) the negative net worth of HANI ;
- e) HANI's prima facie insolvency of £38,507 ;
- f) the basis on which the accounts had been prepared ;
- g) the fact that Mr Good's £600 advance, although included in debtors, was not separately identified in the accounts ;
- h) the fact that Mr Good had acted as a paid consultant and received £13,690 which should have been disclosed as a related party transaction ;
- i) the offsetting of £10,664.57 Benevolent Fund against general reserves, which was presented in the balance sheet as a shortfall when this sum should be ring-fenced for the benefit of members in difficulty; and
- j) the unusual amount of some administrative expenses, for example professional fees in 1998 were £36,925 (£6,810 in 1997 and £12,685 in 1996) and occupancy costs in 1998 were £21,016 (£14,036 in 1997 and £9,459 in 1996).

14.3 HANI's auditor gave advice to its members at an open meeting on 3 December 1998 which contradicted his 1998 audit report to the Certification Officer, which he had prepared several months earlier. For example, his 1998 report states that HANI "ceased operations since the year end", implying that HANI continued to operate into the year 1999, and was "in the process of being wound up". Whereas, at the open meeting he said that HANI ceased operations in October 1998. I could not find any evidence that HANI was in the process of being wound up from 1998 to the date of my inspection visits in October 1999. The auditor misled the Certification Officer and subsequently misled some of the members at the open meeting on 3 December 1998.

⁸ SAS 130 - "The going concern basis in financial statements"

14.4 Although his audit report stated that the scope of his work included an assessment of whether “the accounting policies are appropriate to the Association's circumstances, consistently applied and adequately disclosed”, HANI's accounting policies were not disclosed in the accounts.

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Appendix B

Representations and comments

1. With the exception of HANI, my office received representations from all the parties invited to do so. In the main these challenged her conclusions in particular areas and, in some cases, criticised her failure to interview them. A full copy of each representation received is attached below. The representations are listed alphabetically.

2. In March 2003, HANI said it was not prepared to comment unless it saw a copy of the full responses from the other parties. My view is that such comments are confidential prior to publication of my report and that I should not disclose their contents, save in so far as they contain material, which might reasonably be viewed as adverse to HANI's interests. On this basis my office provided HANI with relevant extracts from the submissions.

3. Subsequently, HANI informed my office (April 2003) that it could not respond until it saw "a copy of the draft report that you intend to publish" and in particular that it needed to see the full responses of the other parties. I did not agree to HANI's request.

4. The invitation to the parties to comment was issued by my office in December 2002 (immediately after the HANI court hearing) and I am of the view that all parties were given a reasonable time to respond before publication of my statutory report (July 2003).

Appendix C

A summary of the Police response to Mr Dallat MLA

Appendix D

Extract from the Industrial Relations (Northern Ireland) Order 1992