

MR MOLLER: Absolutely.

HIS HONOUR: Then you have the deed, which is put in by Mr Garrett, on the basis that that's the whole deed, and then we have arguments about whether there's a
5 genuine dispute about that, which again is an argument of law, I suppose. And then we have the history of what has occurred before plus the orders of the court which we know about. So that's it really, isn't it?

MR MOLLER: It's all, we say, in the judgments of Mortimer and Pagone JJ - - -
10

HIS HONOUR: All right. Exactly, and - - -

MR MOLLER: It's all there.

HIS HONOUR: I have that.
15

MR MOLLER: The only other thing that your Honour might be assisted about – your Honour might be assisted with, are the statutory demands from the case before Davies J. I took you - - -
20

HIS HONOUR: They're documents.

MR MOLLER: They're documents.

HIS HONOUR: And they're referred to in her Honour's decision.
25

MR MOLLER: They're referred to, so you can get those that way.

HIS HONOUR: Yes.
30

MR MOLLER: And then there's some other material involving emails, looking particularly at paragraphs 42 onwards of Mr Critchley's affidavit concerning emails about previous statutory demands, including the email, page 16, of the affidavit, paragraph 44(b), where Mr Garrett says that he's going to issue a statutory demand at
35 the end of every quarter. Does your Honour see that?

HIS HONOUR: Yes, I do.

MR MOLLER: Now, that's an email to cause, of which he is a partner, and
40 therefore able to give evidence of its records.

HIS HONOUR: Document I don't have a problem about, nor do I gather from what Mr Garrett's first objection – it wasn't a problem either. So what I'm going to do, Mr Moller, is to only receive – and this is a variation probably of what I ruled before
45 actually. So I'm going to vacate what I said before - - -

MR MOLLER: Yes.

HIS HONOUR: - - - having heard Mr Garrett's – what he said about this. I'm going to accept the affidavit only – maybe pretty much what I indicated before, but I will make it precise – only to the extent it produces documents. Anything else in the affidavit of opinion, or anything other than “now shown to me and produced”, is
5 deleted. It will not be before me and I will not take into account.

MR MOLLER: Including, presumably, your Honour, paragraph 50, the amount of \$80,000 on costs in statutory demand - - -

10 HIS HONOUR: Paragraph 50, yes. I will take – that's not admissible.

MR MOLLER: We're content with that course.

HIS HONOUR: All right. So you understand now – what the position is, Mr
15 Garrett, so you understand: I'm allowing the affidavit in, so that gives you a prima facie right to cross-examine.

MR GARRETT: Thank you, your Honour.

20 HIS HONOUR: I will deal with that, what that – now I will hear what you want to do about that. But the affidavit will go in, and all the documents that are referred to in the affidavit are in evidence, including what you would say is to be the – not the full complete deed, but you will put the full complete deed in.

25 MR GARRETT: Yes, your Honour.

HIS HONOUR: And they're prepared to argue this case on the basis of that full complete deed. All right?

30 MR GARRETT: Thank you, your Honour.

HIS HONOUR: Now, then the cross-examination still arises, and at the moment I'm not going to allow you to cross-examine on those issues you want to cross-
35 examine on. If, in the course of when I consider this matter and reserve my decision – which I will be doing; I won't be making a decision today – I think that it was necessary for you to cross-examine, and should have given you the opportunity to do that, then sad as it may be for everybody, as far as inefficiency and timing, we will have to come back. All right? So at the moment I'm not allowing you to cross-examine. You need to proceed on the basis of what you've got.

40

If in the course of when I consider this matter I think that I should allow you to cross-examine, because there is some issues that come up when I write it up, then I may – may – have to give you the opportunity to cross-examine.

45 MR GARRETT: Thank you, your Honour.

HIS HONOUR: Do you understand – have I made myself clear? At the moment no cross-examination.

5 MR GARRETT: I see that, your Honour. I'm happy to proceed on the basis that your Honour deems fit. Of course any decisions are able to be reviewed.

HIS HONOUR: Yes, of course.

10 MR GARRETT: So not a problem with that.

HIS HONOUR: I just want to make it clear to you so you know - - -

MR GARRETT: Thank you.

15 HIS HONOUR: - - - how you're running your case.

MR GARRETT: Yes.

20 HIS HONOUR: All right. So - - -

MR GARRETT: And I think your Honour can review your Honour's own decisions quite rightly.

25 HIS HONOUR: Yes. All right. So, Mr Moller - - -

MR GARRETT: There is one point I want to make - - -

30 HIS HONOUR: I want to speak – I just want to finish with Mr Moller first. Mr Moller, I gave you leave to file another affidavit, but in light of what I've just done I'm going to withdraw that leave.

MR MOLLER: I was going to raise it with you, your Honour. I was going to indicate to you and Mr Garrett we won't be - - -

35 HIS HONOUR: Yes. All right. Thank you. So we won't be receiving anything further, Mr Garrett. They're relying upon these documents, as I've indicated, and the affidavit is there to put those documents.

40 MR GARRETT: Thank you, your Honour .

HIS HONOUR: All right. Now, Mr Moller, we will go back to you. We got side-tracked but in – I think it was a useful side-track, just to work out where we're going with that. So I've read your material. Is there anything else you need to say to me about this?

45 MR MOLLER: I was going to take your Honour through Mortimer J and through Davies J – you don't need that.

HIS HONOUR: I don't need that - - -

MR MOLLER: I was going to take you through some of the authorities to emphasise a few things.

5

HIS HONOUR: They're in your submissions, aren't they?

MR MOLLER: They're in the submissions.

10 HIS HONOUR: Yes.

MR MOLLER: The issue that I expected your Honour might want to hear from us about is about whether you can grant an injunction prohibiting Mr Garrett from using what is a statutory mechanism.

15

HIS HONOUR: Well, it could be done with leave, I thought.

MR MOLLER: Yes.

20 HIS HONOUR: It would be always subject to leave.

MR MOLLER: Always subject to leave, and we would say that is the protection for Mr Garrett.

25 HIS HONOUR: Yes.

MR MOLLER: That whether the court might be concerned - - -

HIS HONOUR: Yes, I understand.

30

MR MOLLER: - - - about whether essentially – I can't put it as high as a statutory right, but whether a person can use a statutory mechanism – I'm sorry, let me withdraw that; whether the court can enjoin the use of a statutory mechanism where that use takes places before the proceedings before the court.

35

HIS HONOUR: In a way it has already happened, hasn't it, by the orders of the judge stopping the proceedings without leave, because proceedings includes the statutory demand that is already added.

40 MR MOLLER: Precisely. So what we say, your Honour, is that Davies J got it right; that the statutory demand is a necessary step in the winding-up application, and given the definition - - -

HIS HONOUR: Yes.

45

MR MOLLER: - - - of “institute”, that it’s captured. We then say that the court can, by reference to its general statutory power, or its implied power, protect the order that it has made to make sure that there’s no contravention of that order. So - - -

5 HIS HONOUR: If the statutory demand was not part of the process, as decided by her Honour, then your point would be a more live point, I think.

MR MOLLER: It would be, and we would then be required to fall back on what would be our secondary argument. And I was searching for an analogue on this, and the obvious analogue is the anti-suit injunction. And the High Court has said in Sigma – and I will get some copies in a moment - - -

HIS HONOUR: I know Sigma, yes.

15 MR MOLLER: - - - that the court in its chancery jurisdiction, that is its equitable jurisdiction, can enjoin conduct which is vexatious, oppressive and abuse, or conduct that would be unconscionable. Couple that with the authorities that say the use of a statutory demand in circumstances where it is known that there is genuine dispute amounts to an abuse; engages the court’s general jurisdiction. The question then will be whether that, if you like, jurisdiction, or the power underlying the court’s power to grant an anti-suit injunction can be engaged in these circumstances, and there’s some authority that it can. And I was able to find that, if your Honour will bear with me. The case is a decision of Austin J in SMEC International. I’ve got a copy for Mr Garrett.

25 MR GARRETT: Thank you.

MR MOLLER: Your Honour can see it’s reported in the Australia Company and Securities Law Reports, 38ACSR 565. It was an application concerning a statutory demand, specifically to see aside a statutory demand. I won’t bother your Honour much further than that with the facts because they’re all discrete. But could I take you, please, to page 602, paragraph 134. You can see that there was an arbitration clause in the agreement between the parties, providing for arbitration in Switzerland . Then the argument was made, paragraph 35, that the issue of a statutory demand constituted a breach of contract having regard to the arbitration provision.

The argument goes on, if your Honour sees in about line 17:

40 *To issue a statutory demand in breach of the contract amounted to a threatened abuse of the court which would be restrained by injunction.*

His Honour points out that prior to the introduction of the statutory demand mechanism in 1992, there was power to restrain a winding-up proceeding where debt was disputed. So he doesn’t say that, but that’s what he’s referring to where he refers to the “residual scope of the court to restrain reliance on the statutory demand as an abuse of process”. The reference there is to the High Court in David Grant where that point is made, and to Sigma, with which your Honour will be familiar.

And then you see in lines 29 and 30 that Austin J says:

The dicta in the David Grant case demonstrates that there's a jurisdiction to intervene in special circumstances.

5

So your Honour can be assured of your power to do it. I can't take you to a case, at least that I've been able to find, where any other judge had done it, but if necessary we say that despite the vexatious litigant order you could do it under the court's general power.

10

HIS HONOUR: All right. Thank you.

MR MOLLER: Unless there was anything else – if there was anything particular that you wanted us to take your Honour to - - -

15

HIS HONOUR: No, Mr Moller.

MR MOLLER: - - - those are our submissions.

20

HIS HONOUR: Thank you. All right, Mr Garrett. So the first thing – how do you want to proceed? Do you want to – your cross-claims seem to be associated with the defence of the action; is that right, or - - -

MR GARRETT: Yes, your Honour.

25

HIS HONOUR: Yes. So why don't you address me in a whole about them instead of separating them up as I would normally do, because it's probably convenient for you to do that, I think.

30

MR GARRETT: Yes. Could you just do that again, your Honour?

HIS HONOUR: Yes. Well, you're here because the applicants brought you here, and then - - -

35

MR GARRETT: Yes.

HIS HONOUR: - - - and then you've brought other people here.

MR GARRETT: Yes. Correct.

40

HIS HONOUR: So normally what I would do is we would say, "Well, what do you say about what Mr Moller said?" And then, "Why do you want to bring all these other people here?" I was going to suggest to you that we could deal with that because of the way in which I think you have presented things to me before, just this morning in the other matter. You could deal with them as one group of argument, because it seems to me they are one group of argument, the way you're putting it.

45

MR GARRETT: Yes, yes, your Honour, I think everything is intertwined. I think that's exactly right.

HIS HONOUR: It is; that's what you're saying to me, yes.

5

MR GARRETT: Yes. No, look, I agree with your Honour on that point.

HIS HONOUR: All right.

10 MR GARRETT: Perhaps if I can just commence with a fairly simple point. I made submissions to Mortimer J in respect of VID158 to VID166. Your Honour is aware that VID158 to VID165 appeals have been heard by North J on 21 July, and dismissed out of hand. Of course the appeal process in respect of his Honour's position as a member representing the Full Court is still appellable with special
15 leave, or alternatively under section 75(5) or 39B in the High Court for writs of certiorari and mandamus, etcetera. The one point I think I want to ask your Honour to consider in this proceeding is whether your Honour would consider sitting as a member of a Full Bench, and as a Full Bench, for the appeal in VID166 of 2015, which still hasn't been heard. So, your Honour, I think that is a matter that is
20 obviously inextricably linked.

HIS HONOUR: Which one hasn't been heard, VID50?

MR GARRETT: VID166 of 2015.

25

HIS HONOUR: That's a decision of Davies J – no - - -

MR GARRETT: Davies, thank you, your Honour.

30 HIS HONOUR: Why was that not heard at the same time as the other ones?

MR GARRETT: Well, I don't know, your Honour. I suggest there must be questions asked of registry as to why the matter wasn't listed. But there was certainly a flurry of activity from registry, you know, moving documents in and out
35 of various proceedings including - - -

HIS HONOUR: My instinct, Mr Garrett, is it would be inappropriate for me to sit on that Full Court, because obviously a lot of the issues that you agitated there, you're agitating before me now, so it would seem to be it wouldn't be appropriate for
40 me to sit on it. There may be another Full Court that thinks if you or your opponent is not happy with what I do, they're going to look at what I've done, which would be the same sort of thing.

MR GARRETT: Yes, it might close off another opportunity to me, your Honour. I think – look, I take your point. Thank you, your Honour. Yes, we will go with your
45 flow.

HIS HONOUR: Now, what I want you to focus on is what - - -

MR GARRETT: I wanted to focus on the notice to admit, your Honour. On the basis of the Federal Court Rules - - -

5

HIS HONOUR: I understand your point.

MR GARRETT: Sure.

10 HIS HONOUR: You say you've issued a notice to admit. The rules say that if they don't answer in 14 days they admit those facts. I've seen the notice to admit now. I see the facts you rely upon, and the simple answer to that, they say, is you don't even get to first base. The notice to admit either can be dispensed with, as far as its consequences, or it is abuse of process, and either way it doesn't really matter for
15 your opponents, as long as I come to the conclusion this whole proceeding is misconceived. And if I come to that conclusion - - -

MR GARRETT: Yes.

20 HIS HONOUR: - - - then the notice to admit is irrelevant. So that's what you've got to deal with. That's what this is all about, Mr Garrett, and you've dealt with this a number of times. And you've got to show me - you've raised a flawed upon not just one decision, but I think you've said all decisions found against you have been founded on a flaw.

25

MR GARRETT: Yes, your Honour.

HIS HONOUR: And one thing you've said is the actual deed wasn't put before the court in its complete way. That's one point.

30

MR GARRETT: Yes. Thank you.

HIS HONOUR: But you accept that it eventually did get before the court, because you provided the further document itself. That's as I understand it.

35

MR GARRETT: That's right, your Honour.

HIS HONOUR: All right.

40 MR GARRETT: But in terms of the deed, the copy of the deed that I wish to rely upon, it's not the copy of the deed that is annexed to my submissions, albeit that's a copy of the same document. It's the copy of the deed that was put in before Justice Davies by me in my affidavit in VID - - -

45 HIS HONOUR: What is the difference between the two of them?

MR GARRETT: They're identical, your Honour, but the issues about the point in terms of where my friend is seeking to lead the court is away from that affidavit material that evidences the first deed sworn correctly on 25 July 2005 by an officer of the same company into the Victorian proceedings.

5

HIS HONOUR: You've put that to me in your written submission, haven't you? I think I saw something - - -

MR GARRETT: Yes.

10

HIS HONOUR: Well, you don't need to - I will read your submissions carefully. I will reserve in this case, Mr Garrett, but I want to get - the opportunity for oral submissions, and I know - you're not a lawyer by training, are you, Mr Garrett, in addition to your other activities?

15

MR GARRETT: No, your Honour.

HIS HONOUR: No.

20

MR GARRETT: And nor do I have any desire whatsoever to be one.

HIS HONOUR: All right. But you're obviously familiar with the process, and the process is - and that's why we have submissions and we have documents and I have a chance to prepare before I come on the bench, as you have gathered I have.

25

MR GARRETT: Yes.

HIS HONOUR: But you've got the opportunity of telling me orally what the heart of the matter - now, there's many, many matters you raise, and some of them I may regard as on the periphery, and so far on the periphery not to be relevant. But I would have to look at that. And I understand why you say they're relevant, but it's for me to determine whether they're relevant. So that's why I'm just trying to focus you, Mr Garrett.

30

35

MR GARRETT: Okay, your Honour. Let me revert back to the notice to admit.

HIS HONOUR: Yes.

MR GARRETT: There is nothing in the court rules that say a notice to admit has to be filed and served. A notice to admit can be expressed in writing at any time on common law, and if it's not denied then - - -

40

HIS HONOUR: That's not the issue, Mr Garrett.

45

MR GARRETT: But - - -

HIS HONOUR: The issue is whether it's an abuse of process.

MR GARRETT: The point about whether the statutory letter of demand is an abuse of process?

5 HIS HONOUR: No, no, whether the notice to admit is abuse of process. You said it's abuse of process.

MR GARRETT: Well, because it's - - -

10 HIS HONOUR: And if it suddenly is an abuse of process - - -

MR GARRETT: Simply because it's on the court file doesn't change the effect of the notice to admit.

15 HIS HONOUR: No, no.

MR GARRETT: And that striking out of the notice to admit by her Honour, Justice Davies, doesn't change the admissions that were made at the time in common law. It's just as simple as that. And your Honour - - -

20 HIS HONOUR: But no admissions have been made if the notice to admit is struck out.

MR GARRETT: No, your Honour, that's not correct.

25 HIS HONOUR: Well, then - - -

MR GARRETT: There is no evidence before you of any contest in respect to the notice to admit.

30 HIS HONOUR: Yes, there is.

MR GARRETT: No, there's not.

35 HIS HONOUR: Sorry. They're putting a submission to me that the notice to admit is abuse of process.

MR GARRETT: Submissions are not evidence, your Honour.

40 HIS HONOUR: It's a matter of - - -

MR GARRETT: Your Honour has already struck out the affidavit, so that affidavit is gone.

45 HIS HONOUR: No, no, it hasn't gone, Mr Garrett. That's why I had asked you, Mr Garrett, to listen very carefully about this. The affidavit is still there.

MR GARRETT: Sorry. My apologies. The text - - -

HIS HONOUR: And it's only confirming the document. Yes.

MR GARRETT: Yes. Thank you.

5 HIS HONOUR: You have to be precise about this, Mr Garrett, because I have to be fair to both sides.

MR GARRETT: I understand.

10 HIS HONOUR: I have to be fair to make sure you have your opportunity, but I also have to be fair to make sure the applicant and whatever the cross-respondents say
- - -

MR GARRETT: I'm with your Honour.

15

HIS HONOUR: And I'm just trying to make clear. Because you haven't got legal training, I want to make clear you understand the goalposts where they are.

MR GARRETT: Yes. So my point is, your Honour, there is no contest in respect of
20 - - -

HIS HONOUR: Of the notice to admit.

MR GARRETT: - - - the notice to admit, whether it's on the court file, off the court
25 file.

HIS HONOUR: So your point is all those admissions I should take as being admissions, and hence that's the basis of your application for summary judgment.

30 MR GARRETT: Yes.

HIS HONOUR: So you say look at those admissions; you win. That's what you say to me.

35 MR GARRETT: And it's not just that, though, your Honour. I'm saying that because the affidavit is sworn by a person who is not an officer of the company, there is absolutely not a snowflake's chance in hell of a prospect of success by the plaintiff, with respect, your Honour.

40 HIS HONOUR: Yes.

MR GARRETT: I mean – excuse my common lingo.

45 HIS HONOUR: No, you can comment , Mr Garrett. I've heard worse by barristers.

MR GARRETT: Because it's not acceptable, and I referred to the Deputy Commissioner of Taxation v Guy Holdings in my submissions. Your Honour can read that in due course.

5 HIS HONOUR: Yes.

MR GARRETT: Secondly, because the affidavit is tainted by fraud, it's incapable of being cured.

10 HIS HONOUR: I understand all those points. The fraud is impermissible communication between the registrars and the court, the judges not taking into account all the appropriate evidence; is that right?

MR GARRETT: Yes.

15

HIS HONOUR: Is there another limb? Those are the main two reasons.

MR GARRETT: There is another limb, your Honour.

20 HIS HONOUR: What is the other limb?

MR GARRETT: And it is whether self-regulation is misregulation, in terms of the judiciary. I pointed out to your Honour the issues that his Honour, Chief Justice Allsop, has under section 15, both in my initial oral submissions - - -

25

HIS HONOUR: I know, and his Honour has got the ability to deal with matters. So you say that - I'm not sure quite how this fits in, but I understand this, that you say that there has been a failure by the Chief Justice to intervene.

30 MR GARRETT: Yes.

HIS HONOUR: And that's another reason.

35 MR GARRETT: Yes, but, of course, this court doesn't have jurisdiction under section 39B - - -

HIS HONOUR: No.

40 MR GARRETT: - - - to review decisions by the Chief Justice. But it does have jurisdiction at common law, rule of law and the unwritten law, and also, of course, under section 75(v) of the Constitution.

HIS HONOUR: Yes.

45 MR GARRETT: It would seem incredible that this court doesn't have jurisdiction under section 75(v) when the source of this court's power is in the Constitution itself at chapter 3.

HIS HONOUR: They're the three main arguments, I think, Mr Garrett. In relation to those matters, is that why you've brought all the other cross-respondents in, to get information from them to assist with that? Is that the purpose of this?

5 MR GARRETT: Yes, that's correct, your Honour. The vast majority of those cross-respondents are members of the Federal Court, including the court itself – the Federal Court of Australia, also the Federal Circuit Court.

10 HIS HONOUR: So you want information from those respondents about the case that you want to defend against the applicant; is that what it's about?

MR GARRETT: Yes, that's right. That's correct, your Honour.

15 HIS HONOUR: Why didn't you just try and seek discovery from them, instead of joining them?

MR GARRETT: Well, I am seeking discovery from them, your Honour. By joining them, I am seeking orders for discovery. I could seek non-party orders for discovery, of course, and that would be a function of your Honour's discretion. But I'm saying
20 that there is enough evidence in the failure to comply with the FOI Act and the section 89K orders made by the Australian Information Commissioner under the Freedom of Information Act, that executive government is hell-bent on not producing any documents of an administrative nature.

25 So I am saying that the matters arising are of constitutional importance and, indeed, there's a fundamental issue in all of this is that, if the Constitution Act of the State of Victoria (1975) is invalid under section 109 of the Constitution when read against the separation of powers provision within the Constitution itself, then sadly that inhumes the whole of this court's power, because every member of the judiciary must be a
30 legal practitioner under the current provisions of the Federal Court of Australia Act. And I am saying that that provision is fundamentally flawed.

I've issued a notice of constitutional matter in VID129 of 2015 which is a matter involving the Commissioner of Taxation and nine respondents. And that matter has
35 been adjourned sine die. And I'm saying it's convenient for this court to consider the constitutional issues arising in VID129 and VID600 concurrently with this proceeding, rather than consume court resources. One of the biggest problems I have, your Honour, is that the costs that my friend has referred to is negligible when compared to the benefit.

40

HIS HONOUR: Is that costs in Mr Pritchard's affidavit?

MR GARRETT: \$80,000, yes, your Honour.

45 HIS HONOUR: That is struck out now, Mr Garrett.

MR GARRETT: Struck out. Thank you.

HIS HONOUR: That evidence is not before me.

MR GARRETT: Thank you, your Honour. Costs of administration of justice in this country is a fundamental problem in globo, and it was the subject of my affidavit in the High Court in MC42 of 2014. Her Honour, Justice Crennan summarily
5 dismissed that application, and that's one of the next steps in this process is that I have received a retainer agreement from Georgiadis Lawyers in the State of South Australia to come on board and ventilate the issues that are related to those issues that are the subject of the Commonwealth Attorney General's grant. Your Honour, I
10 said in my earlier appearance and subsequently I sent your Honour an email, just keeping you up-to-date in terms of the developments with Georgiadis Lawyers.

HIS HONOUR: All right. Now let's - - -

15 MR GARRETT: I'm digressing a bit again. I'm sorry, your Honour.

HIS HONOUR: Yes.

MR GARRETT: But this is a fairly large issue. The fundamentals of my case in
20 defence are the fraud on the court by the court.

HIS HONOUR: Yes.

MR GARRETT: The fraud on the court by the lawyers for the plaintiff. In terms of
25 that document MC4, and the documents that I'm handing – affidavit material. Your Honour, I have already referred to all of my affidavits.

HIS HONOUR: You set them out in your submission.

30 MR GARRETT: Sorry?

HIS HONOUR: You set it out in your submission.

MR GARRETT: Yes. I'm happy to take your Honour to various documents to
35 show you, but I don't think that's a productive use of today's time.

HIS HONOUR: Yes, exactly.

MR GARRETT: So I'm happy for your Honour to take them as read, and I've said
40 that with great regret in the South Australian Supreme Courts on a number of occasions that - - -

HIS HONOUR: You should not assume that everything you've put there will lead
45 to the conclusion that you want, but all I can say to you is if you put the material before me, it will be looked at, and then we go from there.

MR GARRETT: Yes.

HIS HONOUR: I can't do any more than that, Mr Garrett.

MR GARRETT: Yes. Thank you, your Honour. Suffice to say that I've sent your Honour some authorities on 459G.

5

HIS HONOUR: Yes, I saw that.

MR GARRETT: And you have those authorities.

10 HIS HONOUR: I do.

MR GARRETT: I will leave that to you to read through.

HIS HONOUR: Yes.

15

MR GARRETT: The notices to remit - - -

HIS HONOUR: I've got that.

20 MR GARRETT: - - - issues, the power of the court to - - -

HIS HONOUR: I don't have a problem with the power of the court.

MR GARRETT: Thank you.

25

HIS HONOUR: It's what I do with the power.

MR GARRETT: Yes, of course. That's a matter of exercise of discretion, your Honour. Unfortunately, exercise of discretion in the past has been somewhat of an issue.

30

HIS HONOUR: I understand. You haven't had - - -

MR GARRETT: Recently there was a speech - - -

35

HIS HONOUR: It's quite fair to say you haven't had a lot of success - - -

MR GARRETT: I would say that this - - -

40 HIS HONOUR: - - - so I understand why you're concerned about the discretion, Mr Garrett.

MR GARRETT: Yes. Thank you, your Honour. I appreciate that comment. That is a fundamental issue. And your Honour will have seen the three interlocutory applications that I've sought to file on the court, the first one which your Honour has kindly accepted for filing, being 8 February. There were two subsequent interlocutory applications that your Honour - - -

45

HIS HONOUR: I thank you for reminding me. So there was one that you sought to file on 16 February. There was one on 21 February.

5 MR GARRETT: Yes, and I foreshadowed the filing of a further interlocutory application, but I didn't want to go down that path until I had had the opportunity to speak to your Honour today, because even though there are some 255 proposed cross-defendants – and I say cross-defendants because there is a prosecutorial issue involved in all of this that relates to the Crimes Act and the State and Federal jurisdictions and the various Criminal Law Consolidation Act of South Australia and
10 the Crimes Act - - -

HIS HONOUR: Why do you want to bring these people here? Is it again to get discovery and information from them?

15 MR GARRETT: I beg your pardon?

HIS HONOUR: Is the reason you want to bring these people before the court to get information from them on discovery?

20 MR GARRETT: Yes, as to why - - -

HIS HONOUR: That's the purpose.

25 MR GARRETT: This should have all been over some time ago in South Australia. I shouldn't be here, were it not for the separation of powers issues related to one fundamental factor that I put out in my submissions, your Honour. On 25 July 2002, the Registrar General and the Registrar of Deeds in South Australia released the duplicate certificates of title of the property known as Springwood Park. Your Honour wouldn't know that property, but it's a 535 acre chunk of dirt in the City of
30 Adelaide, seven minutes from the CBD. 535 acres is quite a large chunk of dirt.

35 That property was the subject of a major development that I put to the previous Liberal Government, and in fact had models built of an underground hotel, some \$300 million as a project back then. It was certainly a lot more then than it is now, but it was a very significant property. The Liberal Government lost power in 2002.

HIS HONOUR: What is this relevant to me, though, Mr Garrett?

40 MR GARRETT: It's relevant as to the actions as to why I didn't ever get what I say is a fair hearing in South Australia, because the State of South Australia was so busy covering up the error of the Registrar of Deeds and the Registrar General in releasing
- - -

45 HIS HONOUR: This is a suspicion you have.

MR GARRETT: A very clear suspicion, your Honour.

HIS HONOUR: And is this why you want to join these people to get the information to give evidence about that suspicion; is that what this is about?

MR GARRETT: Yes, and indeed there was a - - -

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HIS HONOUR: But is that what it's about, Mr Garrett? I need to know this.

MR GARRETT: Yes, your Honour, as to why the cost of the administration of this proceeding coming back to the court over and over again wasn't dealt with in the State of South Australia. And that's related to the issues of the Lowro family and why I'm seeking from your Honour an application for – under an application for injunctive relief to prevent the State of South Australia from taking any further steps in respect to the Lowro family's home. Mr Lowro is not well, as I'm sure your Honour has seen by my affidavit dated 8 March.

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The State seems to have engaged in a campaign of relentless pursuit of Mr Lowro and his son, Eric Lowro. Eric doesn't want to be representing his father. He is a lawyer by training, but he is not a lawyer because he chose to not be a part of this profession. He went instead into the ATO, and he went to ASIC and - - -

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HIS HONOUR: Could I make injunctions of that nature without – you say it's a suspicion, a heavily thought out suspicion.

MR GARRETT: Well, the affidavit material is before your Honour - - -

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HIS HONOUR: Yes, but not - - -

MR GARRETT: - - - as to the issues of health. And the balance of convenience is greatly in favour of Mr Lowro in respect of his health than it is in respect of Mr Antonio Tropiano, who it's far from clear even has a legal degree.

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HIS HONOUR: Won't that all be dealt with in another place?

MR GARRETT: No, your Honour. I'm saying that the State is so hell-bent on the issues arising from the various notices of constitutional matters that I have filed in the Lowro proceedings. I do have copies of those here, your Honour, if you would like to see them.

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HIS HONOUR: I don't need those.

40

MR GARRETT: But the State is hell-bent on covering up its own mistakes. And that's the application of a philosophy that has been discovered recently by me, in terms of submissions made to the Royal Commission into Child Sex Abuse. On 24 October 2014 the New South Wales Department of Family and Community admitted that they had taken an adversarial approach to complaints of 18 young Aboriginal women who were abused in an institution in country New South Wales called Bethcar.

45

And I've used the term, "the Bethcar strategy", in all my submission to various courts and also in terms of my submissions to the Royal Commission itself. I've made submissions to the royal commission on this fundamental primary issue is that, upon the delivery of their report, there was no mention of the issues of separation of powers. I've now written to the royal commission and suggested that they haven't completed their task as yet. And I - - -

HIS HONOUR: There's no doubt there's a doctrine of separation of powers in this country. The question is whether in this case it has been breached. That's what you wanted me to look at, don't you?

MR GARRETT: Yes. But I'm saying it's a national and systemic malaise. It's something that occurs in every State, and your Honour, depending on the exercise of your Honour's discretion, there have been some very serious findings against the parties that I have sought to bring into court, not the least of which was the findings made by the Senate inquiry into the conduct of ASIC in respect to the policing of insolvency practitioners. Is your Honour aware of the - - -

HIS HONOUR: What relevance will that have, other than you wanting to bring that entity into court to get information from them?

MR GARRETT: Your Honour - - -

HIS HONOUR: That's what it's about, isn't it?

MR GARRETT: - - - do you remember I made earlier submissions in respect to the agreements between lawyers and insolvency practitioners - - -

HIS HONOUR: Yes.

MR GARRETT: - - - that in the Corporations Act were greatly in question Mr Viscariello.

HIS HONOUR: Yes.

MR GARRETT: In fact it's mentioned in the speech.

HIS HONOUR: And you wanted to cross-examine Mr Critchley about all this to see how it impacted upon this litigation; is that right?

MR GARRETT: Yes, that's right.

HIS HONOUR: I understand where the dots are trying to go, Mr Garrett.

MR GARRETT: Yes. So, your Honour, I have a copy of the speech made on 22 February to the Commonwealth Parliament by the Honourable Senator John

Williams, and I wanted to tender that document into evidence as being a fundamental issue.

HIS HONOUR: What does the senator say?

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MR GARRETT: The senator says, "The report against ASIC was scathing". That was a report that was delivered on March 2010. Sorry, I withdraw that, your Honour. It was September 2010. I made submissions to - - -

10 HIS HONOUR: It's six years ago.

MR GARRETT: Yes, your Honour. And it was then put to the then Labor Government to do something about it - - -

15 HIS HONOUR: Yes.

MR GARRETT: - - - and to change the powers of ASIC and strip them of their powers and put those powers somewhere else.

20 HIS HONOUR: All right.

MR GARRETT: That didn't happen, and the issues related to the Labor Government, both in South Australia and the Commonwealth, are fundamentally tied to this collection of revenue around the joint venture agreements of insolvency practitioners and lawyers, and that revenue then used to fund offices of the Commonwealth and offices of the State.

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HIS HONOUR: Do you want to tender that document?

30 MR GARRETT: Yes, your Honour.

HIS HONOUR: All right, I will receive it.

MR GARRETT: Thank you.

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HIS HONOUR: All right. Now, just keep focusing, Mr Garrett. On the basis, as you know, I've got your submissions and just need to know what else needs to be said. Is there anything you want to say in response specifically to what your opponent said? I think you've probably covered - you've dealt with the notice to admit. You say there's no abuse of the court's powers. You say that you live with the fact - I think I asked you this before in the last directions. You live with the fact, of course, as you have to, that there are a number of judgments against you, but you say I should go behind them. That's your point.

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45 MR GARRETT: Yes.

HIS HONOUR: All right.

MR GARRETT: And, indeed, some of those judgments were made in favour of Mr Macks who had no standing to in fact bring those applications on the proper analysis of the sequestration order made against me in 2004.

5 HIS HONOUR: Yes.

MR GARRETT: That sequestration order should have been set aside.

HIS HONOUR: All right.

10

MR GARRETT: And that was an application I made to his Honour, Justice Casey, but didn't get heard.

15 HIS HONOUR: Well, I can understand that. So they're those matters. And then with the cross-claimants you've told me and you've set out why you want to bring them into court, relevantly to the various matters that you've set out in your submission. Is there anything else that needs to be dealt with, then, any other procedural matters?

20 MR GARRETT: The issue of injunction, your Honour, is a fundamental. Obviously, the court has already found against the plaintiff in terms of issuing an injunction. I pointed out in my earlier submissions that the statutory letters of demand relate to completely different debts arising - - -

25 HIS HONOUR: Yes.

MR GARRETT: - - - and, indeed, any further statutory letter of demand. My fundamental point is that there is no genuine dispute. And the issue is genuine.

30 HIS HONOUR: Yes.

MR GARRETT: So if, in fact, the plaintiff's case was genuine, then they wouldn't have sworn that affidavit.

35 HIS HONOUR: All right.

MR GARRETT: Which, of course, then led to the reasons why I want to cross-examine Mr Critchley.

40 HIS HONOUR: Yes.

MR GARRETT: Your Honour has declined that leave to cross-examine at this point in time - - -

45 HIS HONOUR: Yes.

MR GARRETT: - - - not to say that you might not change your opinion, having read the materials.

HIS HONOUR: Yes.

5

MR GARRETT: The Insolvency Law Reform Bill 2015 I have tendered to your Honour. In amongst the affidavits that I have submitted to your Honour – I’ve already made this point, but the point about the consistency between the courts in terms of being able to make any order as the nature of justice might require, Federal Court ruling 1.32 242 of the Supreme Court, 242 of the District Court, all of which were summarily dismissed in terms of my matters last year. And I didn’t want to come back to this court until I had revisited the State courts to prove up my point, in terms of what happened before in the States of South Australia, where judgments that were founded on a bankruptcy that shouldn’t have happened.

15

Then the vexatious litigant orders that were made by her Honour, Justice Layton, and his Honour, Justice Anderson, were a cover up of the mistakes of executive government in respect to the duplicate certificates of title being released to the National Australia Bank, in circumstances where the National Australia Bank did not have any entitlement to hold those deeds, and they were not the registered first mortgagee on the title. In fact, I had paid out that registered first mortgagee on 24 December 2004. When I say “I”, I say the trustee of the Andrew Garrett Family Trust had paid out that mortgage, and therefore stepped into the shoes of N.M. Rothchild as the registered first mortgagee.

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I had applied to the Registrar General to register the trustee of the Andrew Garrett Family Trust as the mortgagee by subrogation on the titles. That was declined. On 20 August 2006 amendments were made to the Real Property Act of South Australia, that I am guessing might have been tied to the whole Springwood Park thing, because section 8 of the Registration of Deeds Act of South Australia sets out that the Registrar will pay treble the amounts of costs, loss and damage associated to actions by the Registrar of Deeds and the Registrar General.

30

Now, clearly they didn’t want to pay out that compensation, so amendments were made at the time that I was seeking the Andrew Garrett Family Trust to be registered as the first mortgage, in circumstances where there were two National Australia Bank mortgages. And I would like your Honour to have a look, if you wouldn’t mind, at a judgment that was made by his Honour, Justice Besanko, on 9 March 2004 in SC1127 of 2004, which was an application for an injunctive relief which was granted, preventing the National Australia Bank from exercising an order for possession that was given by a master of that court on 29 October 2003.

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That order for possession was given by the master in chambers without any submissions from me or my legal representatives. Now, this is a big chunk of dirt. It was sold for a record price of \$5.3 million in January 2006, at a time when I had already transferred – or at least contractually transferred that property into another trust called the Holy Grail Property Trust Number 2. I had accepted an international

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bill of exchange in exchange for a 10 per cent interest in that property for \$10 million. That then valued the property - - -

5 HIS HONOUR: What is the relevance of this, Mr Garrett?

MR GARRETT: The relevance of this, your Honour, is coming back to this fundamental impugning of every decision that has been made. The justices in this court, the judges in the Federal Circuit Court have all been driven by the Bethcar strategy, and that is set out in my affidavit dated - - -

10 HIS HONOUR: This was before Justice Davies, wasn't it?

MR GARRETT: No.

15 HIS HONOUR: Not this affidavit you're referring to?

MR GARRETT: No.

20 HIS HONOUR: All right. This is a - - -

MR GARRETT: That affidavit was before the Federal Circuit Court in MLG177. It was dated 7 May and is now before your Honour.

25 HIS HONOUR: All right.

MR GARRETT: There was a decision delivered by her Honour, Justice Betty King, in February of 2015 - - -

30 HIS HONOUR: Yes.

MR GARRETT: - - - where her Honour described the conduct of the police, the Legal Services Board and the Legal Services Commissioner as "Pythonesque". Now, her Honour was obviously taking the view that they were actually engaged in doing their job, but, of course, the tribunal obligation to inquire hasn't been exercised by any of those tribunals - every person in charge of making decisions that affect another person's right, of course, being a tribunal of administrative law. It seems that every time a person makes a complaint about lawyers or about executive government, the obligation to inquire of other parties and draw evidence in is not exercised. And, your Honour, I've made submissions about that in my - - -

40 HIS HONOUR: I understand how you are putting that, Mr Garrett.

45 MR GARRETT: Thank you. But the fundamental that came through that just leaves me absolutely gobsmacked is the most recent changes in the uniform law. Section 6 of the uniform law - Legal Profession Uniform Law Application Act 2014 allows for the charter override. The charter override is an overriding of the human rights of every member of this State. Now, I dare say that the citizens of this State

would be horrified to think that executive government has the power to override fundamental human rights obligations.

5 HIS HONOUR: But how is that relevant for my determinations about this?

MR GARRETT: Because it's all of these issues are entwined because - - -

HIS HONOUR: Well, am I to direct that that statute be abolished, the charter?

10 MR GARRETT: No.

HIS HONOUR: No.

15 MR GARRETT: Because the charter should not be abolished. Why should it be abolished? It's consistent with - - -

HIS HONOUR: With what you're saying.

20 MR GARRETT: - - - Australian Treatise Number 23.

HIS HONOUR: All right. So you want the legislation that's inconsistent with this?

MR GARRETT: Yes.

25 HIS HONOUR: Yes.

MR GARRETT: So therefore under section 109 of the Commonwealth of Australia Constitution Act, it cannot be consistent with human rights that are implied within that constitution under the rule of law - - -

30 HIS HONOUR: All right.

35 MR GARRETT: - - - common law, every other law that you can possibly imagine. And it reflects the drive of the State governments to use the judiciary as some sort of budgetary management process so that they can borrow the monies from the various funds that have been established and then not have to pay it back.

HIS HONOUR: All right.

40 MR GARRETT: Use them for the improper purpose of propping up State budgets. That has been referred to in the house - - -

HIS HONOUR: I don't really see how this is relevant, Mr Garrett.

45 MR GARRETT: Because, your Honour, it comes back to the same issue. Whoever has been communicating with the Federal Court's judiciary and the members of the executive - - -

HIS HONOUR: Is motivated by that.

MR GARRETT: - - - members of the executive of the Federal Court has been driven by the issue to avoid compensation by legal malpractice, malpractice of –
5 misfeasance in public office, you name it. And it's all out there. And the issues in terms of the royal commission is that they haven't gone far enough in terms of, yes, they talked about the symptoms and they've done a wonderful job.

10 HIS HONOUR: Again, you're wanting to join the respondents to get this information.

MR GARRETT: Yes.

15 HIS HONOUR: All right.

MR GARRETT: Because I'm saying the matters that arise in this proceeding arise out of my complaints against the counsel for - - -

20 HIS HONOUR: All right. You've said that a number of times, Mr Garrett.

MR GARRETT: - - - that were made to the Legal Services Commission.

HIS HONOUR: Yes. All right.

25 MR GARRETT: So all of those decisions - - -

HIS HONOUR: Yes.

30 MR GARRETT: - - - anything related to those decisions, I've applied to all of the proper administrative law processes, and they've been ignoring them.

HIS HONOUR: All right.

35 MR GARRETT: Not because it was Pythonesque, but because they were acting under instruction from State government and treasury to further frustrate claims for compensation.

HIS HONOUR: All right. Is that it, Mr Garrett?

40 MR GARRETT: Yes, I think so, your Honour.

HIS HONOUR: Thank you, Mr Garrett. Is there anything else you want to respond to in relation to that?

45 MR MOLLER: No, your Honour, only this. Leaving to one side the issue of - - -

HIS HONOUR: Well, you join issue with a lot of what was said, obviously. I take that as being read. I don't need you to reply to that.

5 MR MOLLER: Of course. The only way it can potentially be relevant to what is before you is if it gives rise to an offsetting claim.

HIS HONOUR: Yes.

10 MR MOLLER: In my submission, if it did there would be a claim potentially for – and at its highest – damages, the quantum of which is not assessed. There is no evidence of that before your Honour. You are in no position to be able to say - - -

15 HIS HONOUR: There is no doubt I have power, if the ingredients were established, to set aside a judgment of another judge if it was founded upon an equitable flaw. I've got the power to do it.

MR MOLLER: Of course.

20 HIS HONOUR: Yes. All right.

MR MOLLER: The only issues for your Honour are - - -

25 HIS HONOUR: Is whether it is appropriate in this case and it has been established that there is the equitable flaw.

MR MOLLER: Well, the granting of leave for the proper commencement of the application.

30 HIS HONOUR: I understand that. I'm assuming we get to that step, yes.

MR MOLLER: Indeed, your Honour.

HIS HONOUR: Yes.

35 MR MOLLER: It just strikes me that saying what I've just said about offsetting claim, your Honour should ignore, because, of course, the claim has to go the other way.

40 HIS HONOUR: All right.

MR MOLLER: If the court pleases.

MR GARRETT: Sorry, your Honour, there's just one final thing I wanted to add.

45 HIS HONOUR: Yes.

MR GARRETT: If your Honour accepts my submissions and the evidence I've tendered, then the plaintiff has committed an event of insolvency which is in breach of its financial obligations no doubt that would be in place between banks. However, that breach shouldn't drive your Honour's decisions as a matter of sympathy. These directors must be held responsible for their own conduct and for the compliance of the continuous disclosure obligations in respect of the ASX. The ASX has also applied the same Bethcar strategy to my complaints made to them, and hence they are joined to the proceedings as, indeed, is ASIC.

I've copied your Honour on a conference that is being held for NMN Business Systems in South Australia, commencing on Monday here in Victoria and then Tuesday, Wednesday. The purpose of directing your Honour's attention to that conference and to directing my friend's attention to that conference was to elicit a response from Mr Critchley and/or any other member of Corrs to see whether they wanted to interfere in my commercial life in circumstances where they had no possible justification for doing so. Mr Critchley has made that interference. He did so first to the legal representative of my Tasmanian licensee, and second – sorry, first to LK Property, who are simply people trying to - - -

HIS HONOUR: What is the relevance of this, Mr Garrett?

MR GARRETT: The relevance is this is the actions of Mr Critchley, in terms of communicating and trying to derail commercial relationships between me and other people is consistent with - - -

HIS HONOUR: But he hasn't done anything in relation to the trap you set for him, I take it.

MR GARRETT: Sorry, your Honour?

HIS HONOUR: He hasn't done anything in relation to the trap you set for him, I take it.

MR GARRETT: Yes, he has.

HIS HONOUR: What has he done?

MR GARRETT: He has written to LK Property saying Mr Garrett's companies are in liquidation; he is a bankrupt. All of that is true, and therefore it is hard to ping him on defamation. However, the fundamental point of that is that it was the actions of Treasury Wine Estates Vintners Limited, then known as Mildara Blass, that caused those liquidations to happen, in combination with the actions of the State Government and the Registrar General, Registrar Deeds, and the decision made by - - -

HIS HONOUR: So that's communication has been made. You don't say it's false, because it's clearly not false. You just think it shouldn't be made again.

MR GARRETT: Yes, he shouldn't have taken the bait. You know, this is just not permissible. This is him – this is an act of guilt that caused him to take that bait, not once, but twice. Your Honour, I have asked your Honour if I could seek an order restraining the firm of Corrs Chambers Westgarth - - -

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HIS HONOUR: Well, I can tell you now, Mr Garrett, I saw that in one email. I simply don't have enough material to do that. I mean, that's a very serious step, to stop someone from communicating the truth – we're not saying it's not the truth – in those circumstances.

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MR GARRETT: Well, the point is that it's not the truth.

HIS HONOUR: Well, you said it was the truth. It clearly is the truth. I haven't seen - - -

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MR GARRETT: Only in terms of the existing judgments.

HIS HONOUR: I haven't seen the material, Mr Garrett. I haven't seen what is said. I haven't seen the circumstances. It's an entirely different application.

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MR GARRETT: Yes.

HIS HONOUR: So I certainly won't be entertaining that. I can say that now to you.

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MR GARRETT: All right. The final - - -

HIS HONOUR: So you have to bring it – whatever you do is up to you.

MR GARRETT: The final application is you've seen the material in respect to the Lowro family - - -

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HIS HONOUR: Yes.

MR GARRETT: - - - and I'm seeking for them to have their home protected. Until your Honour has had a look at the material, it's unacceptable that any member of - - -

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HIS HONOUR: So what order are you seeking? An injunction to prevent what?

MR GARRETT: An injunction to prevent the State from making any decision, taking any further steps in respect of the Lowro family. The balance of convenience is theirs. I've stepped in as litigation guardian. I've instructed a solicitor, as you will see in Mr Lowro's affidavit, and no further steps should be taken in respect of the Lowro family. I have nothing to gain from that, your Honour, except to demonstrate ongoing conduct of the State. Thank you.

45

HIS HONOUR: Well, I hear what you're saying.

MR GARRETT: Thank you. So, your Honour, are you reserving your decision on that application?

HIS HONOUR: I haven't spoken to the cross-defendants yet, Mr Garrett.

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MR GARRETT: Thank you. Good point.

HIS HONOUR: Now, gentlemen, it seems that what Mr Garrett wants from each of you and all the other cross-respondents is participation for the purposes of getting information, which I will think about a little bit more. That may not be appropriate as a proper use of the court's process to join someone for that purpose. But are you all going to speak in different voices, or all speak – who is going first? Mr McClure.

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MR McCLURE: Well, your Honour, perhaps given I represent at least those in the list that are near the beginning, I will commence but only make some brief comments.

HIS HONOUR: Yes.

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MR McCLURE: As Mr Garrett, as we perceive it, needs an order from the court under rule 17 to serve an interlocutory application on parties other than the parties to this actual proceeding, and needs leave under 37AR of the Federal Court Act, pursuant to the orders of Justice Pagone, my instructions are to be here as a matter of courtesy to the court and to assist the court as required. The only matters I would seek to add, unless your Honour wants to hear further from me, is just to note that the 25
36th defendant, Insolvency and Trustee Service Australia, ceased to exist in August 2013, and its functions were taken over by the 37th respondent, AFSA, and to also point out I note Mr Garrett takes issue about judicial immunity of suit which is extended to registrars of the court, so I won't raise anything further about that.

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But just to point your Honour to, should it be relevant, section 33 of the Ombudsman Act, which provides that the ombudsman is not to be sued, other than – well, there's reference to section 35 which is about secrecy by the ombudsman. Yes, there are those issues. Other than, your Honour, unless there's anything further you want from me.

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HIS HONOUR: No, thank you. Who is next off the - - -

MR McCREDDEN: Perhaps I will go next, your Honour.

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HIS HONOUR: Yes. I take it you take the same point about leave?

MR McCREDDEN: Well, I do, your Honour. I am here today to assist as necessary, despite that. But, your Honour, as I announced at the outset, I appear for variously Victoria and South Australia entities.

45

HIS HONOUR: Yes.

MR McCREDDEN: Your Honour has before you in the interlocutory application what appears to be an application to join my clients along with others in relation to a cross-claim. Paragraph 13 of the applicant's application describes the purpose of the purported joinder, and this is at page 7 of 162 of the applicant's material.

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HIS HONOUR: Yes.

MR McCREDDEN: It says that:

10 *The following parties are added as cross-defendants to the proceeding, that for the purposes of judicial review or administrative and/or judicial decisions and actions, subject to a granted extension of time.*

15 And then the parties are listed. So what your Honour has before you is a purported joinder in relation to claims seeking relief in the nature of judicial review, and we all want to tell your Honour today is that there are two reasons why your Honour should refuse that application. The first is that, as your Honour has already heard and discussed in the primary application today, the applicant is subject to a vexatious proceedings order. That order was made by Justice Pagone last year. That order prohibits him from instituting any proceeding in the registry of the Federal Court without leave. In my submission, the step of seeking to bring a cross-claim constitutes the instituting of proceedings under the Federal Court Act. There are authorities that assist in that regard, your Honour, that I can take you to.

25 HIS HONOUR: I've had a look at the proceeding.

MR McCREDDEN: Yes. Certainly - - -

30 MR GARRETT: I'm happy to concede that, your Honour.

HIS HONOUR: Yes. Thank you.

35 MR McCREDDEN: So in my submission, your Honour, the first reason why you should refuse application is because the applicant requires leave. The application is not properly constituted to seek leave. Under section 37AR of the Federal Court Act, several conditions are required on the applicant, and they include the applicant to serve affidavit material - - -

40 HIS HONOUR: There is no doubt that it's not complied with. So if leave is required - - -

45 MR McCREDDEN: And I would submit, your Honour, that there is material before your Honour, particularly in respect of the previous decisions of this court that have been discussed earlier today, that your Honour can conclude that the bringing of cross-claims, the attempt to bring the cross-claims is an attempt to bring a further vexatious proceeding. And your Honour would find the definition of vexatious

proceeding again in section 37AM of the Federal Court Act. For that reason alone I feel your Honour should refuse application.

5 The second reason, your Honour, is that, in my submission, there is no discernible basis whatsoever for your Honour to conclude there is a relation, albeit a sufficient relation, between what all the cross-claims appear to be about and the subject matter of this proceeding. As I said, the cross-claims seek relief in the nature of judicial review. There is no explanation from Mr Garrett as to what decisions he is seeking to have judicially reviewed and how they would be relevant to this proceeding. This
10 proceeding concerns a commercial dispute in relation to a statutory demand. That would be all I want to say, your Honour.

HIS HONOUR: Thank you. Yes, who is next?

15 MR TAVOLARO: Thank you, your Honour. I respectfully adopt submissions made by my learned friends to date. They have essentially said most of the matters I was going to say. One matter I did want to draw to your Honour’s attention, and specifically the fact that subsection 37AQ which, your Honour, effectively provides that if a proceeding – and accepting, for the sake of the submission, that the
20 interlocutory application is the proceeding – if it is instituted without leave being obtained, it is stayed.

And that section operates by its own force. Lest there be any doubt about whether it is stayed or not, I also draw your Honour’s attention to subsection (3) of section
25 37AQ which, amongst other things, provides that the court may make an order declaring a proceeding to be adversarial in which subsection (2) applies. And, furthermore, that subsection empowers the court to make any order in relation to the stayed proceeding that the court considers appropriate.

30 And we would submit that were your Honour minded to, it might be appropriate, lest there be any doubt, that your Honour make a declaration that the interlocutory application dated 8 February is a proceeding to which subsection (2) applies. We would also invite and submit that it’s appropriate, your Honour, to make an order that that interlocutory application be struck out, and finally that Mr Garrett be
35 ordered to pay the costs of speaking to my client. If your Honour pleases.

HIS HONOUR: Just while I remember, remind myself about costs. I take it that whatever happens, if you win, Mr Garrett, you want your costs against the other side. If the other side win or the cross-defendants get what they want, they get costs.
40 Costs follow the event.

MR GARRETT: Of course, costs follow the event from the point of view of the other side, but I’m a self-represented party, your Honour. However, as it turns out, I act in a number of different capacities, so I appear personally and as trustee of trusts
45 and controller of some 50-odd corporations. And the assets of those corporations are under my control. It’s - - -

HIS HONOUR: But you're the only defendant before me. You're the only – Andrew Morton Garrett is the only person I can make a cost order against.

MR GARRETT: Save, your Honour, if - - -

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HIS HONOUR: Or in favour of.

MR GARRETT: In terms of the defendant, I wanted to direct your Honour's attention that I've applied for leave that I be added as the plaintiff by cross-claim and as the plaintiff by counter-claim.

10

HIS HONOUR: Yes, but we were talking about you, not a company; that's all I'm saying.

15

MR GARRETT: But I act in a number of capacities.

HIS HONOUR: But not before me you don't.

MR GARRETT: Yes, I do, your Honour.

20

HIS HONOUR: Well, not on the record, you don't. Your court record, you are the defendant.

MR GARRETT: Not on the record, but if your Honour reads through the orders sought, I've sought to be added in a number of capacities.

25

HIS HONOUR: I understand all that, but at the moment you're the man before me.

MR GARRETT: Yes, I understand that, your Honour, but I have a number – and there are joint trustees and - - -

30

HIS HONOUR: All I'm saying is that whatever way costs go - - -

MR GARRETT: It is complex.

35

HIS HONOUR: - - - they will follow the event.

MR GARRETT: Yes.

40

HIS HONOUR: Like they have in the previous cases.

MR GARRETT: No issue with that.

HIS HONOUR: That's all I'm asking.

45

MR GARRETT: All I'm saying is that from my perspective I'm seeking disbursements.

HIS HONOUR: I understand that. We will have to deal with that.

MR GARRETT: Thank you.

5 MR McCREDDEN: Your Honour, just on costs, I might add two things.

HIS HONOUR: Yes.

10 MR McCREDDEN: I omitted to say that I'm instructed to seek costs on behalf of my clients. It should be on a refuse application.

HIS HONOUR: I'm assuming everybody will want the costs if they're successful.

15 MR GARRETT: I'm happy to accept that, your Honour.

MR McCREDDEN: Yes. And the second point is that, of course, Mr Garrett requires leave.

20 HIS HONOUR: Yes.

MR McCREDDEN: Should he obtain leave, it would be my submission that there should be no order as to costs.

25 HIS HONOUR: Yes.

MR McCREDDEN: He requires that leave of the court - - -

HIS HONOUR: As an indulgence.

30 MR McCREDDEN: - - - as an indulgence.

HIS HONOUR: Yes, I understand. All right. Yes, anything else to said by you?

35 MR ABRAMS: No, thank you, your Honour, unless on behalf of the 29th and 30th.

HIS HONOUR: Yes. You adopt what has been said, I take it.

MR ABRAMS: Yes, your Honour.

40 HIS HONOUR: I think you have all fallen to the same quantum.

MR ABRAMS: Yes.

45 HIS HONOUR: You understand that, Mr Garrett?

MR GARRETT: I agree with that.

HIS HONOUR: All right. Thank you.

MR ABRAMS: Thank you, your Honour.

5 HIS HONOUR: All right. Is there anything you want to say just in response to what has been said, Mr Garrett?

MR GARRETT: Thank you, your Honour. I do. My response is that I've already sought your Honour's exercise of discretion in terms of the setting aside all
10 judgments. That includes all vexatious legal orders, in which case the need for leave doesn't apply.

HIS HONOUR: No, if you win on that there's no problem.

15 MR GARRETT: Exactly.

HIS HONOUR: But what they're saying now, if you don't win on that – I think you would accept this – you will need leave.

20 MR GARRETT: Of course. And insofar as applying for leave, I'm hereby applying for leave - - -

HIS HONOUR: Yes.

25 MR GARRETT: - - - on the basis of the materials. Insofar as is necessary, I am seeking your Honour to make orders that the affidavit material are compliant with section 37AR and proceed on the basis of rule 1.32.

HIS HONOUR: Yes. I understand what you're saying.

30 MR GARRETT: The evidence that I sought to adduce in respect of the interlocutory applications – and, of course, I accept what the parties are saying in terms of vexatious legal orders, but therein lies the fundamental issue.

35 HIS HONOUR: We've been through that.

MR GARRETT: This is about various adjustments. But I've listed a number of proceedings in which I seek to adduce the evidence. I have an objection to Mr
Tavolaro appearing for any other person except himself. Mr Tavolaro is named as
40 the 39th defendant by cross-claim. In my respectful submission, your Honour, Mr Tavolaro has misunderstood and misapplied his obligations as counsel for the Crown, has misapplied and misinterpreted his obligations as a model litigant. He has drawn the court away at every step of the proceeding away from evidence and sought a sequestration order which he achieved in MLG177, which was an order given by
45 deception and breached those obligations.

So I object to Mr Tavolaro appearing for any other person except himself. And I do note that I've made an error in my application, your Honour. If I could direct your Honour's attention to Mr Duncan; he is listed on page 7.

5 HIS HONOUR: Yes.

MR GARRETT: At paragraph EB, you will see he is listed as the 28th defendant by cross-claim.

10 HIS HONOUR: Yes.

MR GARRETT: Mr Holden is appearing at CC is also appearing as the 28th defendant by cross-claim. I wanted to ask your Honour for leave to amend that application so that Mr Holden is read as the second 28th defendant, otherwise the
15 orders of all the other defendants gets thrown out.

HIS HONOUR: Yes, I will give you that leave.

MR GARRETT: Thank you. In terms of the other two interlocutory applications
20 that haven't yet been accepted for filing, I think I would be happy for your Honour to adjourn the hearings - - -

HIS HONOUR: I'm not going to adjourn any further, Mr Garrett.

25 MR GARRETT: You're not going to adjourn the hearings?

HIS HONOUR: No. Those applications are the same, effectively – the same grounds, aren't they, on what you've put before me today in the other submissions?

MR GARRETT: They are, your Honour, excepting that the annexures to the third application on 21 February are different. So that's why in the list of materials I sought to rely on all of the interlocutory applications filed by me. I haven't yet filed the foreshadowed section 78B notice of constitutional matter. I've noticed that with monotonous regularity the judiciary of various courts ignore their statutory duties
35 under section 78B to not take any further steps. And, indeed, in VID158 to VIC166, notices of constitutional matter were filed and served in that proceeding. And yet her Honour, Justice Davies, breached her statutory obligations to not take any further steps until the various State attorney generals – sorry, Commonwealth attorney generals, State and Territories, had responded to that notice under section 78B.

40

HIS HONOUR: In your submissions you listed the materials you relied upon - - -

MR GARRETT: Yes.

45 HIS HONOUR: - - - I think, including the interlocutory applications that had not been filed.

MR GARRETT: I did. Yes.

HIS HONOUR: Well, I was going to treat – even though the interlocutory application has not been filed - - -

5

MR GARRETT: Yes, as evidence.

HIS HONOUR: - - - I was going to treat it as material before me.

10 MR GARRETT: Yes, thank you.

HIS HONOUR: So does that satisfy you?

15 MR GARRETT: I'm really just saying that for the purposes of this proceeding now, because I think we've stepped into the interlocutory application process. So all of it should be evidence within the separate matters.

20 HIS HONOUR: Well, I will treat as before me all the material that you set out in your submission which I think, when I looked at it this morning with my associate, that it included the interlocutory application and the material annexed to it of 21 February.

MR GARRETT: Yes.

25 HIS HONOUR: Now, I will obviously deal with that material to the extent necessary, and in relation to the interlocutory applications that you sought to file, I may or may not address those. But at the moment they've been refused for filing. I will consider whether or not, in the course of my judgment, I deal with those particular matters anyhow.

30

MR GARRETT: Yes, of course, your Honour. I mean, at the end of the day I accept a course that doesn't close me out from any other steps I might choose to take.

HIS HONOUR: No.

35

MR GARRETT: And include those under section 38A and section 75(1).

HIS HONOUR: I think that's the best way to deal with them - - -

40 MR GARRETT: Yes, I'm happy.

HIS HONOUR: - - - because I think what happens now, Mr Garrett, is I now go away. You've had your opportunity. Everyone else has had their opportunity.

45 MR GARRETT: Yes.

HIS HONOUR: I now go away and consider this material and consider what I should do about it.

MR GARRETT: Yes.

5

HIS HONOUR: Just so you understand the process, once I reserve – which I am going to do now, because I don't you've got anything else you want to say to me, do you?

10 MR GARRETT: Yes.

HIS HONOUR: Have you finished your submissions in reply?

MR GARRETT: Not yet, your Honour.

15

HIS HONOUR: Right.

MR GARRETT: I wanted to ask your Honour if, through you, the State of South Australia would give an undertaking - - -

20

HIS HONOUR: I can't. Either that or , Mr Garrett.

MR GARRETT: They can't do that?

25 HIS HONOUR: No. I'm not going to - - -

MR GARRETT: Can't do it through you?

HIS HONOUR: Can't do it through me, and I can't give you advice, Mr Garrett.

30

MR GARRETT: Okay. And you can't give me advice and you can't - - -

HIS HONOUR: I can't give you advice, Mr Garrett.

35 MR GARRETT: And you can't make a decision on whether the application for injunctive relief should be granted in respect to the Lowro family until your Honour has reviewed the various affidavit materials.

40 HIS HONOUR: Well, you have made that application before me, and I will consider that once I see the material.

MR GARRETT: So thank you, your Honour.

HIS HONOUR: That's all I can do at the moment.

45

MR GARRETT: All I'm seeking is the reserve of your judgment - - -

HIS HONOUR: Yes.

MR GARRETT: - - - in respect of that application, so that I might put it to the State of South Australia when I return to the District Court that your Honour has reserved
5 the decision.

HIS HONOUR: You've made that application. I have to deal with it.

MR GARRETT: Thank you.
10

HIS HONOUR: And I haven't made my mind up about it, so I've reserved my decision.

MR GARRETT: That's all I seek.
15

HIS HONOUR: That's the formal position.

MR GARRETT: Yes. Thank you.

HIS HONOUR: All right.
20

MR GARRETT: Thank you.

HIS HONOUR: Now, just so you understand, Mr Garrett, I think everyone else at
25 the bar table knows. I now will reserve my decision in this matter. I don't know how long I will take, unfortunately, but that's a matter that has to fit within the other work that I have on the bench. You understand that.

MR GARRETT: Yes.
30

HIS HONOUR: But just so you know, that once a matter is reserved – and there is some law about this – the case cannot be reopened without leave.

MR GARRETT: I understand.
35

HIS HONOUR: So, I do not want, with the greatest respect, to be receiving emails or any further information at all. It is now a matter for me to go away and think about it and make my decision.

MR GARRETT: I am happy with that, your Honour.
40

HIS HONOUR: All right.

MR GARRETT: I did what I needed to do, and I thank you for that.
45

HIS HONOUR: No, no. You've done what you've done before the hearing. We've now had the hearing, and the way the system works is once the hearing is over and

the judge says I hereby reserve my decision, then there is to be no interference with that process.

MR GARRETT: I adhere to that.

5

HIS HONOUR: Right. Nothing further, we will now adjourn the court.

MATTER ADJOURNED at 12.47 pm INDEFINITELY



The Australian People Future Fund

The Commonwealth of Australia Department of Finance Friday, May 3, 2019
Attn; The Honorable Mathias Cormann, Minister for Finance & The Honorable Josh Frydenberg, the Treasurer (You/Your/The Crown)
Discretionary Claims Section,
Risk & Claims Branch
One Canberra Avenue,
Forrest, ACT, 2603

Cc The Commonwealth Attorney General

LETTER OF DEMAND FOR PAYMENT OF ADMITTED LIQUIDATED DEBT AND LIABILITY AS AT 31st March 2019

Dear Ministers,

Further to Notices to Admit Facts/ Letters of Demands for Payment dated 30th September 2018 , 17th December 2018, 9th January 2019, 21st February 2019, 9th April 2019 and otherwise I note that Liabilities and Facts set out in all of the Correspondence still have not been disputed by Regina and/or Regina's agents/employees/servants/officers/delegates/licensees/contractors(hereinafter "Regina/You/Your/The Crown") and are deemed to be admitted by Regina and remain as Liabilities and Facts payable by Regina subject to escalation at the rate of Post Judgement Interest Rate of 1% per month multiplied by s8 of the Registration of Deeds Act 1935 (SA) as previously admitted.

You have admitted the facts and liability of the Crown in accordance with the Common Law as being that Liability set out in Notices to Admit Facts/Demands for Payment referred to above which facts and liability continue to escalate as follows ;

- 1. You admit the fact that for the Month of April 2019 the escalation of the amount admitted by the Crown to be owed and immediately payable by you from at the 31st March 2019 is
a. \$ 92,184,439,623; To the Trustee of the Australian People Future Fund
b. \$184,368,879,246; To the Trustee of OenoViva Capital Resources

Admission of Liability/Indebtedness

- 2. You admit the fact that, in the absence of payment of any amount by the Crown, the amount admitted by the Crown to be owed and immediately payable by you as at 30th April 2019 is as follows;

Australian Wine Supply Limited; Hong Kong Company Registry Number 1657912; as Trustee for OenoViva Capital Resources,/ the Australian People Future Fund
Office; Level 19, Two International Finance Centre, 8 Finance Centre, Central, Hong Kong;
Email address; admin@oenoviva.com / admin@australianpeoplefuturefund.org Phone; (+61) 1300 OENOVIVA



- a. \$3,164,999,093,722; To the Trustee of the Australian People Future Fund
- b. \$6,329,998,187,444; To the Trustee of OenoViva Capital Resources

\$9,494,997,281,166 Total owed

FOR AND ON BEHALF OF OVCR:

The Trustees of the Andrew Garrett Family Trust No 4, Trading as **OenoViva Capital Resources:**

Name: Mr. Andrew Morton Garrett
 (Chairman/Managing Trustee)
 Australian Passport #N3926144 and United Kingdom Passport #538401308

Signed on this May 3, 2019

FOR AND ON BEHALF OF THE APFF:

The Trustee of the Australian People Future Fund

Name: Mr. Andrew Morton Garrett
 (Chairman/Managing Trustee)
 Australian Passport #N3926144 and United Kingdom Passport #538401308

Signed on this May 3, 2019



OENOVIVA
OenoViva Capital Resources
OenoViva Global



The Australian People Future Fund

The Commonwealth of Australia Department of Finance
Attn; The Honorable Mathias Cormann, Minister for Finance & The Honorable Josh Frydenberg,
the Treasurer (You/Your/The Crown)
Discretionary Claims Section,
Risk & Claims Branch
One Canberra Avenue,
Forrest, ACT, 2603

Cc The Commonwealth Attorney General

**LETTER OF DEMAND FOR PAYMENT OF ADMITTED LIQUIDATED DEBT AND
LIABILITY AS AT 31st March 2019**

Dear Ministers,

Further to Letters of Demands for Payment dated 30th September 2018 , 17th December 2018, 9th January 2019 and 21st February 2019 I note that Liabilities and Facts set out in all of the Correspondence still have not been disputed by Regina and/or Regina’s agents/employees/servants/officers/delegates/ licensees/contractors (hereinafter “**Regina/You/Your/The Crown**”) and are deemed to be admitted by Regina and remain as Liabilities and Facts payable by Regina subject to escalation at the rate of Post Judgement Interest Rate of 1% per month multiplied by s8 of *the Registration of Deeds Act 1935* (SA).

You have admitted the facts and liability of the Crown in accordance with the Common Law as being that Liability set out in my Demand for Payment referred to above which facts and liability continue to escalate as follows ;

1. You admit the fact that for the Month of March 2019 the escalation of the amount admitted by the Crown to be owed and immediately payable by you from at the 31st March 2019 is
 - a. \$89,499,455,945; To the Trustee of the Australian People Future Fund
 - b. \$178,998,911,889; To the Trustee of OenoViva Capital Resources

Admission of Liability/Indebtedness

2. You admit the fact that, in the absence of payment of any amount by the Crown, the amount admitted by the Crown to be owed and immediately payable by you as at 31st March 2019 is as follows;

Australian Wine Supply Limited; Hong Kong Company Registry Number 1657912;
as Trustee for **OenoViva Capital Resources,**/ **the Australian People Future Fund**
Registered Office; C/O Dynamic Consultants Ltd, Units A & B, Full Win Commercial Centre, 573 Nathan Road,
Kowloon, Hong Kong; Email address; admin@oenoviva.com / admin@australianpeoplefuturefund.org
Phone; +61 424 324 135



- a. \$3,072,814,654,099; To the Trustee of the Australian People Future Fund
- b. \$6,145,629,308,198; To the Trustee of OenoViva Capital Resources

\$9,218,443,962,297 Total owed

FOR AND ON BEHALF OF OVCR:

The Trustees of the Andrew Garrett Family Trust No 4, Trading as **OenoViva Capital Resources:**

Name: Mr. Andrew Morton Garrett
 (Managing Trustee)
 Australian Passport #N3926144 and United Kingdom Passport #538401308

Signed on this 21st February 2019

FOR AND ON BEHALF OF THE APFF:

The Trustee of the Australian People Future Fund

Name: Mr. Andrew Morton Garrett
 (Managing Trustee)
 Australian Passport #N3926144 and United Kingdom Passport #538401308

Signed on this 21st February 2019



OENOVIVA

OenoViva Capital Resources
OenoViva Global

Thursday, February 21, 2019



The Australian People Future Fund

The Commonwealth of Australia Department of Finance
Attn; The Honorable Mathias Cormann, Minister for Finance & The Honorable Josh Frydenberg,
the Treasurer (You/Your/The Crown)
Discretionary Claims Section,
Risk & Claims Branch
One Canberra Avenue,
Forrest, ACT, 2603

**LETTER OF DEMAND FOR PAYMENT OF ADMITTED LIQUIDATED DEBT AND
LIABILITY AS AT 28th FEBRUARY 2019**

Dear Minister & Treasurer,

Further to my letter of Demand dated 9th January 2019 addressed to You, on the 2nd February 2019 I offered to settle the admitted facts and liabilities of the Crown as those liabilities relate to me personally.

The aforementioned Letter of Offer to Settle was deemed to be refused by You on the 18th February 2019, by way of Correspondence on that day, in accordance with s13 of *the Administrative Decisions Judicial Review Act 1975* (Cth) I have requested Your reasons for that Refusal Decision that is the subject of my correspondence with you dated the 19th February 2019.

I await your reply.

Previously on the 30th January 2019, Assistant Director Andrew Bleeze (“**the Alleged Decision Maker**”) purported to publish a decision determining my application for an Act of Grace Payment under *the Public Governance Performance and Accountability Act 2013* (Cth) dated 7th September 2018 (“**the Alleged Decision**”).

The aforementioned purported decision was made in circumstances where;

1. the Alleged Decision Maker acted beyond power, as a consequence of your hopeless conflict of interest because of the pecuniary interest of the Crown in the application itself, and
2. when the alleged Decision Maker failed to fulfil the Tribunal Obligation to inquire by exercising quasi-judicial discretion in the interests of the Crown rather than the Public Interest

Australian Wine Supply Limited; Hong Kong Company Registry Number 1657912;
as Trustee for **OenoViva Capital Resources, / the Australian People Future Fund**
Registered Office; C/O Dynamic Consultants Ltd, Units A & B, Full Win Commercial Centre, 573 Nathan Road,
Kowloon, Hong Kong; Email address; admin@oenoviva.com / admin@australianpeoplefuturefund.org
Phone; +61 424 324 135



Consequently, that alleged decision was unlawful and invalid in circumstances where the Act its self is ultravires being passed by the Parliament into Legislation when the Act is at odds with the Law referred to below.

In so doing the alleged decision maker breached the Common Law, amongst other relevant law, and perverted the course of Justice being a Criminal Indictable Offence under the Common Law, Australian Treaty Series No 5, 23 & 39, *the Commonwealth of Australia Constitution Act 1900 (UK)* *the Crimes Act 1914 (Cth)* and *the Criminal Code Act 1995 (Cth)*.

On the 17th December 2018, OenoViva Capital Resources and the Australian People Future Fund (“the Trusts”) resolved to do all things necessary to become resident for Tax Purposes in the Territory of Hong Kong and vary the two Deeds of Settlement related to the Trusts so that the Laws of Hong Kong became the applicable laws in respect to the Trusts with effect from the 1st December 2018.

As you are aware those resolutions were referred to in my Letters of Demands for Payment dated 17th December 2018 and 9th January 2019.

The unanimous resolutions of the Joint Trustees are a direct result of Your actions in relation to all matters referred to in my Notices of Constitutional Matters filed and served in NDS 1848 of 2018; *Rubis & Ors v Garrett & Ors v Regina & Ors*.

Demand for Payment

The Letters of Demands for Payment dated 30th September 2018 , 17th December 2018 and 9th January 2019 have each been refused by the alleged decision in which regard I note that the Liabilities and Facts set out in all of the Correspondence still have not been disputed by You and remain as Liabilities and Facts Payable by You subject to escalation at the rate of Post Judgement Interest Rate of 1% per month multiplied by s8 of *the Registration of Deeds Act 1935 (SA)*.

As at the 31st December 2018 you admitted the facts and liability of the Crown in accordance with the Common Law as being that Liability set out in my Demand for Payment dated 17th December 2018 which facts and liability escalate as follows ;

1. You admit the fact that for the Month of January 2019 the escalation of the amount admitted by the Crown to be owed and immediately payable by you from at the 31st January is
 - a. \$84,361,821,043; To the Trustee of the Australian People Future Fund
 - b. \$168,723,642,086; To the Trustee of OenoViva Capital Resources



- 2. You admit the fact that in for the Month of February 2019 the escalation of the amount admitted by the Crown to be owed and immediately payable by you at the 28th February 2019 is
 - a. \$86,892,675,674; To the Trustee of the Australian People Future Fund
 - b. \$173,785,351,349; To the Trustee of OenoViva Capital Resources

Admission of Liability/Indebtedness

- 3. You admit the fact that, in the absence of payment of any amount by the Crown, the amount admitted by the Crown to be owed and immediately payable by you as at 28th February 2019 is as follows;
 - a. \$2,983,315,198,154; To the Trustee of the Australian People Future Fund
 - b. \$5,966,630,396,309; To the Trustee of OenoViva Capital Resources

\$8,949,945,594,463 Total owed

FOR AND ON BEHALF OF OVCR:

The Trustees of the Andrew Garrett Family Trust No 4, Trading as **OenoViva Capital Resources:**

Name: Mr. Andrew Morton Garrett
(Managing Trustee)
Australian Passport #N3926144 and United Kingdom Passport #538401308

FOR AND ON BEHALF OF THE APFF:

The Trustees of the Australian People Future Fund

Name: Mr. Andrew Morton Garrett
(Managing Trustee)
Australian Passport #N3926144 and United Kingdom Passport #538401308



Wednesday, 9 January 2019

The Department of Finance
Attn; The Honorable Mathias Cormann
Minister for Finance &
The Honorable Josh Frydenberg, the Treasurer
of the Commonwealth of Australia

The Australian People Future Fund

cc; Government of Hong Kong C/O Chinese Ambassador to the Commonwealth of Australia

**LETTER OF DEMAND FOR PAYMENT OF ADMITTED LIQUIDATED DEBT AND LIABILITY &
OFFER TO DEFER PAYMENT**

Dear Minister & Treasurer,

As a consequence of Notice to Agent being Notice to Principal, and vice versa, for the purposes of this letter a reference to "You/Your/The Crown" should be interpreted to mean Regina and Regina's servants/agents/employees/officer/agents/delegates contractors in accordance with s61 of *the Commonwealth of Australia Constitution Act 1900* (Uk) and the principles set out in the paper *Public Law - An Australian Perspective* by Chief Justice Robert French AC (retired) amongst which his Honor refers to s61 as follows;

The executive power of the Commonwealth is vested in the Queen and is exercisable by the Governor-General as the Queen's representative, and extends to the execution and maintenance of this Constitution, and of the laws of the Commonwealth.

The time is long past for the Crown to change the way it does business and to address the inherent conflicts in the operation of the laws of the Commonwealth and the Common Law that has unlawfully and inequitably oppressed human rights and particular the right to fair hearing, reputation and remedy.

Principally those conflicts arise from the inherent criminal and civil vicarious conduct of the Crown in the Commonwealth of Australia and accruing liability to Regina Globally and in particular the pervasion of the course of Justice that is systemic to the Crown.

That perversion is evidenced in the actions of the Crown in respect to;

1. The Stolen Generation and subsequent apology by the Crown
2. Institutional Responses to complaints of Child Sex Abuse and subsequent apology by the Crown
3. The Conduct of Licensees of the Crown in the Financial Services Sector

I refer to all of my correspondence with you and in particular to the evidence in your possession and control arising from;

Australian People Future Fund

A Charitable Private Discretionary Trust/ Investment Bank
Established in the Public Interest now domiciled in the Tax Jurisdiction of Hong Kong
Address; "The Desk" 511 Queens Road West, Shek Tong Tsui, Hong Kong,
Phone: +61 424 324 135; Email: admin@australianpeoplefuturefund.org



1. The Quasi-Judicial and Judicial Decisions referred to in Notices of Constitutional Matters dated 21st October (and annexure) 11th, 14th and 21st November 2018 filed and served in NSD 1848 of 2018.
2. Common Law Notices to Admit Facts served on you over an extended period of time
3. Search Warrants dated February 2017 actioned by the ATO
4. My application dated 6th September 2018 for Act of Grace Payment in the amount of the admitted liability
5. My Letter of Demand for Payment dated 30th September 2018 served on the Reserve Bank of Australia and copied to the Department of Finance and the Registrar of the Personal Property Security Register
6. My Letter of Demand for Payment dated 17th December 2018 setting out the amounts payable as at 31st December 2018 to the Trustees of the Australian People Future Fund and OenoViva Capital Resources

I have attached a copy of both of the aforementioned Demands for Payment for your reference.

Related Trusts other than the Australian People Future Fund

Resolution of the Trustees of all Trusts related to me dated 17th December 2018, except for the Australian People Future Fund, determined to;

1. distribute "in specie" all rights and anything of value to the Trustees of OenoViva Capital Resources as domiciled in Hong Kong, and
2. to vary the Deed of Settlement dated 1st August 2008 of the Andrew Garrett Family Trust No 4 trading as OenoViva Capital Resources, the Deeds of Settlement of the Andrew Garrett Family Trust dated 31st May 1993 and the Garrett Family Trust of unknown date to cause the Laws of Hong Kong to become the applicable law in respect to the operation of those trusts and
3. to cause registration of those entities in the Tax Jurisdiction of Hong Kong with effect from the 1st December 2018 meaning those Trusts/Entities will be liable to the Hong Kong Government to pay Tax on earnings arising from the admitted escalation of admitted liability of Post Judgment Interest rate of 1% per month multiplied by s8 of *the Registration of Deeds Act 1935 (SA)* at the applicable rate of 15% per annum. A copy of the Spreadsheet calculator has been provided on more than one occasion to you and remains undisputed by you which sets out that Tax will need to be paid by the Trustee of OenoViva Capital Resources to the Hong Government at least as follows;
 - a. For the period 1st April 2018 to 31st March 2019 ; \$154,196,384,978.93
 - b. For the period 1st April 2019 to 31st March 2020 ; \$588,727,931,509.41
 - c. For the period 1st April 2020 to 31st March 2021 ; \$839,385,257,739.97

Australian People Future Fund

Resolution of the Trustee of the Australian People Future Fund dated 17th December 2018 determined to;

4. to vary the Deed of Settlement dated 30th April 2017 to cause the Laws of Hong Kong to become the applicable law in respect to the operation of that trust, and



5. to cause registration of that entity in the Tax Jurisdiction of Hong Kong with effect from the 1st December 2018 meaning those Trusts/Entities will be liable to the Hong Kong Government to pay Tax on earnings arising from the admitted escalation of admitted liability of Post Judgment Interest rate of 1% per month multiplied by s8 of *the Registration of Deeds Act 1935* (SA) at the applicable rate of 15% per annum. A copy of the Spreadsheet calculator has been provided on more than one occasion to you and remains undisputed by you which sets out that Tax will need to be paid by the Trustee of the Australian People Future Fund to the Hong Government, subject to confirmation of registration as a Charitable/Benevolent Institution at least as follows;
- a. For the period 1st April 2018 to 31st March 2019 ; \$51,398,794,992.98 OR Zero
 - b. For the period 1st April 2019 to 31st March 2020 ; \$196,242,643,836.47 OR Zero
 - c. For the period 1st April 2020 to 31st March 2021 ; \$279,795,085,913.32 OR Zero

Payment of Tax Liabilities to the Hong Kong Government

The mechanisms open to me to collect the moneys owed under the Admitted Liabilities and Escalations in respect to the aforementioned Trusts are to;

- a. Pursue the exercise of Judicial Discretion in the Supreme Court of Hong Kong by way of Prerogative Writs under the Common Law including but not limited to Writs of Quo Warranto in respect to all Judicial and Quasi Judicial Decisions made by the Crown in respect to entities related to me and seek enforcement of either or both of;
 - a. Increase in Money Supply by the Reserve Bank of Australia in respect to the Admitted Liabilities and Escalations in account held with the Reserve Bank of Australia in favor of the aforementioned entities.
 - b. Payment of the Admitted Liability and Escalation
- b. Provide Financial Instruments drawn on the Balance sheets of the aforementioned Trusts secured against the assets of the Crown globally, to enter into Private Placement Programs to generate Profit to be allocated to the Trusts in the proportions set out

Letter of Demand for Payment dated 17th December 2018

The aforementioned letter offered to adjourn steps sine die seeking Payment of the Admitted Liability and Escalation while my email to the Reserve Bank of Australia dated 30th April 2017 (copy attached) offered the solution of an entry in the accounts of that Central Bank increasing Money Supply in favour of the aforementioned entities, subject to whatever agreements need to be finalized with the International Community.

I have not yet received a response to my letters or indeed any prior communications with the Attorneys General of the Commonwealth, the States and the Territories of Australia.

Please advise the position of the Crown in respect to the proposal to established Independent Attorney General Acts and the adoption of the roles of the Crown in respect to funding the costs of administration of Justice and payment of compensation as briefly described in the resolution of the Joint Trustees of OenoViva Capital Resources also dated 30th April 2017.



ALL RIGHTS RESERVED

Kind Regards,

A handwritten signature in blue ink, which appears to read "Andrew Garrett". The signature is written in a cursive, flowing style with a large, sweeping flourish at the end.

Andrew Garrett
Managing Trustee, The Australian People Future Fund
Managing Trustee, OenoViva Capital Resources

Sunday, 30 September 2018

The Reserve Bank of Australia ("The RBA")
Attn Mr Anthony Leonard Dickman,
The Secretary of the Board of Governors.
65 Martin Place
Sydney, Australia, 2000
(You/Your)



The Australian People Future Fund

Cc The Registrar of the Personal Property Security Register
The Department of Finance

LETTER OF DEMAND FOR PAYMENT OF ADMITTED LIQUIDATED DEBT AND LIABILITY

Dear Secretary,

I refer you to my letter to you dated 11th May 2017 annexing Secured UNCITRAL International Bill of Exchange SN 61.00064/17 ("the IBOE") in the amount of \$1,556,969,829,685.00 and various other correspondence between us over time relating to admissions of Facts and Liability made by the Crown in favor of the Trustee of the Andrew Garrett Family Trust No 4 ABN 42 388 204 496 trading as OenoViva Capital Resources ("OCR") which amount of liability is evidenced in the YEJ 2017 Special Purpose Accounts annexed to the Income Tax Returns for the Australian People Future Fund ("APFF") and OCR.

On the 23rd May 2017 the RBA endorsed the aforementioned Negotiable Instrument by covering Letter when the RBA returned the IBOE to me and consequently became liable for the face value of the Bill in accordance with the applicable domestic law and international treaties; separately to the admissions of Facts and Liabilities by the Crown dated 1st July 2016 and otherwise.

You took legal advice as confirmed by you to me in response to my various applications made under the provisions of *the Freedom of Information Act* 1982 (Cth) in which regard that advice ought to have canvassed the obligations of the Queen ("the Queen") under s61 of *the Commonwealth of Australia Constitution Act* 1900 (Uk), and otherwise, in rights of the Commonwealth of Nations, the United Nations and the Commonwealth, the States and Territories of Australia with respect to those rights and obligations arising as a member nation of the Commonwealth of Nations and the United Nations in regard to the various treaties that the Commonwealth the States and Territories are party to including (but not limited to) the Charter of the Commonwealth of Nations, the Charter of the United Nations, Australian Treaty Series No 5, 23 & 39 and the UNCITRAL Convention on International Bills of Exchange and Promissory Notes 1990 (UN).

Amendment Demands/ENQ-829463-P1B8N4/ ENQ-869470-C9Y7K8

On the 17th February 2017 you served an amendment demand in respect to PPSR Registration Number: 201605190014552 registered on the 19th May 2016 over the Reserve Bank of Australia and the Australian Taxation Office as a consequence of admissions of facts and liabilities by the Crown to OCR, subsequently on the 8th June 2017 you issued an Amendment Demand in respect to PPSR Registration number 207705070000609 both of which were rejected by me.

Australian People Future Fund

A Charitable Private Discretionary Trust/ Investment Bank established in the Public Interest

ABN 26 317 275 322 Address; 10/15 Hunter Street ,Hobart, Tasmania, 7000

Phone: +61 424 324 135; Facsimile; +61 3 8677 6542 Email: admi@australianpeoplefuturefund.org