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DREAMTIME KULLILLA-ART

ABN: 66 189 004 053

by **Michael Connolly** (*Munda-gutta Kulliwari*)

TRADITIONAL ABORIGINAL AUSTRALIAN ART & CRAFT & NATIVE BUSH TUCKER PRODUCTS

14th September 2020

Dear Committee Members

RE: Senate Select Committee on the Aboriginal Flag

SORRY but 49 years of the Aboriginal Flag and 3-4 years fighting this issue personally CANNOT be reduced to a few pages - my submission will respectfully be as long as it takes to tell my story.

My name is Michael Connolly and I am an Aboriginal Artist/Craftsman & Cultural Educator and co-owner with my wife of Dreamtime Kullilla-Art which has been operating here in Redcliffe for 24 years now. We have a Shop & Gallery and trade both in-store and on-line. We are a 100% Aboriginal owned and managed Aboriginal Family business. My People are the Kullilli People (far SW Queensland) on my father's side and Murrawarri People (far NW NSW) on my mother's side.

Let me help you Senator Dodson and other Committee Members since WAM Clothing was not able to answer or had trouble answering or just plain refused to answer your very important questions with respect to this matter. I trust my submission can answer those questions for you and provide the very material they were unwilling to present to this Committee so here we go

Interesting Fact: There have been 2 x Senate/Parliamentary Hearings with respect to Aboriginal Culture in the last 5 years - Aboriginal Art and Aboriginal Flag and there is 1 person who features predominantly in both - a common troubling denominator - and that is one **Ben Wooster** formerly of Birubi Art (in liquidation) now of Gifts Mate and WAM Clothing. A person who has told me directly that

- *the Indonesians were better artists of Aboriginal Art than the Aboriginal Artists themselves*
- *I will make sure you have NOTHING and NOWHERE to trade and back under your gum tree where you come from - there are no laws for you here*

Just a further fact check on Ben Wooster, one of the Licensees of the Aboriginal Flag who was also quoted in the Sydney Morning Herald (December 1917) and only goes to show how unethical he is when it comes to Aboriginal Culture

Wooster doesn't deny Connolly's assertions about his use of Indonesian artists, but argues he's "compelled" to do so because "a lot of the local [Indigenous] artwork just wasn't acceptable; it wasn't commercially saleable"

Yes this may be personal but when Ben Wooster attacks me either regarding the Fake Art issue or the Aboriginal Flag issue he is not just attacking me personally but my culture, my art and my People and our Flag - a Flag that Harold Thomas personally stated that he created for the unification of his People.

SO WHY ARE WE HERE DISCUSSING THIS ISSUE why because just like Ben Wooster formerly of Birubi Art (in liquidation) now of Gifts Mate Pty Ltd & WAM Clothing told me especially with respect to the Fake Aboriginal Art - the same person who was fined by ACCC for \$2.3m that there are NO LAWS IN THE COUNTRY TO STOP HIM doing what he is doing ... what he is doing is perfectly legal and like he told me to my face that there are no LAWS for me well I am going to fight tooth and nail to change this little fact.

So..... are we going to FIX THIS because until there are LAWS MADE these people will keep on doing what they are doing. FURTHER there is another issue with 2021 being 50 years of the Aboriginal Flag and if this matter is not resolved before NAIDOC 2021 then we are going to have a much bigger problem than the one we are facing now with far reaching and damaging ramifications for Aboriginal people. Even NAIDOC are not allowed to use the Aboriginal Flag in the NAIDOC celebrations without having to enter into a Licence Agreement with WAM Clothing ... fortunately they declined but sadly there is no Aboriginal Flag on any of their NAIDOC promotional material. BUT HANG ON didn't Harold Thomas say he "designed" the flag back in 1971 for the Aboriginal People which was raised for NAIDOC and for the Aboriginal Rights Movement and since then the Aboriginal People of Australia have flown this flag above their heads for the last 49 years as well as the NAIDOC Committee and given cultural value to this flag NOW they are forced to pay for this right..... NOT ON.

Interesting Note: NAIDOC Committee for many years have been contacting Harold Thomas to respectfully request permission to use the Aboriginal Flag in their annual NAIDOC celebrations and promotions throughout the Country and each year Harold Thomas agrees with no strings attached - he was happy to provide this. HOWEVER this year when NAIDOC spoke to Harold Thomas seeking the same permission they were told that he no longer deals with this issue anymore and that they would have to seek permission from WAM Clothing. NAIDOC contacted WAM Clothing and they were told yes they could but they would have to have exclusive merchandising rights or similar offers which NAIDOC refused and consequently NAIDOC have removed the Aboriginal Flag from all their advertising - social media etc. Will be interesting that if this continues without resolution how next year's NAIDOC celebrations will be celebrating 50 years of the Aboriginal Flag without the Flag food for thought!!!!

My history with this matter goes back many years (2016/2017) and have been fighting this and a victim of the FAKE ART and now ABORIGINAL FLAG issue directly through Ben Wooster formerly of Birubi Art (in liquidation) ... the same company found guilty in the Federal Court for false and misleading representations - Fake Aboriginal Art. He was fined because of economic harms impacting Indigenous Australians, but also the social and cultural harms which flowed from businesses misrepresenting the provenance of Indigenous art and artefacts. Not only did they mislead consumers, they caused offence and distress to Australian Aboriginal people. This same Ben Wooster took his business (Birubi Art) in liquidation so as to avoid having to pay the \$2.3m fine imposed which to date has still not been paid and unfortunately cannot be chased for this payment and now re-emerged into Gifts Mate Pty Ltd transferring the Licence for the Aboriginal Flag products originally issued to Birubi Art for the souvenir products (badges - stickers - keyrings - lanyards etc). So this disgraced Business Man (Ben Wooster) who was found guilty of causing offence and distress to Aboriginal People and economic harm impacting Aboriginal People with respect to Aboriginal Art and Culture IN THE FEDERAL COURT OF AUSTRALIA is granted not only 1 licence for the Aboriginal Flag on souvenir products but a 2nd Licence for the Aboriginal Flag on Clothing to his other company WAM Clothing with his business partner Semele Moore and Harold Thomas says that he is a reputable person and continues to advocate this fact even now despite the unethical management by Wooster & Moore which is being brought before the Committee not only by myself but by so many others. It is disgraceful. They were not given custody of the flag to preserve the cultural integrity - they sought and were given WORLD WIDE EXCLUSIVE commercial rights to the Aboriginal Flag to make as much money for Harold Thomas and for Ben Wooster and Semele Moore. **So you ask who benefits from payments for the use of the Aboriginal Flag design and that is HAROLD THOMAS - BEN WOOSTER - SEMELE MOORE of WAM Clothing**

I stood up to support the Fake Art Harms Culture Campaign and particularly focused on Ben Wooster then of Birubi Art (now in liquidation) as they (Birubi Art) operated in Redcliffe QLD, where my business is situated. I had been dealing with Ben Wooster/Birubi Art for a number of years until I became aware of his Fake Art importing Indonesian handpainted timber artifacts (particularly boomerangs - didgeridoos - music sticks - bullroarers etc) as I believed they had been painted by the artist herself here in Australia but was told they are done in Indonesia and said quite matter-of-factly by Wooster that *the Indonesians were better artists of Aboriginal Art than the Aboriginal Artists themselves*. This changed things with us considerably and lead the campaign by us that brought them before the ACCC. We used to also purchase the Aboriginal Flag products from Birubi Art and then as a result of the above he withdrew our Trading Account with him. This was on or about February/2017. I contacted Harold Thomas directly and told him that they were refusing to sell Aboriginal Flag products to an Aboriginal person operating and Aboriginal Art business and was absolutely dismayed and disappointed with Harold as he told me in no uncertain terms that he does not want to speak to me - stop complaining and whining and go away and shut up. He said he had spoken to Ben Wooster (Birubi Art) and is quite happy with his BUSINESS arrangements with Ben and supports Ben's decision to cease all business with me. It is his right to sell his licence to the Aboriginal Flag to whomever he wants and I can't do a thing about it. So what happens next (April 2017) Ben Wooster & Birubi Art issue Defamation proceedings against myself and wife who are joint owners of Dreamtime Kullilla-Art which is still currently in the District Court of Brisbane.

THEN in November 2018, Ben Wooster entered into business with his ex-lawyer's wife (Semele Moore) under the name of WAM Clothing ... as in Wooster and Moore. (side note: Semele Moore is now the ex-wife of the ex-lawyerno guessing why !!! and decided that there is more money to be made from the Aboriginal Flag and sought an Exclusive World-Wide Licence for the Aboriginal Flag on clothing **(refer to attachment "A" [7 pages] being original Copyright Licence Agreement)** We advise that at this time Harold Thomas had already given a Licence to Neil Booth (dec'd) formerly of Gooses T-Shirts then Vaguce T-Shirts which Licence had been held for nearly 20 years. Somehow Wooster & Moore secured this Licence and then started immediately issuing Cease & Desist Notices to Gooses T-Shirts and Vaguce T-Shirts (January 2019). **(refer to attachment "B" [2 pages] being copy of such Cease & Desist Letter to Vaguce T-Shirts)** WAM Clothing were also claiming any artistic variation of the Aboriginal Flag is also being claimed under the same Copyright Act - ie the It's in my DNA design the Aboriginal Flag in the shape of a map - heart - hand - circle and any other derivation or artistic variation.

WAM Clothing immediately appointed an ENFORCEMENT OFFICER - Semele Moore who owns 51% of the business WAM Clothing **(refer to attachment "C" [3 pages] being copy of ASIC Business Search of WAM Clothing Pty Ltd)** who initiated all the Cease & Desist Letters using very intimidating and threatening verbiage especially in legal jargon that she herself was not qualified to use. She has no legal qualifications other than being a Debt Collector but such threatening tactics were being used on many people to attempt to extract Licence Fees and I can refer you to particularly to

- Belinda Booth of Vaguce T-Shirts of Sydney NSW
- Laura Thompson of Clothing the Gap /Spark Health - Victoria
- Renee Tighe - Aboriginal Woman of Sydney NSW

who can all attest to the first hand verbal abuse of Semele Moore in her attempts to exact upon her Licence and extract appropriate Licence Fees. This tactic was not about preserving the cultural integrity of the Aboriginal Flag - it was a pure exercise to extract \$\$\$\$ for WAM Clothing and thereby pay Harold Thomas his royalty fee as well. WIN/WIN for them but not so for Aboriginal People.

Then the Cease & Desist Notices from WAM Clothing were coming in thick and fast targeting the Koori Knockout and Murri Football Carnival and claiming a Licence Fee for the use of the Aboriginal Flag on jerseys - any clothing with the Aboriginal Flag - this Licence fee we were told was 20% + GST. Struddys (Club and School Specialists: Supplying Teamwear, Sporting Equipment, Promo Items) were instructed to charge this fee to all clubs which had the flag. Sporting teams were being stung big time.

Then in June 2019 - the WAM Team of Wooster & Moore decided they wanted to expand their brand and take further hostage or the Aboriginal Flag and sought and was approved a further Licence from Harold Thomas to extend their already World-Wide Exclusive Aboriginal Flag Licence from just clothing to include all Print, Digital and Physical Media **(refer to attachment "D" [6 pages])**. Please refer to Clause 1.2.2 Physical Media and what it includes inter alia.....

- any horizontal or partially horizontal surfaces including
 - naturally occurring or artificial ground - solid dirt; grass; stone; snow; ice etc
- any vertical or partially vertical surfaces including
 - cliff faces; hills; mountains;
- the whole part of
 - atmosphere of earth including sky or the air
 - any building, sporting ground, stadium, arena

This just gave them the rights to go after the BIG DOLLARS and Sporting Bodies such as the NRL; AFL; Rugby Australia; Cricket Australia, Soccer, Netball and all other National Indigenous Sporting bodies that would want to use the Aboriginal Flag. Again this was not to ensure the cultural integrity of the Aboriginal Flag but to extract \$\$\$\$\$ for WAM Clothing and Harold Thomas.

This new amended Licence just gave them a whole new Revenue Stream this Licence was their Cash Cow. They were rubbing their hands together in glee for sure ... another way to exploit Aboriginal Culture and hold the Aboriginal People to ransom.

Remember in the submission by AFL they said that in 2019 the Licence for the Aboriginal Flag on the field belonged to Flagworld but in 2020 that Licence fell to WAM Clothing. Remember WAM amended their Licence to extend to ***any horizontal or partially horizontal surfaces including naturally occurring or artificial ground - solid dirt; grass; stone; snow; ice etc AND also any building, sporting ground, stadium, arena*** which is why in 2020 any Licence Fee had to be paid to WAM Clothing. Interesting !!!

Immediately thereafter on 7th June 2019 (same day the amended Agreement was effected), I was personally sent a Cease & Desist Letter from WAM Clothing **(refer to attachment "E" [1 page])** wherein I was instructed (because of my personal vendetta against Ben Wooster) to cease and desist the use of the Aboriginal Flag on **all** digital or physical media I have access or control of. I am an Aboriginal Man, Aboriginal Artist & Cultural Educator and operate an Aboriginal business and told by a non-indigenous business that I cannot use the Aboriginal Flag. I am not even given the option of entering into a Licence Agreement with them for such use (not that I ever would) but simply refused PERMISSION totally. This was PAYBACK.

As a result of this issue I stood up and took a stand with this and brought this matter to the attention of the Public as I was outraged as to what was happening. I was then sent another letter on behalf of Harold Thomas through WAM Clothing as "authorised Agent" threatening me with Defamation Action if I continue to question his authorship because I asked him (via Social Media) since he would not take any of my calls to him - *where is the original artwork/design that was copyrighted and if can't produce then should rescind all rights and give the flag back to the People where it belongs* - instructed to remove such comments and refrain from any further defamatory statements. This is their intimidation and bullying tactic threaten with Court Action. This was always their *modus operandi* .

THEN in August 2019, Indigenous Wellbeing Centre (IWC), Bundaberg QLD - the Aboriginal Medical Service for Bundaberg - was charged a 20% Licence Fee + GST for having the Aboriginal Flag on their shirts. They have been for some years getting their shirts printed through Struddys Sportswear with the Aboriginal/TSI Flag on their shirts which they provided to their Indigenous and Non-Indigenous community members free of charge. They are a Non-For-Profit Aboriginal Medical Health organisation and innocently thought they were exempt. If you look at the initial Licence Agreement (attachment "A") **Clause 11.3 The Licensee acknowledges that the design may be used by confirmed Aboriginal People**

for any non-profit purpose. Please note that this clause was removed when WAM went back for a revised Licence Agreement in June so unfortunately IWC was charged a Licence Fee and forced to pay \$2200 to WAM Clothing an amount they could ill-afford to pay. WAM did try to negotiate (bribe them) an agreement with them by agreeing to reduce the amount (15% + GST) if they signed a Confidentiality Agreement which fortunately they refused to do - they paid the full amount. It must be noted that Invoices were dated 7/12/18; 17/4/2019 & 23/4/2019 which were all sales made before the revised Licence Agreement dated 7th June 2019 - as per that Licence Agreement - Aboriginal NFP organisations would have been exempted however WAM Clothing chose to pursue them for this fee for the sole purpose of extracting \$\$\$\$ for themselves. Unfortunately as stated IWC agreed to pay 20% and not sign any agreement. Sadly the Aboriginal Flag will not be printed on any more of their shirts. **(refer to attachment "F" [6 pages])**. Legally I believe that WAM Clothing had no grounds on which to claim this money given that the exemption clause was still in effect after these shirts were printed which was even set out in WAM's supposed Confidentiality Agreement (*refer attachment "F"*). It must be noted and understood that WAM Clothing were not providing anything but a Licence Fee. So you ask who benefited from payments for the use of the Aboriginal Flag design - clearly that was WAM Clothing and Harold Thomas directly and who was severely impacted by this this NFP Aboriginal Medical Service and the community members in this high needs area of central Queensland where these shirts are to support Indigenous People into the comprehensive health checks. Even after pleading their case that they were an Aboriginal community-run organisation and registered charity working in a region where 82.6% of the population ranked by the Federal Government social index as "very disadvantaged" or "disadvantaged" this meant nothing to WAM Clothing and they continued their claim of their Licence Fee. This was not about the cultural integrity of the Aboriginal Flag design but to extract \$\$\$\$ for WAM Clothing and Harold Thomas.

THEN in August 2019 a colleague of ours, Renee Tighe (an Aboriginal Woman) and strong advocate of the FREE-the-FLAG campaign and who controls the Facebook Page *New Aboriginal Flag or Flags Discussion Group* was sent a Cease & Desist Letter from WAM Clothing to cease and desist with the use of the Aboriginal Flag on all digital media or physical media which she has control of or access to immediately alleging her conduct of the use of the flag image was in a negative light. **(refer to attachment "G" [1 page])**.

THEN in October 2019 (and I am sure there have been many others who had received Cease & Desist Letters during this time) including Clothing the Gap/Spark Health who you will already have received a submission from) North Stradbroke Island Aboriginal & Islanders Housing Co-op Society received a Cease & Desist Letter from WAM Clothing because they use the Aboriginal Flag in their digital and print media by way of forming part of the Logo and as such offered them PERMISSION TO USE THE ABORIGINAL FLAG if they entered into an annual or 2 yearly month fee agreement. The Board of Directors and membership of the Stradbroke Island Housing Assn were shocked and upset with this and voted not to use the flag if they have to pay a fee. They stated that the Aboriginal Flag is an image of significance to Australian Aboriginal people and a NFP with limited funding and opted to remove all representations of the flag from their print and digital media and logo - they will not pay. The Aboriginal Flag should belong to the people not a FOR PROFIT organisation. **(refer to attachment "H" [11 pages])**. It is abhorrent that WAM Clothing are telling this NFP Aboriginal Organisation responsible for providing housing and support to their Aboriginal members and also Nursing Care to their Aboriginal Elders, they (WAM) can assist them to promote the Aboriginal Flag in a positive light and they have to seek and receive approval for PERMISSION to use the Aboriginal Flag how disgusting is that. You want to know the cost to this Aboriginal Organisation - they had to rebrand - new logo - new uniforms and shirts - new signage - new car wraps which I am guessing was a much cheaper option for them than to have to pay for an annual licence fee for God Knows how many years to use the Aboriginal Flag in their logo and "continue to promote the Aboriginal Flag in a positive light" according to WAM Clothing. How was this Aboriginal Organisation going to financially benefit from the use of this Aboriginal Flag - a design they have been using and promoting positively for many many years 48 years BW (before WAM). This was not about

protecting the cultural integrity of the Aboriginal Flag and Harold Thomas' copyright - it was about extorting \$\$\$\$ for WAM Clothing.

Another issue of concern is the Expression of Interest by WAM Clothing who submitted a proposal to the Unicode Consortium for the emojification of the Australian Aboriginal Flag (to our understanding) which if approved could be a huge financial windfall for WAM Clothing at the expense of the Aboriginal People of Australia and just another example of WAM Clothing trying to extract as much financial gain from the Aboriginal Flag as possible with total disregard to cultural integrity. **Attached with the letter "I" [2 pages] is a copy of our complaint to the Unicode Consortium which was sent in August 2019** WAM are trying all angles to milk the Aboriginal Flag for all it is worth. Cannot see how this can be seen in any other light but pure financial gain for WAM Clothing and Harold Thomas and clearly NOT about preserving the cultural integrity of the Aboriginal Flag design.

Another example of how WAM Clothing are trying to extract \$\$\$\$ from Aboriginal People and further promote their greedy practices is their Application for Funding they issued back in early 2019 in response to the FREE THE FLAG Campaign. This Application is trying to lure unsuspecting Aboriginal organisations into their business lair - note the last question If approved do you consent to WAM Clothing advertising its affiliation with the Program Yes/No ? **Attached and marked with the letter "J" [1 page] is a copy of this Application for Funding.** This a very poor attempt at seeming to be "giving back" to the Aboriginal Community. This is simply taking from Peter to pay Paul and WAM Clothing seemingly looking good beware the Wolf in Sheep's Clothing.

Also we were told first hand that Josh Thomas (the son of Harold Thomas) had contacted Preston Caampbell and his Foundation who was in charge of the Indigenous All Stars Game and berated him for not putting the Aboriginal Flag on the Indigenous Jerseys and Foundation opting to not use the Aboriginal Flag and pay for the use which meant entering into a Licence Agreement with WAM Clothing and paying them a fee for the use. This was very disappointing not to see the Aboriginal Flag especially with the Maori team proudly displaying their flag on their shirts.

I don't believe it is a matter of who benefits from payments that is abundantly clear - it is more like who suffers from them which is more important. Whilst WAM targets Aboriginal NFP and extorts fees from these organisations - this removes much needed \$\$\$\$ from their very limited funding pool which then reduces the organisation's capacity to provide the much needed support and services to their community members both Aboriginal and non-Aboriginal people. I do not see them taking on all those gammon businesses using the Aboriginal Flag on clothing that are not licensed ... in essence they are doing the same thing WAM are doing extorting \$\$\$\$ from Aboriginal People.

WAM Clothing thought they were going to make millions of dollars with their Licences Wooster and Moore were gleefully rubbing their hands together when starting this business. They sure as hell were not doing this to preserve the integrity of the Aboriginal people, their art and culture. Wooster has proved that with respect to Aboriginal Art - remember he was fined \$2.3m in the Federal Court of Australia AND HAS NOT PAID A CENT OF THIS TO DATE because of the economic harm impacting Indigenous Australians he caused, but also the social and cultural harm he caused which flowed from his business misrepresenting the provenance of Indigenous art and artefacts. Not only did he mislead consumers, he caused offence and distress to Australian Aboriginal people. Yet this disgraced non-indigenous business director was given a licence to the Aboriginal Flag by Harold Thomas with his full blessing. They thought they would make \$\$\$\$ from all the sporting codes using the Aboriginal Flag for their Indigenous Rounds and other cultural activities and merchandise. They were trolling the Koori Knockout Football Carnival and the Murri Football Carnival last year trying to rake in the \$\$\$\$ playing on the fact that Aboriginal People love to play with their flag on their sleeve ... this is just so sleazy. Fortunately many of these Sporting Codes have rejected the Licence Fee and have opted to FREE-the-FLAG. Don't forget in the amended Licence Agreement dated 7th June 2019 they included a licence fee to have the flag image on Physical Media and including inter alia.....

- any horizontal or partially horizontal surfaces including
- naturally occurring or artificial ground - **solid dirt; grass**; stone; snow; ice etc
- any vertical or partially vertical surfaces including
- cliff faces; hills; mountains;
- the whole part of
- atmosphere of earth including sky or the air
- any building, **sporting ground, stadium, arena**

this was certainly targeted to gain much financial reward and clearly not to preserve the cultural integrity of the Aboriginal Flag or have any consideration for Aboriginal People.

We have also been told directly from Dean Duncan yesterday - he is the President of the National Indigenous Rugby Program with the Wallabies who said they will NOT be having the flags on the Wallabies jersey when they play the All Blacks, South Africa or Argentina in October/November this year and confirmed their absolute support for the FREE-the-FLAG campaign. Both the Aboriginal and TSI Flags have been removed from all the National Indigenous Schoolboys and Schoolgirls Rugby Jerseys even had them removed from jerseys at the World Schools 7's Tournament in December last year.

Remember that this causes financial hardship to these sporting codes because all the money from the sale of the jerseys go back to support Aboriginal/TSI grassroots Community projects. This funding channel has now evaporated.

What is troubling in all this and going back to the very beginning - the birth of the Aboriginal Flag and that it is noted that Harold Thomas has never produced any artistic works - no one can speak directly to Harold Thomas' authorship of the design to this day. He said that the "drawings" were done about a couple of weeks before the NADOC March in Adelaide 1971. He said he met with Gary Foley at a Bookstore in Rundle Street and showed him several small drawings and the design which is similar to the present day design was the appropriate one to be used. He had this design made up into a cloth flag. On the day of the March he took the flag to the bookstore where he had met Gary Foley but it was too late - Gary Foley was already at the square. Harold Thomas states that he gave the flag to another Aboriginal who started to run the flag to the square and that was one of the proudest moments seeing the flag being run up the street. When he got to Victoria Square he saw Gary Foley up on the platform talking when he noticed the flag and asked Harold Thomas to bring the flag up and Gary Foley held this flag up and stated THIS IS THE NEW ABORIGINAL FLAG. Harold Thomas gave that flag to Gary Foley and GF said he would take this flag to the east coast to let them know about the NEW FLAG - The NEW ABORIGINAL FLAG. Since then and to this very date Aboriginal People have driven that flag's value they have marched for it - they have fought and died for it - they have been incarcerated for it and they have been recognised for it and can be strongly argued that the Aboriginal people have an IMPLIED LICENCE to this Flag who flew the flag strongly since 1971 not Harold Thomas. He may have supplied the vessel but it was the Aboriginal People who have driven it for nearly 49 years giving IMPLIED LICENCE to the Aboriginal People. This Aboriginal Flag design was always and only a material flag which he had made up and given to the Aboriginal People for the Aboriginal Rights movement and all Aboriginal campaigns since then. The Australian Flag and TSI Flag designs were born out of a competition for the express use as a National Flag of its People. I argue that Thomas was effectively commissioned by Gary Foley (campaigning on behalf of the Aboriginal People) when they met in 1971 discussing the Black Power and Aboriginal Rights campaign to come up with a unifying design for the Aboriginal People and Thomas presented him a Flag .. this flag that we see today.

Harold Thomas's claim to the Aboriginal Flag was never about the cultural integrity and the preservation of the Flag - he was driven for the financial reward it could potentially bring. Harold Thomas states that he was not happy with the Government using the Aboriginal Flag for its own purposes as well as others particularly non-Aboriginal people which is why he sought not only authorship but filed an application for Declaratory Relief meaning he wanted ownership of the flag as well. The Government was prepared to recognise Harold Thomas as the author of the Aboriginal Flag as well as Bernard Nomak who was the

designer of the Torres Strait Islander Flag in 1995 when both the Aboriginal and Torres Strait Islander Flag were proclaimed National Flags of Australia alongside the Australian Flag which recognised Aboriginal & Torres Strait Islander Peoples of Australia . Unlike Harold Thomas, Bernard Nomak gifted this TSI flag design to the Torres Strait Islander People and is freely available to all Peoples of Australia. Harold Thomas went to Federal Court and in April 1997 he was awarded ownership of the Aboriginal Flag design but in my opinion he won this virtually by defaulthe did a “Bradbury” he did not win, the other two contenders failed to prove their claim and sadly the Aboriginal People of Australia have been paying Harold Thomas a royalty fee since 1998 when he gave Carroll and Richardson Flagworld a World-Wide Exclusive Licence to produce the Aboriginal Flag. Again it must be re-iterated that Harold Thomas has never to this day produced evidence of his artwork - it is like not having the murder weapon at a murder hearing. It is vital evidence conveniently missing. Thomas only had rough sketches (if that) there were no artworks produced - he had discussions with Gary Foley about what would work and then he had it made up into a cloth flag and brought it to the NADOC March in Victoria Square and flown as the New Aboriginal Flag.

Harold Thomas gave a Radio Interview in August 2019 wherein he stated that he created the flag for the unification of his People and then in the same breath contradicts himself by saying that no one had ever come forward to suggest that the Flag belonged to the Aboriginal People. He also stated in this interview that he had conceptualised this design all by himself ... this design as it is now was not influenced by anything or anyone but he alone which many would argue otherwise especially in view of certain other influences which were uncovered such as this Artwork by Jorge R Camacho Lazo **(see attachment “K” [1 page])** which was done in 1967. Jorge was considered a European Master and according to Harold Thomas he studied especially European paintings of Old Masters to learn the techniques of creating mood, drama and emotion with paint. Just look at this painting and what do you see in the window on the left of the artwork??? Interesting. Hard to believe that Harold Thomas was not influenced by this design when “conceptualising” his Aboriginal Flag design in 1971 which required creating mood, drama and emotion given it was for the Aboriginal People and their fight for Aboriginal Rights. Also take a look at the Flag for Tamil Nadu does it look familiar? **(see attachment “L”[1 page])** This flag was created back in 1950 and it is suggested that Thomas looked for inspiration of Political struggles just like the Aboriginal Rights Movement and Black Power so given just these it is hard to believe that the Aboriginal Flag design was conceptualised by Harold Thomas alone. He has inspiration alright.

Also during this Interview with CAAMA in August 2019 - Harold Thomas was full of contradictions with respect to the Aboriginal Flag design. On one hand he said he created the flag to the unification of the Aboriginal People and then he said he was his Family’s Dreaming and that no one had ever come forward to suggest that the Flag belonged to the Aboriginal People.

Harold Thomas has been receiving royalties from the Flag since 1997/1998. He was also paid a sum of \$200,000 by ATSIC in or about December 2001 not to mention a remuneration by the Government and ATSIC prior to this for prior use of the Aboriginal Flag to 1998. Then royalties from sales of Flags from Carroll & Richardson and Gooses T-Shirts since 1998. Souvenir Products from Birubi Art/Gifts Mate since 2005 and WAM Clothing since 2018/19 so he has been paid adequately to date more than he deserves. It is abhorrent given what WAM Clothing have been doing. Personally I believe that Harold Thomas has been well compensated for his contribution to the Aboriginal Flag to date and don’t believe that he deserves any further consideration for his “copyright”.

WAM Clothing did not “WIN” the Licence to the Aboriginal Flag - there was no selection process they went to Harold Thomas themselves they approached him and stole the Clothing Licence away from Neil Booth (dec’d) formerly of Gooses T-Shirt and then Vaguce T-Shirts who had a respectable Licence with Harold Thomas for more than 20 years who always printed the shirts in Sydney Australia. THEN they took the Licence one step further remember Semele Moore is nothing more than a Debt Collector (if you can call that a profession - that was her business - Moore Debt ... ha ha just what you want Moore Debt) ... she along with Wooster approached Harold Thomas and said ... *hey you are missing out on so*

much royalties ... we will act as your Agent to collect these royalties on your behalf and make lots of money and had Harold Thomas sign a further amended Licence Agreement for not only clothing but for all print - digital and physical media. You notice that this also includes **the atmosphere of earth including sky or the air** - that is how far they extended this Licence and you can only come to one conclusion - pure and utter greed. In my opinion I believe that both Licences with WAM Clothing particularly should be subject to legal scrutiny - especially the latest Licence dated 7th June 2019 which in my opinion was only hashed together by Semele Moore herself - a person with no legal expertise and doubt Thomas had this checked by his own legal advisor. The very day this Licence was signed (ie 7th June 2019) I was immediately set upon with a Cease & Desist Letter. I am not allowed to use the Aboriginal Flag digitally whatsoever - I am threatened as is everyone else with legal action. As previously stated this is their *modus operandi* - cease and desist or legal action or pay up - real ethical behaviour. I am accused of portraying the Aboriginal Flag in a negative light and therefore not permitted use. What a joke. This Flag issue we are now faced with only became a real issue when WAM Clothing (Semele Moore) became involved back in November 2018 and literally took hostage of this flag and put a ransom on it. They do not deserve this Licence - their so-called community actions are just a smokescreen for what they are doing behind the scenes.

If Harold Thomas is too greedy *this is not about "his so called copyright"* not to give this flag back to the Aboriginal people then this Flag is not the Flag for the Aboriginal People and not a flag I would like to stand under. Aboriginal people are not interested in wearing a gammon badge or sticker or lanyard or any other stuff they want to wear their flag on their sleeve - on their chest and fly it above their heads - wear it loud and proud. Their blood ... my blood is in that flag - not Harold Thomas or Ben Wooster or Semele Moore.

I personally am not happy with the Government or the NIAA negotiating with Harold Thomas and WAM about this flag ... all too little too late. They should have had this conversation back in 1995/1997 so we would not be in the situation now. Quite simply if Harold Thomas is not wanting to return the Aboriginal Flag to the People then clearly this Flag is not the Flag for the Aboriginal People. This flag then does not deserve our blood, sweat and tears and time for a new flag.

Attached and marked with the letter "M" [7 pages] is a copy of our Aboriginal Flag Copyright Timeline). This Timeline gives you a history and a guided pathway which leads us to today. Now we have to figure out where we go from here.

FREE-the-FLAG

List of Persons I am aware that have been sent Cease & Desist Letters - besides myself

- Laura Thompson - Clothing the Gap/Spark Health - Melbourne VIC
- Stephen Hogarth (Aboriginal Artist) - Hogarth Art - Brisbane QLD
(refer to attachment "N"[3 pages])
- Neil/Belinda Booth - Vaguce T-Shirts - Sydney NSW
- Gooses T-Shirts - Sydney NSW
- Renee Tighe (Aboriginal Woman) - Sydney NSW
- IWC Bundaberg - Aboriginal Medical Service - Bundaberg QLD
- North Stradbroke Island Aboriginal & Islanders Housing Co-op Society - Stradbroke Is QLD
- Ngurrbul Baadhin Clothing - Kurri Kurri NSW

Thank you for allowing me to make this submission
Michael Connolly

Michael J Connolly



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