

Moles

the Solicitor-General had commissioned nine years earlier. It stated that “there was a lack of essential pathological findings” to support the view that there had been a forcible drowning.²⁵ It stated it was most likely that she died during a fall after she collapsed or fainted in the bathroom.²⁶

The forensic report was not disclosed at the time. The Solicitor-General recommended the case not be referred to the appeal court. It subsequently took Channel 7 several years of litigation and the appointment of three interstate judges to order the release of that report.²⁷ The former Solicitor-General had, by then, been appointed to be the Chief Justice in South Australia and the South Australian judges were unwilling to rule on the matter. On the hearing of Mr Keogh’s appeal, the court determined that Dr Manock’s evidence had been false and misleading on important issues and other possible causes of death had not been properly explored.

Mr Bromley’s appeal was very similar to that of Mr Keogh. Both cases involved a suspected homicidal drowning and the chief witness for the Crown in respect of cause of death, time of death and the identification of injuries was Dr Manock. However, his lack of qualifications and the many adverse findings had not been mentioned in any criminal proceedings prior to Mr Bromley’s appeal. He was determined to change all that. He spoke and wrote to his senior counsel emphasising the need to put Manock’s lack of qualifications at the forefront of the appeal. That would inevitably mean that the whole of Manock’s evidence would have been inadmissible. His written instructions were:²⁸

I, Derek John Bromley, instruct you and the rest of my legal team to include Colin Manock’s qualifications in the evidence we put before the Supreme Court during my appeal on the 20th March 2017. I want this done irrespective of whether we get any information from elsewhere.

The barrister agreed to do that. He said he would also provide expert evidence to demonstrate that Dr Manock did not know how properly to diagnose a drowning case, as was done on the Keogh appeal. He retained Professor Thomas who had given evidence to the baby deaths inquiry and to the Keogh appeal along with Dr Byron Collins who has a special interest in drowning cases. The Crown appointed Dr Mathew Lynch who had also given similar evidence in the Keogh appeal. All experts agreed that Dr Manock’s evidence about the timing and causes of bruising and injuries, in relation to a body which had been in the river for five days, had no scientific support. They said his autopsy findings were so incomplete they were insufficient to enable them to exclude a death by natural causes and that all of the injuries could have occurred in the postmortem period.

Just before the appeal concluded Bromley’s senior counsel informed the court that the evidence about Manock’s history of failings and lack of qualifications would be withdrawn. The other criticisms concerning Dr Manock’s autopsy findings in this case would remain. The appeal court then decided that the unchallenged evidence about Manock’s failed autopsy procedures was not sufficiently compelling to pass the test for leave to appeal. They said that the other (non-pathological) evidence in the case was sufficient to satisfy them that the deceased had not died from natural causes and that he had in fact been drowned.²⁹

Evidence from the pathology experts in Mr Keogh’s case that were sufficient to require the conviction to be set aside, now appeared insufficient for the grant of leave to appeal for Mr Bromley. Unfortunately, the adequacy of the reasoning by the appeal court on that matter would not be subjected to review by the High Court. The application for special leave to appeal to the High Court was referred by the three judges to the full court of five judges.³⁰ In doing so, and without reasons being given, the referral specifically excluded the forensic pathology evidence from their consideration.

²⁵ Sangha and Moles, n 6, 384–388; See also reports on the NetK Henry Keogh Homepage <<http://netk.net.au/KeoghHome.asp>>.

²⁶ A subsequent report from another specialist retained by the Crown for the appeal stated there was “no evidence” to suggest the death was other than a presumed drowning following a fall with a head injury.

²⁷ It is now available at the NetK Henry Keogh homepage.

²⁸ Rooke, n 15, 191.

²⁹ For a critical evaluation of their judgment, see B Sangha and R Moles, *Research Report with regard to R v Bromley* [2018] SASC 41 (22 March 2019) <<http://netk.net.au/BromleyHome.asp>>.

³⁰ *Bromley v The King* [2022] HCATrans 158.

On 20 March 2023 we provided a submission to the Premier, the Attorney-General and the Director of Public Prosecutions (DPP) shortly before the High Court hearing of the leave application before the High Court.³¹ It stated that the DPP had asserted in his written submissions that the High Court must accept the evidence of Dr Manock as given at Bromley's trial, because it had not been challenged at that time. We pointed to the Crown's duty of disclosure and the need to inform the court of Dr Manock's catastrophic record including the earlier findings of the High Court itself. We pointed to the earlier legal decisions which determined that the securing or maintaining of a conviction based upon evidence known to be false or misleading would amount to "an unspeakable outrage" and "criminal misconduct at the extreme end of official corruption". The submission was tabled in the South Australian parliament on 23 March 2023. The DPP repeated in oral submissions to the High Court the need for the court to rely upon Dr Manock's evidence at trial, without disclosing any aspects of his history of failures or lack of qualifications. The court, by a majority, determined to refuse leave to appeal.³²

POSSIBILITIES BEYOND THE HIGH COURT

Many would regard an adverse decision by the High Court to be the final word on the case. However, other possibilities are available. There is provision in the new appeal legislation for a second *or further appeal*. The evidence provided to the Supreme Court by Dr Bonnin about Manock's inability to certify the cause of death and his lack of expert qualifications should be sufficient. The members of the Medical Board subsequently affirmed long after Manock's retirement that he "does not appear to have up-skilled himself in any significant way".³³ As we have seen, through no fault of Mr Bromley, these issues have not been previously raised in any legal proceedings.

There is also the material referred to in this article and in a series of books and television programs. Since February 2023, we could also add the statements broadcast on national television in Australia, by Dr Richard Shepherd, a leading forensic pathologist in the United Kingdom. During his interview, he exclaimed, "Dr Manock isn't a forensic pathologist – he's a charlatan – [t]his man has gone completely rogue".³⁴ Rather more significant, one might think, than the file notes referred to by Martin AJ in the case of David Eastman.³⁵

Another possibility is that which had been raised in Mr Keogh's application to the High Court.³⁶ It involves an action based on fraud. Mr Game KC had drafted an earlier application to the state Supreme Court raising that issue which had not been activated but remained on the file. The Chief Justice asked whether, if the current application to the High Court was refused, the previous application would be filed to commence those fraud proceedings. Mr Game said he expected it would be. While that did not eventuate, the option is still clearly available.³⁷

KEY FEATURES OF FRAUD PROCEEDINGS

The approach of the courts to issues of fraud is that "fraud unravels everything".³⁸ In a case where a witness had chosen to commit perjury by concealing evidence about his credibility (as we would say

³¹ It is available at <<http://netk.net.au/Manock/Manock49.pdf>>.

³² *Bromley v The King* (2023) 98 ALJR 84; [2023] HCA 42. For a critical evaluation of their judgment, see Dr Bob Moles, *Research Report: "La-La Land or the Rule of Law - The case of Derek Bromley"* (21 May 2024) <<https://netk.net.au/BromleyHome.asp>>.

³³ Professor Ian Maddocks, 9 November 2004 <<http://netk.net.au/MedicalBoard/Maddocks18nov.asp>>.

³⁴ Channel Nine, *Under Investigation: The Disgraceful Dr Manock* (22 February 2023). The program and transcript are available at the NetK Dr Manock Homepage.

³⁵ Sangha and Moles, n 6, 273–276..

³⁶ *Keogh v The Queen* [2007] HCATrans 693.

³⁷ See B Sangha, "Extending the Scope of Post-Conviction Reviews" (2007) 30 Aust Bar Rev 90; B Sangha, RN Moles and K Roach, *Forensic Investigations and Miscarriages of Justice: The Rhetoric Meets the Reality* (Irwin Law, 2010) 169–187; Sangha and Moles, n 6, 207–228. See also *NetK Fraud Homepage* <<http://netk.net.au/FraudHome.asp>>.

³⁸ Sangha and Moles, n 6, 211, citing *SZFDE v Minister for Immigration and Citizenship* (2007) 232 CLR 189, [29]; [2007] HCA 35 referring to Denning LJ in *Lazarus Estates Ltd v Beasley* [1956] 1 QB 702, 712–713.

Moles

Dr Manock had done) the court said that the concealment amounted to a fraudulent misrepresentation of a material fact – that he was honest and truthful. Its purpose was to deprive the court of the opportunity to make a full and public assessment of the value of his evidence. The court added:³⁹

It is beyond doubt that it is the duty of the prosecution to give that kind of information to the defence if, of course, they are aware of it. It is simply unbelievable, if the defence here had known about [the witness] in this respect, that they would not have cross-examined him about it, probably with telling effect.

In relation to Dr Manock, many senior lawyers and eminent specialists reported they were unaware of his lack of qualifications:⁴⁰

They claim they only found this out after Manock retired, when other people started looking into his career and background, and dug out the dusty, long-forgotten transcript of the legal action he launched against the IMVS for constructive dismissal. In fact, it seems nearly everyone was kept in the dark about the fact that Manock was deemed unable to perform the job he was appointed to by his former boss, and was essentially gifted the qualification he required to appear as an expert witness in court.

It is said that: “Fraud is conduct which vitiates every transaction known to law. It even vitiates a judgment of the court. It is an insidious disease”.⁴¹

Importantly, for our purposes, on the question of whether a decision should be rescinded on the basis of fraud, the courts have taken the view that “the fraud issue is tried alone”.⁴² The High Court has referred to the need for “separate proceedings” where it is alleged the judgment was obtained through fraud.⁴³ If Mr Bromley were to establish for example, that Dr Manock was not qualified to give expert evidence in court, then that would be sufficient to have the whole of his evidence excluded. It would then only be necessary to establish that it could have had *some* influence on the outcome of the proceedings for the conviction to be set aside.⁴⁴

In the case of *Moseley v Director of Public Prosecutions (Moseley)*, it was claimed that the criminal appeal court had set aside a conviction on the basis of a fraudulent misrepresentation by a third party who had confessed to committing the crime. The prosecutor brought the fraud application by way of an originating motion in the *civil* jurisdiction of the court on a balance of probabilities. The application was to a single judge of the Supreme Court in the absence of a right of appeal. The prosecutor wanted the appeal court judgment to be set aside, thereby reinstating the original conviction.

The action is commenced by an original bill to set aside a judgment based on fraud and can be filed *without leave*.⁴⁵ The Supreme Court of South Australia has the same powers to control its procedures as the High Court of Chancery in England. Its equitable jurisdiction includes the jurisdiction to set aside common law judgments on the grounds of fraud.⁴⁶ It extends, as it did in *Moseley*, to setting aside a criminal appeal judgment as well as a determination of a court of first instance.⁴⁷ The standard of proof is on the balance of probabilities, and that remains so, even where the matter to be proved involves criminal conduct or fraud.⁴⁸ However, as the court pointed out in *Moseley*, the onus discharged by the defendant to secure a retrial was not proof beyond reasonable doubt, nor even proof on the balance of probabilities, but rather proof of a “significant possibility” that a reasonable jury would have acquitted.⁴⁹

³⁹ Sangha and Moles, n 6, 217, citing *R v Crown Court at Knightsbridge, Ex parte Goonatilelle* [1986] QB 1.

⁴⁰ Rooke, n 15, 54–55.

⁴¹ Sangha and Moles, n 6, 211, citing *Farley (Aust) Pty Ltd v JR Alexander & Sons (Queensland) Pty Ltd* (1946) 75 CLR 487.

⁴² *Moseley v Director of Public Prosecutions* [2013] HCATrans 237.

⁴³ *DJL v Central Authority* (2000) 201 CLR 226, [94]; [2000] HCA 17.

⁴⁴ *Clone Pty Ltd v Players Pty Ltd (in liq)* (2018) 264 CLR 165, [12]; [2018] HCA 12.

⁴⁵ *Moseley v Director of Public Prosecutions* [2013] HCATrans 237, [39], citing *Harrison v Schipp* (2002) 54 NSWLR 612, [18]–[19]; [2002] NSWCA 78.

⁴⁶ *Moseley v Director of Public Prosecutions* [2013] HCATrans 237, [43]–[45].

⁴⁷ *Moseley v Director of Public Prosecutions* [2013] HCATrans 237, [46]–[49].

⁴⁸ *DPP v Moseley* [2013] NTSC 8 (citations omitted).

⁴⁹ *Moseley v Director of Public Prosecutions* [2013] HCATrans 237, [57].

The Unfortunate Background to Derek Bromley's Criminal Appeal

The reference to further proceedings based upon fraud includes “perjury, deceit, manifest error and bad faith”. References in the cases include conduct by “the prosecution” or a “witness” for the prosecution who had chosen to commit perjury by concealing evidence about the credibility of a witness. The court said in such cases, the conviction had been a “fraud and a mockery, the result of conspiracy and subornation of perjury”.⁵⁰

Certiorari, the quashing or setting aside of a prior judgment of a court, is the appropriate remedy where a conviction has been obtained by collusion or fraud. It is not an appeal. “The prosecution” does not refer to any particular body or group but includes all those responsible for the conduct of the prosecution whether one is responsible for the conduct of the other or not.⁵¹ It clearly includes the police and any expert witnesses called by the crown. It is said the suppression of the truth has the same effect as putting forward a falsity, and may therefore distort the process leading to a conviction.⁵²

If the fraud is only discovered after an appeal on other grounds is dismissed, there is no remedy, unless the court at first instance (the trial court) retains the power to set aside a judgment obtained by fraud in the exercise of a power long recognised in common law jurisdictions. This was acknowledged by Kourakis J, now Chief Justice in South Australia.⁵³ It has been said that:

It would be a monstrous injustice if this court was disabled from bringing down a conviction which was obtained in circumstances where it should have been apparent to the prosecutor that there was no case against the applicant.⁵⁴

The general power of a court to set aside its perfected judgment requires actual fraud. It is not a precondition to the exercise of the power that the party seeking to set aside the judgment exercised reasonable diligence to attempt to discover the fraud during the earlier proceedings.⁵⁵

CONCLUSION

As mentioned at the outset of this article, the circumstances supporting the claim that Dr Manock was not competent to conduct autopsies or to give expert evidence in court was known by those in authority from the time he was appointed in 1968. It has been established that he has given substantive evidence which was false and misleading in many cases and evidence about his qualifications which was false and misleading in every case.

Earlier attempts to bring these matters before the courts were blocked for some 13 years by the use of the procedural technicalities of the appeal provisions. The most recent attempt by Mr Bromley, utilising new appeal provisions, was ultimately blocked by a refusal to consider the evidence – without further explanation or reason.

A fresh approach, based upon fraud, without any leave requirement, and based solely upon the sworn evidence of Dr Bonnin to the Supreme Court in the mid-1970s, given on behalf of the State of South Australia, should be sufficient and far less costly than any Royal Commission or other judicial inquiry. The same process could also be used for the other 400 convictions which Manock said he helped to secure. A Royal Commission will undoubtedly be necessary to deal with the 10,000 unlawful autopsies he is said to have undertaken.

⁵⁰ *R v Gillyard* [1848] 12 QB 527 cited with approval in *SZFDE v Minister for Immigration and Citizenship* (2007) 232 CLR 189; [2007] HCA 35.

⁵¹ *R v Birmingham Crown Court, ex parte Ricketts* [1991] RTR 105 (DC), 108.

⁵² *Al-Mehdawi v Secretary of State for the Home Department* [1990] 1 AC 876, cited in *R v Bolton Justices ex parte Scally* [1991] 1 QB 537, 551.

⁵³ *Clone Pty Ltd v Players Pty Ltd (in liq)* [2012] SASC 12, [97] (Kourakis J), cited in *Moseley v Director of Public Prosecutions* [2013] HCATrans 237, [51].

⁵⁴ *R v Bolton Justices ex parte Scally* [1991] 1 QB 537, 553 (Watkins LJ), citing his judgment in *R v Kingston-upon-Thames Justices, ex parte Khanna* [1986] RTR 365, 371.

⁵⁵ *Clone Pty Ltd v Players Pty Ltd (in liq)* (2018) 264 CLR 165, 175; [2018] HCA 12.

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**The Governor of South Australia,
Government House,
North Terrace,
Adelaide, SA 5000**

**Thursday, 15 November 2007
cc; Don Mackintosh
Crown Solicitor's Office**

Dear Governor,

I trust this letter finds you in good health.

I take this opportunity to congratulate you on your recent appointment.

You may or may not be aware of two actions involving myself and my related entities versus the National Australia Bank and its agents in the period of the last few years heard in the Supreme Court of South Australia.

My experience in those matters leaves me with grave concerns in respect of the effective administration of Justice when it comes to unrepresented parties and the conduct of the Supreme Court Judiciary generally.

Those concerns were highlighted on the 17th of May 2007 when the Honourable Justice Timothy Anderson adjudged me a vexatious litigant under section 39 of the Supreme Court Act.

That decision is following the appeal process though I note that in spite of a Notice of Appeal having been lodged on the 29th May 2007 (within time for bringing of the appeal) in accordance with the court rules, the matter has not been listed.

Of more concern is a decision of the same Judge made on the 19th of December 2006 which is also following the appeal process though I note that in spite of a Notice of Appeal having been lodged on the 19th January 2007 (within time for bringing of the appeal) in accordance with the court rules, the matter has not been listed.

It is my grave concern that the Government of South Australia has failed to provide proper funding for the administration of Justice in this State. The Supreme Court itself has some grand and wonderful Court rooms but the vast majority of the complex is wholly unsuited to the conduct of the matters concerning the High Court of South Australia. In short it is overloaded, technologically antiquated and a failure of proper government.

By way of Example the Registry is essentially falling down around the ears of the Staff. I must however compliment the staff of the Court registry it is my opinion that they are a extremely competent group of people who do their best for the administration of Justice in this State.

I cannot say the same for the current method of hearing of complaints which is based on the "adversarial system" inherited from Westminster. I have recently noted a pivotal change in the Supreme Court rules with the addition of rule 32 into the Supreme Court rules (2006) this marks in my opinion a quantum leap from the Rules (1987) and a very positive step forward. The rule allows for the court to conduct its own investigations and goes some of the way toward addressing the matters raised by me in a recent Press Release which I copy of your attention and dated 10th of September 2007.

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I have noted though that the Judiciary seems unable to apply that rule of its own motion which in the presence of an unrepresented party is simply unsatisfactory. The judiciary seem to be locked in a pattern of conduct which in my mind is unacceptable. That conduct has shown that the Judiciary is either incapable, or in many instances unwilling to consider the material before them; of note please see the extraordinary comments of the Master Lunn of the Supreme Court made as follows on the 13th of January 2006

Material before the Court on the present applications

14 This has already been a long, complicated and bitterly fought action. The Court file comprises over 228 documents contained in 19 folders. Many of those documents are affidavits to which there are many, and often voluminous, exhibits. There is also over 1,000 pages of transcript of numerous hearings. It has been impracticable, and indeed impossible, for me to go through every document on the Court file to resolve the applications which are before me.

The learned Master seems to indicate that he has some choice in determining which evidence he may refer to and in that way construct a judgment that he required as the outcome. Of course this must be nonsense; it is a matter for any party to an action to provide any material they should deem fit for determination of their case.

Following the failure to review the appropriate material the learned master then went on to make the following order that he knew would be appealed and was totally inappropriate in the circumstances;

6. Other than in respect of any appeals against these orders no other application by Andrew Garrett in this action is to be filed or listed for hearing unless he first pays into Court \$5,000 cash on account of the taxed costs pursuant to the order in para 5 above

The Master endeavored to apply cost as a barrier to justice in respect of the parties I represent, it should have been clear from the material before the court that NAB was in breach of the 1st and 2nd contracts of Finance with the Garrett Entities.

“If D broke a contract to which P was the only other party, in general only P could enforce it. If D committed a tort against P and no-one else, in general only P could complain. Hence if P were impecunious, the effect of ordering a stay until security for D’s costs was provided was to prevent D’s breach of the law from being remedied at all.”

The Master also observed at paragraph 36 that he did not follow my line of argument in respect of Subrogation, it was wholly inappropriate for the Master to fail in his duties in respect of the administration of Justice to not seek further detail from me with respect of my submissions.

36 Andrew Garrett mounted an argument which I do not entirely follow that as the moneys used to discharge the Rothschild Mortgage somehow beneficially belong to AGFT Evajade as the trustee of AFGT was entitled to be subrogated to the Rothschild Mortgage and that right had been assigned by Evajade to Andrew Garrett by the recent deeds of assignment. The short answer to the point is that

On the 25th July 2006 the Learned Judge Anderson J acknowledged a lack of familiarity with this action as is shown on the court transcripts;



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HIS HONOUR: Just let's go through it. I'm sorry 35
 that I'm not familiar with the total background of this 36
 matter. 37
 --

On page 33 of those transcripts the learned Judge deliberately led counsel for the Defendant;

HIS HONOUR: Can I ask you a question, and I don't want 18
 Mr Garrett to be offended by this, but has the bank 19
 ever suggested at any stage that these proceedings are 20
 an abuse of process? 21

and again at line 36

HIS HONOUR: Do you say what Mr Garrett is attempting 36
 to do before me is an abuse of process? 37
 MR LIVESEY: Yes. In my respectful submission it would 38

On page 34 his Honour again places words in the mouth of Counsel for the defendant exhibiting that in spite of his lack of knowledge of the matter; he has a preformed view that he wishes the Bank to make an application under section 39 of the Supreme Court Act

HIS HONOUR: I presume you say that it's also 5
 vexatious. 6

The true purpose of the learned Judge is expressed as follows;

HIS HONOUR: The court can't do that off its own 23
 initiative, can it, I don't think? 24
 MR LIVESEY: I think it can. The court can - 25
 HIS HONOUR: Sorry, I was talking of declaring someone 26
 to be a vexatious litigant. 27
 MR LIVESEY: I think the court can make that 28
 declaration. 29
 HIS HONOUR: I don't think so, but maybe it can. I'm 30
 not suggesting it's appropriate, but I'm just thinking 31
 it through as to this has got to end somewhere. 32
 --

On page 36

HIS HONOUR: Okay, I had forgotten that, yes all 12
 right. Let's not get sidetracked, but I am concerned 13
 that Mr Garrett is able to continually get before the 14
 court and cost people money which they have got no 15
 chance of recovering. 16



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These comments were made by the learned Judge at a time when there was evidence on the court files as to the swearing of false affidavits by the Defendant, abuse of process and over collection of moneys owed by the Defendant as set out in the submissions of 28th and 29th September and the affidavit Material in action 590 of 2006

If anything could be the case it was that the Defendant Bank owed money to the Trustees of AGFT, AGFT 2, AGFT3, SPUT, Sunburst Property Trust, HGPT 2 and Phoenix Rising and yet that it was clear that the Judges mind was closed to that particular possibility.

The learned Judge concludes a summary of his bias on page 36

HIS HONOUR:	I have to look at the whole thing and	23
	consider the merits, and I am not pre-judging anything,	24
	but it is a concern to me, I make no bones about that	25
	Mr Garrett, it's a concern.	26
		27

For the reasons set out above and others set out in an Amended Notice of Appeal dated 18th of October 2007(annexed hereto) it is my clear view that the learned Judge was biased and prejudiced in the conduct of his hearings in respect of action 127 of 2004.

For the reasons sworn in affidavit material filed in action 127 of 2004 I have generally lost faith in the ability of the Supreme Court Judiciary to conduct itself impartially in respect of this action and any other Garrett related matter.

Consequently, I have made application in the Federal Court in respect of the attached affidavit (annexed without exhibits and dated 9th of November 2007). This affidavit clearly sets out the Fraud committed by Johnson Winter & Slattery and NAB in respect of the property known as Springwood Park.

It is abundantly clear to me that many Legal Practioners in South Australia are unrestrained by either their appointment as an officer of the court or by concern of reprimand by the Legal Practioners Conduct Board. They seem to have no concern in filing affidavit material that they know not to be true, as is highlighted in my letter of complaint to Tony Johnson, Chairman of the firm of Johnson Winter & Slattery dated 14th July 2007.(annexed)

The inability of a client to rely upon the conduct of practioners representing them and the proper exercise of the duty of care is highlighted in my affidavits to commence actions against Lancione Partners and Minter Ellison that I also attach for your reference.

For the reasons set out above and also sworn in the various actions as evidence I have made complaint to the Legal Practioners Conduct Board as per the annexed letter dated 13th July 2007.

For reasons beyond my comprehension the Master Lunn has declined to allow me to commence proceedings for negligence against Minter Ellison and Lancione Partners, he has failed to exercise Rule 32 of the Supreme Court Rules (2000) in an ongoing act of bias and willful blindness.

Removal of a Supreme Court Judge

In the light of the evidence before me and a substantive review of the evidence that was before Justice Anderson I call upon you to exercise your Powers under section 75 of the Constitution of South Australia to remove Justice Anderson from office as a Supreme Court Judge.

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A similar exercise of power should be made in respect of the conduct of the Learned Master Lunn.

South Australia

Constitution Act 1934

Part 4—The judiciary

74—Tenure of office of Judges

The Commissions of all Judges of the Supreme Court shall be and remain in full force during their good behaviour until their retirement according to law.

75—Removal from office of Judges

It shall be lawful for the Governor to remove any Judge of the Supreme Court upon the address of both Houses of the Parliament.

Both of the learned Judges failed to note the Fraud committed by NAB and its agents.

I have applied to the Federal Court to make a finding of Fraud and advise that should such a finding be made by either that Court or the enquiry I seek you to conduct; All of the decisions made in action 127 of 2004 and the related action 1767 of 2003 will be void against all parties from the beginning as the actions of NAB predated both of those actions.;

A finding of fraud (or of bad faith in the narrow sense used here) wholly vitiates the decision or ruling which it infected.

Administrative Law > Judicial review of administrative action: reviewable decisions, conduct and powers and general grounds > Bad faith and fraud > NO TITLE SUPPLIED

Citation: TLA [2.4.92]

Current Updating Author: Geoff Airo-Farulla, Lachlan Carter, Bronwen Morgan, Hannes Schoombee

Date of review: 1/10/1997

Commentary

A finding of fraud (or of bad faith in the narrow sense used here) wholly vitiates the decision or ruling which it infected.¹ The authorities assume this result without any reference to the language of jurisdictional or non-jurisdictional error (see [2.4.104] – [2.4.130]); fraud is stated to "unravel everything".² This is the case where the decision-maker is responsible for the fraud, but where the fraud is practised on a tribunal by the parties, or one of them, the decision may not be void from the beginning.³

Footnotes

1 Anisimic Ltd v Foreign Compensation Commission [1969] 2 AC 147; [1969] 2 WLR 163; [1969] 1 All ER 208, Lord Reid at 170 (AC).

2 Lazarus Estates Ltd v Beasley [1956] 1 QB 702, Denning LJ at 712.

I remain at your disposal to provide any time or material as you may require.

ALL RIGHTS RESERVED

Andrew Morton Garrett [®], Personally & in my capacity as Trustee of Trusts

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ANNEXURE 7

GOVERNMENT HOUSE
ADELAIDE

Our Reference: 01/03/001

Wednesday 28th November 2007

Mr A Garrett
Sole Trustee, Chief Executive
The Andrew Garrett Group
PO Box 203
GLEN OSMOND SA 5064

Dear Mr Garrett

I refer to your recent emails to Government House and in particular to your letter to the Governor requesting him to “exercise your Powers under section 75 of the Constitution of South Australia to remove Justice Anderson from office as a Supreme Court Judge” and similarly with respect to Master Lunn, and that he conduct such enquiry as he deems appropriate.

As you have pointed out, the Governor’s power to remove is dependent upon the Governor receiving an address of both Houses of Parliament. Such an address has not been received by the Governor.

As the Governor has no part in the initiation or prosecution of a case against a Judge in Parliament, the Governor is not in position to take any action with respect to your request.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Penny Stratmann', with a long horizontal flourish extending to the right.

Ms Penny Stratmann
OFFICIAL SECRETARY

ANNEXURE 8TMC[®]

**His Excellency Rear Admiral Kevin Scarce AO CSC RANR
Governor of South Australia,
Government House,
North Terrace,
Adelaide, SA 5000**

**Sunday, 2 December 2007
cc; Don Mackintosh
Crown Solicitor's Office**

Your Excellency,

I write to you further to my letter dated 15th November 2007, my subsequent e-mails and a letter received by me from Ms Penny Stratman of Your Excellency's office dated 28th of November 2007.

I admit that I am puzzled by the response contained within that letter, and note that the content of that letter falls well short of what I believe is proper consideration.

For the purposes of my understanding I seek to outline where I believe it is incumbent upon Your Excellency to make proper inquiry in respect of my request to you to exercise Your Excellency's powers under section 75 of the Constitution Act (1934).

From the Government House web site I understand that;

Appointment of the Governor

Under section 7(2) of the Australia Act, Her Majesty appoints the Governor and terminates the appointment. She exercises this power personally on the advice of the Premier. As a matter of practice, the appointment is usually for a maximum period of five years, although the appointment is formally during Her Majesty's pleasure and not subject to any term.

The appointment is made on commission under the written signature of Her Majesty. After appointment the Governor is required to take the oath of office and the oath of allegiance under the Oaths Act 1936.

I believe the form of the relevant oaths from the Oaths Act is as follows;

8—Form of oath of allegiance

The oath of allegiance shall be in the following form:

I, _____ do swear that I will be faithful and bear true allegiance to His Majesty, King Edward the Eighth, His Heirs and Successors, according to law. SO HELP ME GOD!

9—Form of official oath

The official oath shall be in the following form:

I, _____, do swear that I will well and truly serve His Majesty King Edward the Eighth, His Heirs and Successors, according to law, in the office of _____ . SO HELP ME GOD!

Of course I understand that the words "Her Majesty, Queen Elizabeth the Second" will have been substituted for "King Edward the Eighth" as the reigning Monarch as at the date of Your Excellency's oaths of office.

I understand from what I have read, that you are the agent of her Majesty Queen Elizabeth II consequently I believe Your Excellency to be bound under the obligations of Her Majesty as set out in the Coronation Oath which took place on Tuesday, 2 June 1953 as follows ;

1

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The Coronation Oath (from the Order of Service for the Coronation)

The Queen having returned to her Chair, (her Majesty having already on Tuesday, the 4th day of November, 1952, in the presence of the two Houses of Parliament, made and signed the Declaration prescribed by Act of Parliament), the Archbishop standing before her shall administer the Coronation Oath, first asking the Queen,

Madam, is your Majesty willing to take the Oath?

And the Queen answering,

I am willing.

The Archbishop shall minister these questions; and the Queen, having a book in her hands, shall answer each question severally as follows:

Archbishop. Will you solemnly promise and swear to govern the Peoples of the United Kingdom of Great Britain and Northern Ireland, Canada, Australia, New Zealand, the Union of South Africa, Pakistan, and Ceylon, and of your Possessions and the other Territories to any of them belonging or pertaining, according to their respective laws and customs?

Queen. I solemnly promise so to do.

Archbishop. Will you to your power cause Law and Justice, in Mercy, to be executed in all your judgments?

Queen. I will.

Archbishop. Will you to the utmost of your power maintain the Laws of God and the true profession of the Gospel? Will you to the utmost of your power maintain in the United Kingdom the Protestant Reformed Religion established by law? Will you maintain and preserve inviolably the settlement of the Church of England, and the doctrine, worship, discipline, and government thereof, as by law established in England? And will you preserve unto the Bishops and Clergy of England, and to the Churches there committed to their charge, all such rights and privileges, as by law do or shall appertain to them or any of them?

Queen. All this I promise to do.

Then the Queen arising out of her Chair, supported as before, the Sword of State being carried before her, shall go to the Altar, and make her solemn Oath in the sight of all the people to observe the premisses: laying her right hand upon the Holy Gospel in the great Bible (which was before carried in the procession and is now brought from the Altar by the Arch-bishop, and tendered to her as she kneels upon the steps), and saying these words:

The things which I have here before promised, I will perform and keep. So help me God.

Then the Queen shall kiss the Book and sign the Oath.

I seek to have you exercise the Power of the Queen in respect of "causing Law and Justice, in Mercy, to be executed" in all of Her Majesties' judgments.

In order for Your Excellency to exercise Her Majesties' judgment as her agent, it is incumbent upon Your Excellency to investigate.

I turn to the solemn promise of Her Majesty to govern the people of Australia "to any of them belonging 2 or pertaining n accordance with their respective Laws and Customs."

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I have reviewed the Australia Act (1985)(SA) as it applies to the exercise of Justice and Law and can see nothing contained therein or in any relevant Supreme Court Act, Judiciary Act or any other statute of this State or Commonwealth that prevents Your Excellency from exercising the power to investigate and the power under section 75.

The conferring of the office of Governor upon Your Excellency the agency that exists in respect of the promise of our sovereign lady in respecting of the causation of Law and Justice obliges Your Excellency to act in a quasi judicial role and involves the interpretation of "Natural Justice".

I repeat; I believe that it is Your Excellency's obligation to inquire and take whatever action as Your Excellency may be advised.

I refer Your Excellency to the Judicial Oath of Office contained within the Oaths Act;

11—Form of judicial oath

The judicial oath shall be in the following form:

I, _____, do swear that I will well and truly serve Our Sovereign Lord King Edward the Eighth, His Heirs and Successors, according to law, in the office of _____, and I will do right to all manner of people after the laws and usages of this State, without fear or favour, affection or illwill. SO HELP ME GOD!

It appears to me that the Judicial Officers of this State are directly accountable to Your Excellency as Her Majesties' agent in South Australia. In fact this would appear to be a matter of priority to any obligation to the Executive, from whom it is equal clear the Judiciary must remain distant.

It is my understanding that the nature of Your Excellency's office and that of the other Governor's in Australia as well as the Governor-General has changed since the passage of the various Australia Acts and related statutes in Australia and in the United Kingdom.

However, it is clear that the nature of the obligations of Your Excellency's office in respect of the operation of "Law and Justice" has remained fundamentally unchanged.

In particular I note that the aforementioned Judicial Oath states "*I will do right to all manner of people after the laws and usages of this State, without fear or favour, affection or illwill*"

It is misbehavior in respect of this Oath that I ask Your Excellency to investigate with regard to the conduct of both of His Honour Justice Anderson and the Master Lunn. It is clear that in the investigation of the matters surrounding me that the minds of the learned Judges were closed in the execution of their office in action 127 of 2004 in the Supreme Court of South Australia.

I attach a Statement of Claim that I have served on the Federal Court Registry for filing as of Friday November 30th 2007.

Relevant authority in respect of disqualification of sitting of Judges is set out as follows;

1. SZEJF v Minister for Immigration & Multicultural & Indigenous Affairs [2006] FCA 724
2. The Nominal Defendant v Kostic [2007] NSWCA 14
3. Sutherland Shire Council v Dietz [2004] NSWCA 53
4. HIRST v POLICE [2006] SASC 244

3

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The Judges to whom I refer did not disqualify themselves.

The Anglo-Australian foundations of judicial appointment trace back to the Act of Settlement 1701 (Imp) and the events which preceded it. Section III of the Act of Settlement provided that the commissions of the judges were no longer to be at the pleasures of the Crown, this section provided that —

"The judges' commissions be made quamdiu se bene gesserint [during good behavior] and their salaries ascertained and established; but upon the address of both houses of parliament it may be lawful to remove them."

When considering the similar provision in Queensland, Isaacs and Rich JJ observed in *McCawley v The King*—

"At common law a judge held his office at the pleasure of the Crown. ... The Act of Settlement altered the common law and enacted that judges' commissions should be during good behaviour. The qualification as to removal by the Crown on an address from both houses was added. The object of all this was to protect the judges, not from parliament, but from the arbitrary and uncontrolled discretion of the Crown. The legal result was that the Crown could only interfere with a judge either (1) for misbehavior, **or** (2) if the house of parliament desired it. This obviously did not decrease the control of parliament ..."

Before a judge is removed from office, there will usually be an inquiry into whether there are sufficient grounds for removal. Indeed, such an inquiry may be required by law. If Houses of Parliament must be involved in the removal process they may appoint a parliamentary committee to make such an inquiry. **If the Houses are not required to be involved and the decision whether to remove is to be made by a vice-regal representative, that officer may appoint an ad hoc committee to make enquiries and advise.** In some cases it may even be thought appropriate to appoint a royal commission of inquiry.

I do not require the Houses of Parliament to be involved; to be honest, I have little confidence in politicians and their ability to take their obligations as members seriously; especially those pertaining to the operation of the Law and the Administration of Justice.

New South Wales is the only Australian jurisdiction in which there is a standing statutory body with the power to make inquiries which may ultimately result in the removal of a judge from office. The *Judicial Officers Act 1986* (NSW) brought into being a Judicial Commission which includes a Conduct Division. The chief judges of the courts of New South Wales are ex officio members of the Commission. Under s 15(1) of the Act anyone may complain to the Commission about "a matter that concerns or may concern the ability or behaviour of a judicial officer".

It appears that this state is deficient in this regard; it is surely a curious state of affairs if the judges of a superior court cannot be removed, except by a parliamentary process.

There can be little doubt that, subject to any valid privative clauses, the actions of an extra-parliamentary commission of inquiry which has been established to inquire into and report on the conduct of a judge are subject to judicial review according to general principles of administrative law. A body of this kind is analogous to a royal commission of inquiry or a body such as the Independent Commission Against Corruption created by the New South Wales *Independent Commission Against Corruption Act 1988*. Courts of supervisory jurisdiction have on many occasions been asked to review the actions of such bodies and have not hesitated to do so.



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The preceding paragraph suggests that the position of the Judicial officers to whom I refer is well protected and any decision of Your Excellency is appellable.

I take this opportunity to restate my request of Your Excellency to;

1. Make such inquiry as Your Excellency should & must be desirous of making in the light of my understanding of the nexus between us.
2. Make such enquiry as Your Excellency should & must be desirous of making in accordance with Your Excellency's understanding of Your Excellency's obligations.
3. Exercise Your Excellency's power under section 75 of the Constitution Act(1934) in respect of the aforementioned officers

I take this opportunity to refer Your Excellency to section 58, 78B & 88 of the Judiciary Act (1903) (C'th). I understand that Your Excellency's office pertains to this state only; however the matter raised by me has a "Commonwealth Aspect" and is relevant as a cause of action under the Constitution or it's interpretation..

The Constitution Act (1934) of South Australia is subservient to the Constitution of Australia leading to the application of Chapter 3.

For Your Excellency's edification and benefit I provide some authority in respect of removal of Judicial Officers as attached.

I urge Your Excellency to obtain the proper legal advice in respect of what must also be a constitutional matter.

In closing and with the greatest of respect to Your Excellency, Your Excellency's office and the author, I consider the letter of Ms Penny Stratman poorly researched and ill advised.

It is clear that the address of both house of Parliament may be conducted by Your Excellency upon appropriate investigation of misbehavior.

If Your Excellency considers that I am in some way in error with respect of my research and the contents of this letter, I invite Your Excellency's response at Your Excellency's earliest convenience. Time stands still for no man.

I urge Your Excellency to maintain an open mind and inquire after the relevant facts. I remain at Your Excellency's disposal to provide such time & material as Your Excellency may require.

Again; with the greatest respect, a failure of Your Excellency's office to undertake the actions that I seek, promptly and efficiently (time is of the essence) will leave me with little alternative than to engage Your Excellency in the High Court of Australia as original jurisdiction.

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5

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ANNEXURE 9

TM©©

**His Excellency Rear Admiral Kevin Scarce AO CSC RANR
Governor of South Australia,
Government House,
North Terrace,
Adelaide, SA 5000**

**Monday, 3 December 2007
cc; Don Mackintosh
Crown Solicitor's Office**

Your Excellency,

I refer Your Excellency to my letters to Your Excellency dated 15th November 2007, 2nd December 2007, my subsequent e-mails and the letter received by me from Ms Penny Stratman of Your Excellency's office dated 28th of November 2007.

In the last paragraph of my letter dated 2nd of December 2007 I noted that time is of the essence.

I have further contemplated the implications and undertones of the letter received by me from Ms Stratman.

The letter suggests to me that in the nearly two weeks between by letter dated the 15th of November no proper research was carried out by those parties advising Your Excellency and worse the inference is there that My petition of you has been handled in a cavalier and dismissive fashion

In the light of the research and authority that I have directed your Excellency's attention to that was in my possession, I hope you will agree that I have acted in a prudent and well considered fashion; I suspect that Your Excellency's views and perhaps those of the parties advising Your Excellency may be coloured by the media surrounding me and the decision of Anderson J dated the 15th of May 2007 made in action 127 of 2004.

I ask you to note that I have lodged with the Supreme Court Registry two Notices of Appeal in respect of the reasons of Anderson J, one in respect of the aforementioned decision and the other in regard to reasons handed down by His Honour on the 6th of January 2007 in the same action.

I take this opportunity to assure Your Excellency that my position (as a lay person) is well researched and considered (within the limitations of being an unrepresented party), the issues I have raised in the Notices of Appeal are of significant Public Importance, for Your Excellency's reference I now annex the Notices to which I refer.

It is of note that both Appeals were received within time in accordance with the court rules, neither of those appeals have been listed or rejected delays of nearly 11 months and nearly 7 months respectively cannot be acceptable in the interests of proper administration of Justice.

Further delays by the Supreme Court in listing my appeals that lie as of a right and the investigation of the pertinent facts with regard to my Petition are not acceptable to me.

I am bound to act in accordance with Trust Law and must put aside my personal interests in favor of those for whom I act. I am bound to preserve the corpus of the Trust Funds and cannot allow delays to have the effect of estoppel.

The Parties I represent have been significantly prejudiced to this time and have suffered loss well in excess of \$200 million.

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In light of my concerns with regard to the quality of advice that has apparently been received by Your Excellency and the resultant position expressed within the letter dated the 28th of November 2007 I have reason to believe that this Petition is not receiving proper consideration.

With the greatest of respect to Your Excellency and Your Excellency's advisors I believe that proper consideration of my petition to exercise your constitutional Powers (State and Federal) may be delayed and ignored. If this belief is in error I invite Your Excellency's correction by statement.

I respectfully request Your Excellency to provide a response to me by the close of business Wednesday 5th Of December, 2007.

I respectfully request that any response should confirm;

1. The nature of the advice received by Your Excellency's office from the Crown Solicitor's Office.
2. Whether Your Excellency proposes to conduct proper enquiry of all of the pertinent facts including the materials within my control, possession & knowledge.
3. A timetable of proposed action by Your Excellency's Office
4. In the alternative; an undertaking to provide me with a properly considered response by an agreed date prior to Christmas.

I have indicated my position to Your Excellency that in the absence of an appropriate well considered response or in the alternative a response as per point 4 above I may proceed without further notice to engage Our Sovereign Lady, Queen Elizabeth the Second and Your Excellency in the High Court of Australia.

Concurrently, a Notice of Constitutional Matter will be served upon the Attorney's General of the States and territories of the Commonwealth of Australia

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Cc His Excellency Major General Michael Jeffery AC CVO MC, Governor General of the Commonwealth of Australia

The Honorable Kevin Rudd, MP Prime Minister of Australia

The Honorable Robert McClelland, MP Attorney General of Australia

The Honorable Michael Rann, MP Premier of South Australia

The Honorable Michael Atkinson, MP Attorney General of South Australia

The Honorable Martin Hamilton Smith, MP Leader of the Opposition

The Honorable Chief Justice Doyle, Supreme Court of South Australia

2

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**The Honourable Kevin Rudd, MP,
Prime Minister of Australia,
Parliament House,
North Terrace,
Adelaide, SA 5000
Wednesday, 5th December 2007**

**The Honourable Robert McClelland, MP,
Attorney General of Australia**

Dear Prime Minister & Attorney General,

I take this opportunity to congratulate you both on your recent election victory and elevation to Government. I hope that in your conduct of the administration of your high office, you will be less the consummate politician that your predecessor was. Amongst the many issues before you I seek to draw your attention to my perceived inadequacies of the administration of Law and Justice in this country.

I have had the benefit of first hand experience in respect of the failure of members of the Judiciary to;

1. act in an unbiased fashion
2. read the material properly before them
3. exercise their inherent powers to investigate in the pursuit of Natural Justice
4. act in an inquisitorial fashion after the European system of Justice

My experience reveals;

1. There is no mechanism in place for an unrepresented party to obtain legal assistance in respect of civil actions.
2. Legal Practitioners generally are unchecked in respect of compliance with their duties and obligations as officers of the Court
3. Registered Insolvency Practitioners generally are unchecked in respect of compliance with their duties and obligations as officers of the Court and as agents of the Inspector General.
4. The failure of the Legal Practitioners Conduct Board of South Australia to discipline legal Practitioners admitted to the Bar in South Australia under the Legal Practitioners Act (1981)(SA)
5. The current adversarial system of Justice requires review for the common good.

I refer you to my letters to;

1. His Excellency the Governor of South Australia dated 15th November 2007, 2nd December 2007, 3rd December 2007 and the letter received by me from Ms Penny Stratman of His Excellency's office dated 28th of November 2007.
2. His Excellency the Governor General of Australia dated 5th December 2007.

Those letters and supporting material are self explanatory, in the absence of a suitable response from the parties I have advised Their Excellency's that I will commence an action in the High Court of Australia under sections 55, 78B and 88 of the Judiciary Act (1903)(C'th).

I invite you both to properly investigate the Garrett related matters and obtain the appropriate advice. Of course it is the role of Government to provide for the proper administration of Law and Justice, generally I have no complaint with respect of the Federal Court system, however the reasons I have indicated in my correspondence it is clear to me that Banks and some members of the legal community consider themselves to be above the law.

1

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I am sure that you will both be aware that it is commonly observed that no one can beat the Banks which must of course beg the question as to why can they not be beaten?

This is of course based on the fundamental assumption that in an action where they have wronged another party such as is set out in the Statement of Claim annexed hereto.

The observation arises from the fact that a Bank can bleed a party dry of funds and often to the degree of over collecting on the funds that may have been secured and subsequently generating a significant profit, a Bank can throw as much at an action in terms of funding counsel as they wish, the source of funding appears to be bottomless.

The adversarial system allows that an unrepresented and uneducated party faces a well funded and resourced legal team when arguing his case; all too often the Judiciary are not diligent in protecting the rights of that party.

The conduct of the asset management areas of the Major Banks is nothing short of criminal, I will bet London to a brick that you are aware of this fact. It is incumbent upon you to properly investigate this criminal conduct and legislate appropriate controls of the activity of Banks in this area.

It is common knowledge that a penalty is unenforceable at Law, by way of example; if a bank levies a charge of \$40 on a customer overextending on a credit card limit, that charge is a penalty and is unenforceable at Law.

The Banks continue to levy this charge in the face of well established case law and precedent; in this fashion they continue to defraud the public at large of many Hundreds of Millions of Dollars every year; I believe the budget for Westpac in respect of this charge is \$300million per annum. This is clearly a matter that requires your immediate attention.

In the same way Default rates as defined within a Bill Facility are also a penalty and unenforceable at law and yet a Bank claims and charges that rate. Since the mid 1600's default rates as a penalty have been outlawed in the UK, yet today the Banks continue with this practice in the absence of a properly funded advocate and the requisite amendments to Statute.

It seems to me that the politicians both in the State and Federal arenas to this date have acted in wilful blindness of this unjustifiable and illegal conduct.

I urge you to undertake proper investigation and invite your response to me by the Close of Business 14th of December 2007 concurrent with the response I have requested of the Governor. In the absence of an appropriate response by that date I reserve my rights to join you to the action outlined in my correspondence annexed hereto.

Andrew Morton Garrett ©®,
Chief Executive
Personally & in my capacity as Trustee of Trusts

Cc Mr. Don Mackintosh Crown Solicitor's Office, South Australia
The Honorable Michael Rann, MP Premier of South Australia
The Honorable Michael Atkinson, MP Attorney General of South Australia
The Honorable Martin Hamilton Smith, MP Leader of the Opposition
The Honorable Chief Justice Doyle, Supreme Court of South Australia

2

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His Excellency Major General Michael Jeffery AC CVO MC
Governor-General of Australia,
Government House,
Dunrossil Drive
YARRALUMLA ACT 2600
mailto:governor-general@gg.gov.au

Wednesday, 5th December 2007
cc; Don Mackintosh
Crown Solicitor's Office

Your Excellency,

I refer Your Excellency to my letters to His Excellency The Governor of South Australia, Kevin Scarce dated 15th November 2007, 2nd December 2007, a letter received by me from Ms Penny Stratman of His Excellency's office dated 28th of November 2007 and my subsequent Letter dated 3rd of December 2007 .

The correspondence is self explanatory, I have petitioned the Governor of South Australia to cause a proper investigation of two Judges of the South Australian Supreme Court and subsequently to exercise His Powers under section 75 of the Constitution Act (1934)(SA) or any other powers as he deems fit.

The letter received from His Excellency's Office dated 28th of November suggests to me that in the nearly two weeks between my letter dated the 15th of November & that letter no proper research was carried out by those parties advising His Excellency and worse the inference is there that my petition of him has been handled in a cavalier and dismissive fashion

Of course, I am cognisant that His Excellency is the duly appointed Vice Regal representative for the State of South Australia, however this matter has a Commonwealth Aspect, it goes to the heart of Justice and Law which our Sovereign Lady and her representatives are of course duty and legally bound to uphold.

I also understand the changes wrought by the Australia Acts of the States and the Commonwealth and the resultant impact on the role of the various Vice Regal representatives in this Country, I see nothing in those acts that alters the obligations of our Sovereign Lady and her agents in respect of Her Majesty's obligations to uphold Law and Justice.

Further, I add that those acts purport to make changes to the Constitution, including the right to appeal to the Queen in Council. It is apparent to me that a change to the Constitution requires a referendum and cannot be enacted by parliament, on this basis I assert that a right continues to exist of appeals of the decisions of the High Court to the Privy Council.

In the light of the research and authority that I direct Your Excellency's attention to (annexed hereto), I hope you will agree that I have acted in a prudent and well considered fashion.

I suspect that His Excellency's views and perhaps those of the parties advising His Excellency may have been coloured by the media surrounding me and the decision of Anderson J dated the 15th of May 2007 made in action 127 of 2004.

The Honourable Justice Anderson also handed down another decision in the same matter dated the 19th of December 2006. It is of note that the Appeals to both of those Judgments were received within time by Registry in accordance with the court rules, neither of those appeals have been listed or rejected; the delays of nearly 11 months and nearly 7 months respectively cannot be acceptable in the interests of proper administration of Justice.

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Further delays by the Supreme Court in listing my appeals that lie as of a right coupled with the failure to investigate the pertinent facts by that court and His Excellency with regard to my Petition are not acceptable to me.

I am bound to act in accordance with Trust Law and must put aside my personal interests in favor of those for whom I act. I am bound to preserve the corpus of the Trust Funds and cannot allow delays to have the effect of estoppel.

The Parties I represent have been significantly prejudiced to this time and have suffered loss well in excess of \$200 million.

In light of my concerns with regard to the quality of advice that has apparently been received by His Excellency and the resultant position expressed within the letter dated the 28th of November 2007 I have reason to believe that my Petition is not receiving proper consideration.

I now petition Your Excellency to review this matter and exercise your powers as the agent of Our Sovereign Lady, Queen Elizabeth the Second to consider the pertinent facts, undertake proper investigation and take such action as you may be advised.

I am at your Excellency's disposal to provide further particulars as you may require, I add that the heart of my complaint has now been expressed in a Statement of Claim that I have sought to file in The Federal Court of Australia dated 30th of November 2007 (a copy of which is also annexed).

I have brought this complaint to the Federal Arena as a consequence of my lack of confidence in the Government of South Australia to fund and provide for the fundamental rights of all South Australians in respect of the administration of law and Justice.

I invite Your Excellency to obtain proper advice upon the review of the annexed materials; I respectfully request that Your Excellency provide me with a formal response by close of Business Friday 14th of December 2007. I also ask you to note that I have provided notice to the Governor of South Australia of my intention to commence action in the High Court of Australia in respect of section 78B and 88 of the Judiciary Act (1903)(C'th). Please consider this letter as formal Notice to Your Excellency that I may seek to join you to that action, in any event the First Defendant will be named as Her Majesty Queen Elizabeth the Second while the Second Defendant will be named as the Governor of South Australia.

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Personally & in my capacity as Trustee of Trusts

Cc, His Excellency Rear Admiral Kevin Scarce AO CSC RANR, Governor of South Australia
The Honorable Kevin Rudd, MP Prime Minister of Australia
The Honorable Robert McClelland, MP Attorney General of Australia
The Honorable Michael Rann, MP Premier of South Australia
The Honorable Michael Atkinson, MP Attorney General of South Australia
The Honorable Martin Hamilton Smith, MP Leader of the Opposition
The Honorable Chief Justice Doyle, Supreme Court of South Australia

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Andrew Garrett

From: Office of the Official Secretary to the Governor-General
<gg.donotreply@gg.gov.au>
Sent: Wednesday, 24 August 2016 2:33 PM
To: andrew.garrett@oenoviva.com
Subject: RE: Constitutional Matter relating to Rule of Law and Separation of Powers
[SEC=UNCLASSIFIED]

Dear Mr Garrett

I refer to your email of 22 August 2016 to the Governor-General. His Excellency has asked me to reply to you on his behalf.

I understand that this matter is of concern to you. I regret to advise, however, that the Governor-General cannot become involved in matters that have been, or may come before a court.

I hope you are able to find a satisfactory resolution to this situation.

Yours sincerely

Paul Singer MVO
Acting Deputy Official Secretary to the Governor-General

October 11b



OFFICE OF THE OFFICIAL SECRETARY
TO THE GOVERNOR-GENERAL

6 October 2016

Mr Andrew Garrett
Winemaker/Consultant
OenoViva
Email Address: Andrew.garrett@oenoviva.com

Dear Mr Garrett

RE: Application under the *Freedom of Information Act 1982 (FOI Act)*

I refer to your application of 5 October 2016 in which you make a request under the Commonwealth *Freedom of Information Act 1982 (FOI Act)* for:

".....a copy of any document or thing related to me in your possession and Control in the period from the 24th September 2004 until today's date.

I also ask under this application for you to provide a copy of any document or thing related to the immunity from prosecution of the Crown."

This letter sets out my decision on your request for access. I am the authorised decision-maker under section 23 of the FOI Act.

Material taken into account

In making my decision, I have had regard to the following:

- the terms of your request;
- the content of the documents to which you sought access;
- advice from Agency officers with responsibility for matters relating to the documents to which you sought access;
- the relevant provisions of the FOI Act; and
- the Commonwealth's guidelines on FOI.

Section 6a of the FOI Act

- 1) This Act does not apply to any request for access to a document of the Official Secretary to the Governor-General unless the document relates to matters of an administrative nature.

- 2) For the purposes of this Act, a document in the possession of a person employed under section 13 of the Governor-General Act 1974 that is in his or her possession by reason of his or her employment under that section shall be taken to be in the possession of the Official Secretary to the Governor-General.

Decision

In relation to your request for information, we have not identified any documents relating to the issue you have raised.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Paul Singer', with a stylized flourish extending to the right.

Paul Singer MVO

Acting Deputy Official Secretary to the Governor-General

October 11c



OFFICE OF THE OFFICIAL SECRETARY
TO THE GOVERNOR-GENERAL

Mr Andrew Garrett
Winemaker/Consultant
OenoViva
Email Address: Andrew.garrett@oenoviva.com

Dear Mr Garrett

RE: Request for Internal Review under the *Freedom of Information Act 1982*

I refer to your application of 5 October 2016 in which you make a request under the Commonwealth *Freedom of Information Act 1982* (FOI Act) for:

".....a copy of any document or thing related to me in your possession and Control in the period from the 24th September 2004 until today's date.

I also ask under this application for you to provide a copy of any document or thing related to the immunity from prosecution of the Crown."

And also to your subsequent request of 7 October 2016:

'Dear Mr Singer

Thank you for your decision letter dated today's date I make this request for internal review of that decision, for the purposes of this application for internal review I refer to you as the Decision Maker.

*I note that your email dated 24th August 2016 (copy attached) is a document of an administrative character within the meaning of the findings of the High Court of Australia in *Kline v Official Secretary of the Governor General*. You have not disclosed that communicate in your decision letter, nor have you disclosed the communications between you and the Governor General where you say the Governor General has asked you to respond to me as set out in your email.*

Similarly your decision does not refer to my letter dated 5th December 2007 a copy of which is attached or any internal documents evidencing where that letter dated 2007 may have been considered.

*On the 8th February 2016 I filed and served the attached Interlocutory Application in the Federal Court of Australia proceeding VID 949 of 2014; *Treasury Wine Estates Vintners Limited v Andrew Garrett*. Subsequently His Excellency was named as the 213th Cross Respondent while her majesty Queen Elizabeth II was named as the 212th Cross Respondent in those proceedings (see attached application dated 2nd may 2016) His Excellency and Her Majesty are responsible for operation of the Commonwealth of Australia Constitution Act 1900 (UK), the proper application of the principles of Separation of Powers expressed within that Act the concurrency of operation of the Rule of Law and The Constitution of the United Kingdom (the Common Law).*

On the 21st February 2016 that attached application was also served in these proceedings while my application dated 7th March was also listed for mention on the 11th March 2016 before the Honourable Justice Middleton.

Her Majesty and His Excellency were represented by counsel on the 11th March 2016 in that proceeding.

The grounds for the request for internal review are as follows;

- 1. The decisions are so manifestly unreasonable that no reasonable person would have made the same decision.*
- 2. The decisions are affected by Actual Bias in circumstances where a Notice of Apprehended Bias and Actual Bias was issued prior to the making of the decisions.*
- 3. The decisions are made in circumstances where the decision maker failed to inquire in accordance with the obligations of a Tribunal and determine all of the relevant facts prior to making the decisions.*
- 4. The Decisions were made in circumstances where relevant materials were withheld by others and/or the decision maker.*
- 5. The Decision Maker did not comply with the Hearing rule that requires the His excellency considers not only the adverse materials, but all of the materials relevant to the matter in issue whether or not the decision maker intends to rely upon it.*
- 6. There is an absence of relevant law in the decision and if the relevant law was properly applied then different decisions would have been made.*
- 7. There are inadequate reasons given for the making of the Decisions.*
- 8. The decisions failed to consider the evidence; if the evidence was properly considered then a different decision would have been made.*
- 9. The decisions are not fair.*
- 10. The Decisions are a denial of procedural fairness.*
- 11. The decisions are a jurisdictional error of the Decision Maker that leads to the decision being a nullity and a constructive failure to exercise jurisdiction.*
- 12. The decisions were made on the instruction of others and was not made independently and in the public interest.*
- 13. The Decision Maker fell into error as a question of law and jurisdictional error in causing herself to identify a wrong issue and to ask himself a wrong question in order to ignore relevant materials to make an erroneous decision in order to reach a mistaken conclusion and the tribunal's exercise of power or purported exercise of power is thereby affected.*
- 14. The Decisions are an abuse of process for the improper purpose.*
- 15. The Decision Maker failed to make decisions on the private binding ruling in circumstances where the question of law arises whether the decision maker was obliged to do so as a consequence of its statutory obligations.*
- 16. The Decision Maker did not give fair consideration of the case presented.*
- 17. The question of law and fact arises whether the decision maker was Negligent.*
- 18. There is no Evidence to support the Decisions and when all of the evidence is considered the reverse decisions are supported.*
- 19. The Decisions are tainted by Bad Faith.*
- 20. The Decisions are Illogical or Irrational.*
- 21. The Decisions are uncertain in that it leaves a question of Judgment estimation and was no more than an opinion.*
- 22. There are inadequate reasons given for the making of the Decisions.*
- 23. The Decisions are a denial of Natural Justice.*

24. *The Decision Maker acted dishonestly.*
25. *The Decision Maker acted disproportionately*
26. *The Decisions are tainted by Fraud.*
27. *The Decision Maker did not comply with the obligation to give the Plaintiff a fair hearing.*
28. *The exercise of discretion to grant relief upon review would not be futile and the benefit to be gained by the applicant is substantial.'*

I have undertaken such a review, and this letter sets out my decision on your request.

Decision

I affirm this Office's earlier decision (as conveyed by Mr Singer on 7 October 2016), that we have not identified any documents covering your request that are subject to the operation of the FOI Act.

Accordingly I advise that I reject your request under Section 24 of this Act.

In explanation, documents of the kind you request (and subsequently directed us to in your request for internal review) do not relate to matters of an administrative nature within the meaning prescribed by Section 6A of the FOI Act.

The particular documents to which you refer (letter of 5 December 2007, email correspondence of 22 and 24 August) are either not in the possession of the Agency or are not documents that relate to matters of an administrative nature (correspondence on legal matters is not a matter of an administrative nature).

Should you wish to be provided with copies of your email of 22 August 2016 and the Office's reply of 24 August 2016, we would be happy to provide these to you outside of the provisions of the FOI Act.

Yours sincerely



Mark Fraser LVO OAM
Official Secretary to the Governor-General

25 October 2016

ATTACHMENT A—INFORMATION ON RIGHTS OF REVIEW

1. APPLICATION FOR INTERNAL REVIEW OF DECISION

Section 54 of the Freedom of Information Act (the Act) gives you the right to apply for an internal review of the decision refusing to grant access to documents in accordance with your request.

Application for a review of the decision must be made in writing within 30 days of receipt of this letter.

No particular form is required but it would assist the decision-maker if you could set out in the application the grounds on which you consider that the decision should be reviewed. Application for review of the decision should be addressed to:

The Official Secretary to the Governor-General
Government House
CANBERRA ACT 2600

OR

2. APPLICATION TO AUSTRALIAN INFORMATION COMMISSIONER (INFORMATION COMMISSIONER) FOR REVIEW OF DECISION

Section 54L of the Act gives you the right to seek a review of the decision from the Information Commissioner. An application for review must be made within 60 days of receiving the decision.

Applications for review must be in writing and:

- give details of how notices must be sent to you; and
- include a copy of the notice of decision.

You should send your application for review to:

The Information Commissioner
GPO Box 2999
CANBERRA ACT 2601

Or by email to: enquiries@oaic.gov.au

OR

3. COMPLAINTS TO THE INFORMATION COMMISSIONER

Section 70 of the Act provides that a person may complain to the Information Commissioner about action taken by an agency in the exercise of powers or the performance of functions under the Act.

A complaint to the Information Commissioner must be in writing and identify the agency the complaint is about. It should be directed to the following address:

The Information Commissioner
GPO Box 2999
CANBERRA ACT 2601

The Information Commissioner may decline to investigate the complaint in a number of circumstances, including that you did not exercise your right to ask the agency, the Information Commissioner, a court or tribunal to review the decision.

ANNEXURE 12

OFFICE OF THE OFFICIAL SECRETARY
TO THE GOVERNOR-GENERAL

20 June 2018

Mr Andrew Garrett
Winemaker/Consultant
OenoViva
Email Address: Andrew.garrett@oenoviva.com

Dear Mr Garrett

RE: Application under the *Freedom of Information Act 1982* (FOI Act)

I refer to your application of 16 June 2018 in which you make a request under the Commonwealth *Freedom of Information Act 1982* (FOI Act) for:

"The Official Secretary to the Governor-General
Government House Canberra ACT 2600

Dear Secretary

I ask you to consider this communicate to be an application in writing pursuant to the provisions of the *Freedom of Information Act 1982* (Cth) for a copy of any document or thing related to me and/or correspondence with your office with the Commonwealth Attorney General related to me and/or correspondence with your office with the Commissioner of Taxation related to me and/or the Attorney General of the State of South Australia related to me and/or any authority granted by the Governor General to the Commissioner of Taxation for the purposes of filing and serving the attached information and summons which is an indictment issued under the Laws of Australia as a Major Indictable Offence carrying a penalty of 10 years imprisonment engaging the Governor General's responsibilities under s69(1) of the *Judiciary Act 1903* (Cth).Division 2—Indictable offences

69 Indictments

- (1) Indictable offences against the laws of the Commonwealth shall be prosecuted by indictment in the name of the Attorney-General of the Commonwealth or of such other person as the Governor-General appoints in that behalf.

Kind Regards

Andrew Garrett

Chief Executive Officer/ Winemaker

The Andrew Garrett Group of Companies (TAGGC)

www.oenoviva.com

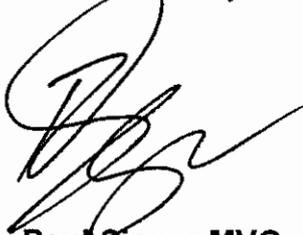
www.dynamic-cws.com.au

Please note that special arrangements apply to the Office of the Official Secretary to the Governor-General. Section 6A of the FOI Act includes that following provision:

1. This Act does not apply to any request for access to a document of the Official Secretary to the Governor-General unless the document relates to matters of an administrative nature.
2. For the purpose of this Act, a document in the possession of a person employed under section 13 of the Governor-General Act 1974 that is in his or her possession by reason of his or her employment under that section shall be taken to be in the possession of the Official Secretary to the Governor-General.

Our office is currently investigating this matter and will respond to you within 30 days, in accordance with the Act. If you have any questions, please contact me on (02) 6283 3508.

Yours sincerely



Paul Singer MVO

Deputy Official Secretary

ANNEXURE 13

OFFICE OF THE OFFICIAL SECRETARY
TO THE GOVERNOR-GENERAL

5 July 2018

Mr Andrew Garrett
Winemaker/Consultant
OenoViva
Email Address: Andrew.garrett@oenoviva.com

Dear Mr Garrett

RE: Application under the *Freedom of Information Act 1982 (FOI Act)*

I refer to your application of 16 June 2018 in which you make a request under the Commonwealth *Freedom of Information Act 1982 (FOI Act)* for:

"The Official Secretary to the Governor-General
Government House Canberra ACT 2600

Dear Secretary

I ask you to consider this communique to be an application in writing pursuant to the provisions of the *Freedom of Information Act 1982 (Cth)* for a copy of any document or thing related to me and/or correspondence with your office with the Commonwealth Attorney General related to me and/or correspondence with your office with the Commissioner of Taxation related to me and/or the Attorney General of the State of South Australia related to me and/or any authority granted by the Governor General to the Commissioner of Taxation for the purposes of filing and serving the attached information and summons which is an indictment issued under the Laws of Australia as a Major Indictable Offence carrying a penalty of 10 years imprisonment engaging the Governor General's responsibilities under s69(1) of the *Judiciary Act 1903 (Cth)*. Division 2—Indictable offences

69 Indictments

- (1) Indictable offences against the laws of the Commonwealth shall be prosecuted by indictment in the name of the Attorney-General of the Commonwealth or of such other person as the Governor-General appoints in that behalf.

Kind Regards

Andrew Garrett

Chief Executive Officer/ Winemaker

The Andrew Garrett Group of Companies (TAGGC)

www.oenoviva.com

www.dynamic-cws.com.au

I am the authorised decision maker under section 23 of the FOI Act and this letter sets out my decision on your request for access.

Material taken into account

In making my decision, I have had regard to the following:

- the terms of your request;
- the content of the documents to which you sought access;
- advice from Agency officers with responsibility for matters relating to the documents to which you sought access;
- the relevant provisions of the FOI Act; and
- the Commonwealth's guidelines on FOI.

Section 6A of the FOI Act

- 1) This Act does not apply to any request for access to a document of the Official Secretary to the Governor-General unless the document relates to matters of an administrative nature.
- 2) For the purposes of this Act, a document in the possession of a person employed under section 13 of the Governor-General Act 1974 that is in his or her possession by reason of his or her employment under that section shall be taken to be in the possession of the Official Secretary to the Governor-General.

Decision

In relation to your request and further to our response of 25 October 2016, I can confirm that we have not identified any documents relating to the matter you have raised.

The only documents we have identified are your previous email requests and our corresponding responses.

As advised on 25 October 2016, should you wish to be provided with copies of your email of 22 August 2016 and the Office's reply of 24 August 2016, we would be happy to provide these to you outside of the provisions of the FOI Act.

Review rights

You are entitled to seek review of this decision. Your rights are set out at Attachment A to this letter.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Sharon Prendergast', with a long horizontal line extending to the left.

Sharon Prendergast
Acting Deputy Official Secretary to the Governor-General

ATTACHMENT A—INFORMATION ON RIGHTS OF REVIEW

1. APPLICATION FOR INTERNAL REVIEW OF DECISION

Section 54 of the Freedom of Information Act (the Act) gives you the right to apply for an internal review of the decision refusing to grant access to documents in accordance with your request.

Application for a review of the decision must be made in writing within 30 days of receipt of this letter.

No particular form is required but it would assist the decision-maker if you could set out in the application the grounds on which you consider that the decision should be reviewed. Application for review of the decision should be addressed to:

The Official Secretary to the Governor-General
Government House
CANBERRA ACT 2600

OR

2. APPLICATION TO AUSTRALIAN INFORMATION COMMISSIONER (INFORMATION COMMISSIONER) FOR REVIEW OF DECISION

Section 54L of the Act gives you the right to seek a review of the decision from the Information Commissioner. An application for review must be made within 60 days of receiving the decision.

Applications for review must be in writing and:

- give details of how notices must be sent to you; and
- include a copy of the notice of decision.

You should send your application for review to:

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CANBERRA ACT 2601

Or by email to: enquiries@oaic.gov.au

OR

3. COMPLAINTS TO THE INFORMATION COMMISSIONER

Section 70 of the Act provides that a person may complain to the Information Commissioner about action taken by an agency in the exercise of powers or the performance of functions under the Act.

A complaint to the Information Commissioner must be in writing and identify the agency the complaint is about. It should be directed to the following address:

The Information Commissioner
GPO Box 2999
CANBERRA ACT 2601

The Information Commissioner may decline to investigate the complaint in a number of circumstances, including that you did not exercise your right to ask the agency, the Information Commissioner, a court or tribunal to review the decision.

NOTICE OF FILING**Details of Filing**

Document Lodged:	Outline of Submissions
Court of Filing	FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment:	18/01/2024 12:42:50 PM AEDT
Date Accepted for Filing:	18/01/2024 12:42:54 PM AEDT
File Number:	NSD741/2023
File Title:	AUSTRALIAN PRUDENTIAL REGULATION AUTHORITY v ANDREW MORTON GARRETT
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



A handwritten signature in blue ink that reads 'Sia Lagos'.

Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.



Form 1 OUTLINE OF SUBMISSIONS.

RE ORDERS FOR COMPLIANCE WITH SUBPOENA ISSUED TO GOVERNOR GENERAL DAVID HURLEY DATED 07.01.2024

(rule 15A.6)

Federal Court of Australia

No. NSD 741 of 2023

District Registry: NSW

Division: Corporations

IN THE MATTER OF THE CROWN (LIQUIDATOR AND MANAGING CONTROLLER APPOINTED), ABN 50 785 365 455 (“THE CROWN”)

AUSTRALIAN PRUDENTIAL REGULATORY AUTHORITY
ABN 79 635 582 658 (LIQUIDATOR AND MANAGING CONTROLLER APPOINTED)
ABN 33 446 145 662

The Plaintiff, Defendant by Counterclaim

&

ANDREW MORTON GARRETT,

- **CROWN ATTORNEY GENERAL ABN 25 582 859 403,**
- **TRUSTEE OF THE OFFICE OF THE CROWN ATTORNEY GENERAL TRUST ABN 33 785 287 219**
- **LIQUIDATOR, AND MANAGING CONTROLLER, BENEFICIARY OF PRIVATE AND PUBLIC TRUSTS, PRIOR TRUSTEE SECURED BY LIEN ABN 70 432 067 434**
- **TRUSTEE OF A LETTER TO MY SONS TRUST ABN 90 243 103 687**
- **SECURED PARTY CREDITOR, REGISTRATION NUMBER 40591602**

The Defendant/Respondent, Plaintiff by Counter Claim and Plaintiff by Cross Claim

&

OTHERS NAMED IN THE EXHIBITS PRODUCED AND MARKED AS;

- **AMG 6776**
- **AMG 6867**
- **AMG 6793**
- **AMG 7015**

Filed on behalf of (name & role of party)	The Respondent/ Cross Claimant	
Prepared by (name of person/lawyer)	Andrew Garrett	
Law firm (if applicable)		
Tel	0450 831 708	Fax 02 9617 7125
Email	amg@betterworldfuturefund.org	
Address for service (include state and postcode)	Unit 3/ 11 Harvey Street, Nailsworth, South Australia, 5083	

GOVERNOR GENERAL OF AUSTRALIA
 ATTN; HIS EXCELLENCY, GENERAL (retired) DAVID HURLEY
 Dunrossil Drive, Yarralumla, Australian Capital Territory, 2600
 Email: foi.ips@gg.gov.au

CC; RE HCMP-1855-2022; IN THE MATTER OF THE CROWN (LIQUIDATOR AND MANAGING CONTROLLER APPOINTED)

ATTN; HIGH COURT OF SAR HONG KONG

ATTN; THE ATTORNEY GENERAL SAR HONG KONG TO FORWARD TO BRICS ATTORNEY GENERALS

ATTN; THE COMMISSIONER OF TAXATION OF SAR HONG KONG

C/O THE JUDICIAL CLERK TO THE CHIEF JUSTICE

High Court Registry

Address: LG 1, High Court Building, 38 Queensway, Hong Kong

Email; cd@doj.gov.hk ; dojinfo@doj.gov.hk ; chinaemb_au@mfa.gov.cn ; enquiry@judiciary.hk

S56 & S64 OF *THE JUDICIARY ACT* 1903 (AU)

CHARTER OF THE COMMONWEALTH

Dear Governor General,

I refer to the exhibit now produced and marked as **AMG 7473** Letter from the Office of the Official Secretary of the Governor General- Garrett dated 18.01.2024 (ANNEXURE 1)

There are three proceedings currently on foot in the Common Law Jurisdictions of Hong Kong and Australia involving the Crown and I.

1. **HCMP-1855-2022; IN THE MATTER OF THE CROWN (LIQUIDATOR AND MANAGING CONTROLLER APPOINTED)** brought by me against the Crown following removal of proceedings from the Federal District Court for the District of Colorado. (“the Hong Kong Proceedings”)
2. **DCCRM-0073-2019; THE CROWN V ANDREW GARRETT** brought by the CDPP on an effort to attack the balance sheets of entities related to me and prevent my dealing with the stored value properly disclosed to the Australian Commissioner of Taxation between the 1st of July 2016 and 30th June 2022. (“the NSW Proceedings”)
3. **NSD-741-2023; APRA (THE CROWN) V ANDREW GARRETT** brought by the APRA in continuation of the above-described attack the balance sheets of entities related to me and prevent my dealing with the stored value properly disclosed to the Australian Commissioner of Taxation between the 1st July 2016 and 30th June 2022. (“The SA Proceedings”)

OenoViva Capital Resources™; VivaCoin™; VivaCash™; Better World Future Fund™

SWITCHBOARD: +1-833- 322-2650; EXT 1; FAX: +61-2-9167-7145

GLOBAL HEAD OFFICE: Level 29, Olaya Towers Tower B, Intersection of Olaya Street & Mohammed bin Abdul-Aziz Street, Riyadh 11523 SAUDI ARABIA
 Hong Kong: Level 19, Two International Finance Centre, 8 Finance Street, Central, Hong Kong USA: One World Trade Center, 85th Floor, New York, Ny 1000
 Australia: Level 6, Reserve Bank Building, 111 Macquarie Street, Hobart, TAS, 7000 France: Ground - 6th Floor, 10 Avenue Kléber, 10 Avenue Kléber, Paris 75116
 Korea: 4F-4052, 14, Hangeulbiseok-ro 24-gil, Nowon-gu, Seoul, Republic of Korea Vietnam: Suite 103, 140 Nguyen Van Thu Street, District 1, Ho Chi Minh, Vietnam
 Turkey: Levels 5 & 6, Louis Vuitton Orjin Building Abdi Ipekci Cd, Nisantasi, Istanbul 34367 United State of America: 1015 15th ST NW #1000 Washington DC, 20005 USA

Email; admin@betterworldfuturefund.org

<https://oenoviva-capital-resources.com/> <https://vivacoin.org/> <https://betterworldfuturefund.org/>

It has been my experience over the last 50 years of trading activity that where the Crown has a Conflict of Interest arising from the pecuniary interest related to the Right for an Effective Remedy that the Crown will adopt the approaches referred to in Australian Law Reform Commission Report # 108 entitled "For Your Information" published in May 2008 relating to Australian Privacy Law and Practice.

Both proceedings that the Crown has brought against me have been brought for ulterior collateral purposes in accordance with my submissions to Court.

By background I advise that each of the proceedings brought against me were brought concurrently with the interception of contracts of major commercial transactions dated 18th March 2018 and 18th July 2023 by Designated Agencies within the meaning of *the Anti-Money Laundering and Counter Terrorism Financing Act 2006* (AU) represented by "Public Officials" and/or Foreign Public Officials" within the meaning of *the Convention Against Corruption 2003* (UN) enacted into *Australian Domestic Law as the Convention Against Corruption 2006* (AU) Australian Treaty Series No 2.

In fact, the attacks of the Crown have been far more numerous in multiple jurisdictions in SA, NSW, VIC and TAS commencing in 2003, until that date I had only commenced one proceeding in any court or tribunal in Australia dated November 1996.

I hope to achieve enforceable judicial authority to clear my name and provide funding in the Public Interest in conjunction with an Asset Management agreement executed between an extremely capable party who must remain confidential due to Confidentiality provisions under that Agreement and the subsequent Non-Disclosure Agreement.

I have served the Subpoena dated 7th January 2024 on Your Excellency on the 10th January 2024 now produced and shown as the Exhibit produced and marked as **AMG 7361** NSD-741-2023 SEALED Filed Subpoena David Hurley 07.01.2024 (ANNEXURE 2) and refer to the Exhibit produced and marked as **AMG 7428** HCMP-1855-2022; NSD-741-2023; DCCRM-0073-2019 RE ENFORCEMENT PROCEEDINGS Service of SEALED AND FILED SUBPOENA ADDRESSED TO DAVID HURLEY being a true and correct copy of the email of service on Your Excellency, which relevantly sets out as follows:

From: amg@betterworldfuturefund.org <amg@betterworldfuturefund.org>

Sent: Wednesday, January 10, 2024 9:58 AM

To: 'governor-general@gg.gov.au' <governor-general@gg.gov.au>; 'processservice@ags.gov.au' <processservice@ags.gov.au>; 'attorney@ag.gov.au' <attorney@ag.gov.au>

Cc: 'christine.moy@ag.gov.au' <christine.moy@ag.gov.au>; 'Attorney-General'sDepartment@agd.sa.gov.au' <Attorney-General'sDepartment@agd.sa.gov.au>; '1 cd/DOJ' <cd@doj.gov.hk>; 'dojinfo@doj.gov.hk' <dojinfo@doj.gov.hk>; 'enquiry@judiciary.hk' <enquiry@judiciary.hk>; 'chinaemb_au@mfa.gov.cn' <chinaemb_au@mfa.gov.cn>; 'chambers.kudelka@courts.sa.gov.au' <chambers.kudelka@courts.sa.gov.au>; 'enquiry@courts.sa.gov.au' <enquiry@courts.sa.gov.au>; 'hamish.hewitt@cdpp.gov.au' <hamish.hewitt@cdpp.gov.au>; 'pantelia.marinakis@cdpp.gov.au' <pantelia.marinakis@cdpp.gov.au>;

'adelaide@cdpp.gov.au' <adelaide@cdpp.gov.au>; 'ADE Reception Mailbox Shared' <ADEReceptionMailboxShared@cdpp.gov.au>; 'foreign.minister@dfat.gov.au' <foreign.minister@dfat.gov.au>

Subject: AMG 7428 HCMP-1855-2022; NSD-741-2023; DCCRM-0073-2019 RE ENFORCEMENT PROCEEDINGS Service of SEALED AND FILED SUBPOENA ADDRESSED TO DAVID HURLEY

Importance: High

TO; HIS EXCELLENCY, DAVID HURLEY
GOVERNOR GENERAL
COMMONWEALTH OF AUSTRALIA
(LIQUIDATOR AND MANAGING CONTROLLER APPOINTED)
C/- AUSTRALIAN GOVERNMENT SOLICITOR'S OFFICE

CC;

MS CRIS JORDAN, MR TREVOR COULTER, MS JANE FERRY, MR VINCENT TAVOLARO
AUSTRALIAN TAXATION OFFICE
(LIQUIDATOR AND MANAGING CONTROLLER APPOINTED)
C/- AUSTRALIAN GOVERNMENT SOLICITOR'S OFFICE

MS PENNY WONG, FOREIGN MINISTER.
COMMONWEALTH OF AUSTRALIA
(LIQUIDATOR AND MANAGING CONTROLLER APPOINTED)

MR MARK DREYFUS
ATTORNEY GENERAL OF AUSTRALIA
C/- AUSTRALIAN GOVERNMENT SOLICITOR'S OFFICE

MR STEPHEN DONAGHUE
SOLICITOR GENERAL OF AUSTRALIA
C/- AUSTRALIAN GOVERNMENT SOLICITOR'S OFFICE

MS LIESL KUDELKA
DISTRICT COURT OF SOUTH AUSTRALIA
(LIQUIDATOR AND MANAGING CONTROLLER APPOINTED)

COMMONWEALTH DIRECTOR OF PUBLIC PROSECUTIONS
C/- PANTELIA MARINAKIS AND HAMISH HEWITT

RE HCMP-1855-2022; IN THE MATTER OF THE CROWN (LIQUIDATOR AND MANAGING CONTROLLER APPOINTED)

ATTN; HIGH COURT OF SAR HONG KONG

ATTN; THE ATTORNEY GENERAL SAR HONG KONG TO FORWARD TO BRICS ATTORNEY GENERALS

ATTN; THE COMMISSIONER OF TAXATION OF SAR HONG KONG

C/O THE JUDICIAL CLERK TO THE CHIEF JUSTICE

Dear Governor General,

I trust you and your family are well and take this opportunity to wish you a happy and prosperous New Year, I advise a copy of this communicate will be relied upon as evidence in Domestic and International Proceedings and have copied;

1. the Judicial Clerk of the Chief Justice of the High Court of Hong Kong

2. the Commissioner of Taxation of SAR Hong Kong
3. the Attorney General of SAR Hong Kong AND my respectful request to forward to BRICS Attorney Generals
4. Solicitor General of Australia
5. Attorney General of Australia
6. Attorney General of South Australia
7. Australian Government Solicitor

Attached you will note a copy of a Concise Reply and Cross Statement/ Counter Statement of Facts to a Concise Statement lodged by APRA in NSD-741-2023.

On the 13th of November 2022 I served on the Crown, care of the Foreign Minister Ms Penny Wong, the originating process of proceedings commenced in the Court of the First Instance of the High Court of Hong Kong as HCMP-1855-2022; IN THE MATTER OF THE CROWN (LIQUIDATOR AND MANAGING CONTROLLER APPOINTED) ("THE CROWN"), an excerpt of the proceeding is attached,

From: andrew.garrett@dynamic-capital-bank.com <andrew.garrett@dynamic-capital-bank.com>

Sent: Sunday, November 13, 2022 5:11 PM

To: foreign.minister@dfat.gov.au; dojinfo@doj.gov.hk; cd@doj.gov.hk; chinaemb_au@mfa.gov.cn; fraud@pmc.gov.au; premier@sa.gov.au; 'May, Ben' <Ben.May@ags.gov.au>; vincent.tavolaro@ags.gov.au

Cc: processservice@ags.gov.au; steve.georganas.mo@aph.gov.au; dae.so@dynamic-capital-bank.com; jenne.esch@dynamic-capital-bank.com; pk@sabas.net.au; pszanto@tsz.com.au; pszanto@pblawyers.com.au; j.sharp@pblawyers.com.au; admin@citilawyers.com.au; 'bernard Caulier de Roubaix de Laer' <bcder@hotmail.com>; scott@brokenwood.com.au; 'Adelaide Registry' <adelaide.registry@aat.gov.au>; cbalab@freemail.gr; 'Sinesis International Ltd' <sinesis.international@protonmail.com>; salvaagni@studiosalvaagni.it; cristian.famiqliuolo@icloud.com; 'AFRICACITY - Elizabeth AJ' <africacity@protonmail.com>; 'adam HLADYSH' <nrq300@live.ca>; jmesch@pm.me

Subject: AMG 5858 SERVICE OF HCT(HK)-1855-2022; IN THE MATTER OF CROWN ATTORNEY GENERAL (LIQUIDATOR; MANAGING CONTROLLER APPOINTED) & ORS PART 1

*Ms Penny Wong
Acting Minister for Foreign Affairs*

Dear Ms Wong

I trust you are well, by way of service please note attached proceedings commenced by me under my instructions to my Power of Attorney for the Territory, on the 11th of November 2022, in the Court of the First Instance of the High Court of Hong Kong in which regard a copy of this communique will be used as evidence of service in the proceedings.

Notice to Agent is Notice to Principal and vice versa; amongst other things I seek vacant possession of Government Houses of Australia and the Reserve Bank of Australia.

I served other non-parties on Friday (see covering email below), on the basis they may wish to make submissions to me exercising Hereditary Discretionary Public Powers Conferred under Enactments previously the property of the Windsor Family as disclosed to:

1. Steve Georganas during 2020, and
2. The Acting Australian Government Solicitor, on the 3rd of June 2019 and subsequently on more than once occasion, including as most recently on the 18th of March 2022

3. *The Acting Chairman of ASIC (Liquidator and Managing Controller Appointed)*
4. *The Acting CEO of APRA (Liquidator and Managing Controller Appointed)*
5. *The Acting CEO of AUSTRAC (Liquidator and Managing Controller Appointed)*
6. *The Acting CEO of the RBA (Liquidator and Managing Controller Appointed)*
7. *The Acting CEO of the CDPD (Liquidator and Managing Controller Appointed)*
8. *The Acting CEO of the ATO (Liquidator and Managing Controller Appointed)*
9. *The Acting CEO of AFSA (Liquidator and Managing Controller Appointed)*
10. *The Acting CEO of ACCC (Liquidator and Managing Controller Appointed)*
11. *The Acting CEO of the ASX (Liquidator and Managing Controller Appointed)*
12. *The Acting CEO of the AAT (Liquidator and Managing Controller Appointed)*
13. *The Acting CEO of the Federal Court of Australia (Liquidator and Managing Controller Appointed)*
14. *The Acting CEO of the High Court of Australia (Liquidator and Managing Controller Appointed)*
15. *Amongst others*

The Whitlam Government was sacked for a reason.....the Liberal Governments of Howard, Abbott, Turnbull, Morrison (in particular), and other Labour Governments should also have been sacked.

*There has been no Investigation by the Crown into the Law Societies of Australia except that conducted by me: Information Statement follows.
Estoppel applies*

Two years ago, we enjoyed a very frank discussion by Telephone about the corruption issues that are systemic in Australia that was convened by Ms. Hope from Florida.

By way of service please note the attached Subpoena to attend court and give evidence in this regard and matters related to me.

I also refer to the email Chain below and the links to various exhibits filed and served in the proceedings.

*ALL RIGHTS RESERVED
KIND REGARDS*

As you know the Crown must comply with the Comon Law Model Litigant Obligations for continuous full disclosure of all documents and things related to me and/or entities related to me and refer to the Exhibit produced and marked as **AMG 7264** NSD 741 of 2023 SEALED Filed Respondent's Reply to Concise Statement and Cross Claim 11.12.2023 as being a true and correct copy of the Reply/ Cross Claim/ Counter Claim filed and served in NSD-741-2023 and attached to Exhibit AMG 7428 (**ANNEXURE 3**).

I have also served a Notice for Recognition of the Hong Kong Proceedings under the provisions of *the Cross Border Insolvency Act 2008 (AU)* and the Federal Court Rules and refer to the Exhibit produced and marked as **AMG 7142** NSD-741-2023; SEALED Filed Form 20 Notice of filing of application for recognition of foreign proceeding 06.12.2023 (**ANNEXURE 4**) as being a true and correct copy of that Notice for Recognition, an excerpt of the originating process was attached to the Exhibit marked as **AMG 7428**.

I have applied in both the SA Proceedings and the NSW proceedings for orders to remove the SA Proceedings to be heard together with the NSW proceedings as a Special Federal Matter under the provisions of *the Jurisdiction of Courts Cross Vesting Act 1987 (AU)*

There are a number of International Treaties that are binding on Your Excellency that require open and transparent government and comply with the public duty to release Personal Information not the least of which is the Charter of the Commonwealth enacted by Her Imperial Britannic Majesty Queen Elizabeth II on Commonwealth Day as a Writ of Mandamus to Your Excellency and every other citizen of the Commonwealth.

I note that s15 of *the Evidence Act 1995 (AU)* referred to by the author of ANNEXURE 1 conflicts with s56 and s64 of *the Judiciary Act 1903 (AU)* and is therefor a nullity, I may be content to rely on the documents and things produced under the Subpoena in the NSW proceedings and avoid the need for Your Excellency to provide oral evidence in the NSW and SA Proceedings.

It is not a matter for me to advise Your Excellency, if Your Excellency wishes to rely on the provision set out in ANNEXURE 1 then I can only suggest that you instruct counsel to apply to set aside the Subpoena which is evidentially filed and served.

Also filed and served in the NSW proceedings is the Exhibit produced and marked as **AMG 7461** NSD 741 of 2023 SEALED Filed Affidavit of Respondent; Cross Claimant; Counter Claimant dated 3rd October 2023 which relevantly refers to an email to the Solicitor General, Mr Stephen Donoghue a copy of which is now produced and shown as the Exhibit marked as **AMG 6557**; RE HCMP-1855-2022; SERVICE OF WRIT OF MANDAMUS ON SOLICITOR GENERAL RE AUSTRALIAN GOVERNMENT NOT FIT FOR PURPOSE dated 4th April 2023 and is evidence of service of my Letter to Your Excellency a copy of which is produced and marked as **AMG 6273** FINDINGS OF FACTS AND REASONS; ABOLITION OF PUBLIC OFFICES OF SOLICITOR GENERAL OFFICES OF STATES AND TERRITORIES dated 31.01.2023.

"The establishment of our new Government seemed to be the last great experiment for promoting human happiness."

George Washington, January 9, 1790

"First in war, first in peace, and first in the hearts of his countrymen," remarked Henry Lee in his famous funeral oration for George Washington. Marking the two-hundredth anniversary of his death, *The Great Experiment: George Washington and the American Republic* allowed visitors to follow Washington's evolution from loyal British subject to revolutionary leader to the country's first president, exploring his personal history and the development of the persona that—even in his own lifetime—made him more monument than man. Focusing on key moments in Washington's life—such as his retirement as commander in chief of the American forces at the height of his power,

unprecedented in 1793—*The Great Experiment* examined the genuinely revolutionary process that produced the first successful modern republican nation.

While it is true to say that America is a “*MODERN REPUBLICAN NATION*” it cannot be said that it is as successful as it could be in respect to maintenance of responsible government and breaches of separation of powers which is of course a Foundational Issue properly identified by our dear departed Monarch in the Charter.

It should not be necessary for any further legislative steps to enforce the Charter however the Law Societies of the Commonwealth continue to run amok on an unregulated basisself-regulation is mis regulation.

In Australia the steps taken towards a Republic have shown that there is a continuing need for His Imperial Majesty, King Charles III to continue to regulate and enforce with far greater Vigor and is the reason why the office of the Crown Attorney General has been created to regulate other Attorney Generals in circumstances where the Secretariat has been unable to enforce Rule of Law in the Commonwealth.

I seems to me that the servants, employees, officers, agents, delegates, licensees and contractors of the Crown have not complied with the commitments to the principles of the Charter as dictated under the CHOGM Communiques of 2013 and 2018 in which regard the conduct of the Crown appears to be dictated by “*the weather of the day*” rather than “*the Climate of the Era*” and “*the Chevron Deference Doctrine*” has been enacted in direct disobedience of the Charter in s18AB of *the Federal Court of Australia Act 1976 (AU)* and the ASIC Inter Agency MOUs copies of which are produced and marked as the Exhibit **AMG 7440** NSD-741-2023 SEALED Filed Document 5 Case 1 22-cv-243-GPG BREACH OF AGENCY INDEPENDANCE BY ASIC Inter Agency MOUs.

That exhibit was first filed and served in US proceedings all of which have now been removed to the jurisdiction of the Court of the First Instance of the High Court of Hong Kong.

In Australia.....”the Great Experiment”..... such as it isis an abject failure!

Kind Regards

Andrew Morton Garrett

Respondent/ Accused/ Plaintiff by Counter Claim and Plaintiff by Cross Claim



RESERVE BANK OF AUSTRALIA



ANNEXURE 1



OFFICE OF THE OFFICIAL SECRETARY
TO THE GOVERNOR-GENERAL

18 January 2024

Via email: amg@betterworldfuturefund.org

Dear Mr Garratt,

I refer to your email of 10 January 2024.

With regard to your request, under section 15 of the *Evidence Act 1995*, the Governor-General cannot be compelled to give evidence in the Federal Court of Australia.

Yours sincerely

A handwritten signature in black ink that reads "JBarnes".

Jeff Barnes
Deputy Official Secretary to the Governor-General

ANNEXURE 2**NOTICE OF FILING****Details of Filing**

Document Lodged:	Outline of Submissions
Court of Filing	FEDERAL COURT OF AUSTRALIA (FCA)
Date of Lodgment:	7/01/2024 11:35:56 AM AEDT
Date Accepted for Filing:	7/01/2024 11:36:17 AM AEDT
File Number:	NSD741/2023
File Title:	AUSTRALIAN PRUDENTIAL REGULATION AUTHORITY v ANDREW MORTON GARRETT
Registry:	NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



A handwritten signature in blue ink that reads 'Sia Lagos'.

Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.



Form 43C
Rule 24.13(1)(c)

Subpoena to give evidence and produce documents and things.

No. 741 of 2023

Federal Court of Australia
District Registry: NSW
Division: CORPORATIONS & EQUITY

AUSTRALIAN PRUDENTIAL REGULATOR

Applicant

ANDREW MORTON GARRETT

Respondent

To: David Hurley, Acting Governor General, Level 5, C/- Australian Government
Solicitor, Level 5, 101 Pirie Street, Adelaide, SA 5000

You are ordered to attend to give evidence and to produce this subpoena or a copy of it and the documents or things specified in the Schedule of documents. See next page for details.

Failure to comply with this subpoena without lawful excuse is a contempt of court and may result in your arrest.

You should read all of the Notes set out in this subpoena.

You must complete the Declaration by Addressee (Subpoena Recipient) set out towards the end of this subpoena.

The last date for service of this subpoena is 14th January 2024. (See Note 1)

Date: 7th January 2024

Signed by an officer acting with the authority of the District Registrar pursuant to s61 of the Constitution; s56 & s64 of the Judicuary Act 1903 (AU)
Issued at the request of ANDREW MORTON GARRETT whose address for service is:

Place: Unit 3/11 Harvey Street, Nailsworth, SA, 5083

Email: amg@betterworldfuturefund.org

Filed on behalf of (name & role of party)	The Respondent
Prepared by (name of person/lawyer)	Andrew Garrett
Law firm (if applicable)	
Tel 0450 831 708	Fax 02 9617 7125
Email amg@betterworldfuturefund.org	
Address for service (include state and postcode)	Unit 3/ 11 Harvey Street, Nailsworth, South Australia, 5083

Details of subpoena

In so far as you are required by this subpoena to attend to give evidence, you must attend as follows, unless you receive notice of a later date or time from the issuing party, in which case the later date or time is substituted:

Date: 15th February 2024

Time: 9.30 am

Place: FEDERAL COURT OF AUSTRALIA, NSW REGISTRY,

Level 17, Law Courts Building

184 Phillip St, Queens Square, Sydney, NSW 2000

You must continue to attend from day to day unless excused by the Court or the person authorised to take evidence in these proceedings or until the hearing of the matter is completed.

In so far as you are required by this subpoena to produce the subpoena or a copy of it and documents or things, you must comply with this subpoena:

- (a) by attending to produce this subpoena or a copy of it and the documents or things specified in the Schedule of documents below at the date, time and place specified for attendance and production; or
- (b) by delivering or sending this subpoena or a copy of it and the documents or things specified in the Schedule of documents below to a Registrar at the address below, or if there is more than one address below, at any one of those addresses, so that they are received not less than 2 clear business days before the date specified for attendance and production. (See Notes 5–9)

Date, time and place at which you must attend to produce the subpoena or a copy of it and the documents or things, unless you receive a notice of a later date or time from the issuing party, in which case the later date or time is substituted:

Date: 15th February 2024

Time: 9.00 am

Place: FEDERAL COURT OF AUSTRALIA, SA REGISTRY,

3 ANGAS STREET, ADELAIDE, SA 5000

Address, or any address, to which the subpoena (or copy) and documents or things may be delivered or posted:

[e.g. The Registrar

Federal Court of Australia

SA District Registry

3 ANGAS STREET, ADELAIDE, SA 5000

Schedule of documents

The documents and things you must produce are as follows:

COPIES OF ALL DOCUMENTS AND THINGS IN YOUR POSSESSION AND/OR
CONTROL RELATED TO THE RESPONDENT CROSS CLAIMANT/ COUNTER
CLAIMANT AND/OR ENTITIES RELATED TO HIM.