



**Australian Government**  
**Civil Aviation Safety Authority**

OFFICE OF THE CHIEF EXECUTIVE OFFICER

CASA Ref: F20/258

14 December 2020

Senator Susan McDonald  
Chair  
Senate Rural and Regional Affairs  
and Transport Legislation Committee  
Parliament House  
CANBERRA ACT 2600

Dear Senator McDonald

**Submission in response to evidence  
reflecting adversely on certain persons**

I refer to my letter to you of 8 December 2020 and thank you for your response of 10 December 2020.

The Civil Aviation Safety Authority (CASA) is mindful of the limitations governing the characterisation of evidence presented to the Committee as constituting evidence reflecting adversely on a person in such a way as to enliven the provisions of Resolution 1(13) of the Resolutions relating to Parliamentary Privilege agreed to by the Senate on 25 February 1988.

In light of the Committee's suggestion that, because 'CASA appeared directly after Mr Buckley' at the hearing on 20 November 2020, we 'therefore had the opportunity to respond to Mr Buckley's statements at that time', I note, that, in practice, a 'reasonable opportunity', of the kind contemplated by Resolution 1(13), to 'have access' to the evidence of concern and 'to respond to that evidence by written submission', is recognised to mean having had the opportunity to 'obtain[...] a copy of . . . the hearing transcript,'<sup>1</sup> on the basis of which a response might be prepared.

With these considerations in mind, CASA takes this opportunity to respond briefly to Mr Glen Buckley's unqualified claims of misfeasance—a very serious allegation that reflects directly and adversely on the integrity of the named individuals, Mr Shane Carmody, Mr Graeme Crawford and Dr Jonathan Aleck, and on CASA, as an entity.

While the import and innuendo of Mr Buckley's allegations of misfeasance appear elsewhere in his testimony, the Committee's particular attention is drawn to the following statements, which appear at pages 37, 40 and 41 of the proof Committee *Hansard*,<sup>2</sup> respectively:

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<sup>1</sup> *Ogders' Australian Senate Practice*, 14<sup>th</sup> ed (2016), p. 553.

<sup>2</sup> Senate Rural and Regional Affairs and Transport Legislation Committee, *Australia's general aviation industry*, Proof Committee *Hansard*, Friday, 20 November 2020.

**Mr Buckley:** . . . I, in this forum, am lodging a formal allegation of misfeasance against Mr Shane Carmody, the CEO of CASA. I'm also lodging to both of you senators a formal allegation of misfeasance against Mr Jonathan Aleck, the Executive Manager, Legal, International and Regulatory Affairs, and finally an allegation of misfeasance against Mr Graeme Crawford, the executive manager of the aviation group [p. 37].

**Mr Buckley:** . . . I think it came from higher up. That's why I say it was misfeasance. I think it comes from the highest levels in CASA [p. 40]

**Mr Buckley:** . . . I very formally, before the both of you today, lodged a claim of misfeasance [p. 41].

*CASA, and each of the individuals named, unqualifiedly reject and refute Mr Buckley's entirely unsubstantiated allegations of misfeasance.*

### **Comment**

As said, an allegation of misfeasance is a very serious claim, which, by its nature, directly impugns the personal integrity and good faith of the individuals against whom such an egregious claim is made. The critical elements of a tenable allegation of misfeasance in public office, and the facts that would need to be proven if such a claim were to be sustained, were recently considered by the Federal Court.<sup>3</sup> These will not be rehearsed here; but that judgement, and the cases referred to in it, are timely and instructive.

CASA recognises that a submission made pursuant to Resolution 1(13) is not the appropriate place for CASA to challenge particular aspects of the basis on which Mr Buckley's allegations of misfeasance might presumably rest. Quite properly, however, we draw the Committee's attention to the fact the Mr Buckley has offered absolutely no evidence whatsoever of any acts or omissions on the part of the named individuals to substantiate his sweeping and indiscriminate claims.

Elsewhere in his testimony before the Committee, Mr Buckley made other false and misleading statements that reflect adversely on named individuals and on CASA as an entity. These, along with CASA's brief response to each, are set out below.

**Mr Buckley:** . . . What I can assure you, for Bruce Rhoades, who has now passed away, and for his family, is that in his case CASA reverse-engineered the process. They did it to me. They work out what they want and they work backwards. [p. 36]

The implication of this statement is that, in Mr Rhoades's case as in Mr Buckley's, CASA perverted the processes of administrative law and justice in order to achieve a pre-determined inequitable outcome. This is manifestly false in both instances, and Mr Buckley has offered no evidence or information to support this contention. *CASA unqualifiedly rejects and refutes Mr Buckley's entirely unsubstantiated statement.*

### **Comment**

In 2017, following a tragic aircraft accident in which one passenger was killed and the pilot and another passenger were seriously injured, CASA took timely and appropriate administrative action in relation to the Air Operator's Certificate of the company conducting the flight, Wyndham Aviation Pty Ltd, of which Mr Rhoades was the chief executive officer, sole director, chief pilot and head of airworthiness and maintenance control at the time. CASA also took action to cancel Mr Rhoades's flight crew licences. The sound bases for

<sup>3</sup> *Plaintiff M83A/2019 v Morrison (No 2)* [2020] FCA 1198.

those actions, and the procedural fairness demonstrated by CASA in all aspects of its decision-making, are evident in the relevant records of those actions.<sup>4</sup>

Once again, and as mentioned above, in neither his own nor Mr Rhoades's case, has Mr Buckley offered any factual information or evidence to sustain his false and misleading allegations about the integrity, propriety and legality of CASA's actions.

**Mr Buckley:** . . . For no reason at all, they [CASA] changed their opinion, came in and placed my entire business on seven days [sic] notice of operations. That's classified as a cancellation, variation or a suspension of an air operator's certificate. There are very strict procedures and protocols they need to follow to take such substantive action. [p. 36]

The implication of this statement is that CASA made a particular kind of administrative decision (which, as a matter of fact, is not true), the effect of which had a deleterious effect on Mr Buckley's business, and that in doing so, CASA failed to comply with the procedural requirements of the law governing such action.

CASA took no action of the kind Mr Buckley describes as a 'cancellation, variation or suspension' of any civil aviation authorisation held by Mr Buckley or the company of which he was the principal at the time. Mr Buckley's statement is false and misleadingly implies that CASA acted unlawfully, depriving him of his right to procedural fairness. *CASA unqualifiedly rejects and refutes Mr Buckley's entirely unsubstantiated statement.*

**Mr Buckley:** . . . On this matter, I don't want to say that he [Mr Shane Carmody] was untruthful; I want to say that he was deliberately misleading [p. 38].

There is nothing in the record of the Committee's hearing in the course of Estimates proceedings on 20 October 2020 to indicate or suggest that Mr Carmody did other than to answer the question put to him fully, clearly and correctly. *CASA and Mr Carmody unqualifiedly reject and refute Mr Buckley's claim that Mr Carmody deliberately misled the Committee, or indeed that he misled the Committee in any way, in his response to the question he was asked.*

**Mr Buckley:** . . . [T]he new team included a flight operations inspector, Mr Brad Lacy, who has a very bad reputation as being somewhat vindictive and vexatious in the Victoria-Tasmania region [p. 39].

Whatever Mr Buckley's personal opinion may be, and certainly without intending to lend any credence whatsoever to that opinion, CASA maintains that it was manifestly unfair and incorrect to aver that Mr Lacy has a 'reputation' of the kind described in the 'Victoria-Tasmania region' or elsewhere. *CASA, and Mr Lacy, unqualifiedly reject and refute Mr Buckley's false and misleading claim about Mr Lacy's integrity or his reputation.*

Mr Buckley, among other witnesses appearing before the Committee on 20 November 2020, made a number of statements which, in CASA's view, were inaccurate, incomplete, tendentious and in some cases manifestly false and misleading. Recognising the parameters of the right to reply afforded by Resolution 1(13), CASA intends to comment responsively on those spurious statements in a separate submission, supplementary to the principal submission CASA lodged with the Committee on 17 November 2020.

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<sup>4</sup> The facts and circumstances of the accident itself are discussed in detail in the Investigation Report of the Australian Transport Safety Bureau, *Collision with terrain following an engine power loss involving Cessna 172M, VH-WTQ, 12 NM (22 km) north-west of Agnes Water, Queensland on 10 January 2017*, Investigation No. AO-2017-005 (17 October 2019). [www.atsb.gov.au/publications/investigation\\_reports/2017/air/aao-2017-005/](http://www.atsb.gov.au/publications/investigation_reports/2017/air/aao-2017-005/).

In the meantime, if the Committee has any questions in relation to the particular matters raised in this letter, we will be happy to respond.

~~Yours~~ sincerely

Shane Carmody  
Chief Executive Officer and  
Director of Aviation Safety