



Committee	Parliamentary Joint Committee on Corporations and Financial Services
Inquiry	Oversight of ASIC, the Takeovers Panel and the Corporations Legislation
Question No.	045
Topic	PwC - Peter van Dongen, Wayne Plummer and Tom Seymour
Reference	Spoken, 20 October 2023, Hansard page 55
Committee member	Senator Barbara Pocock

Question

Senator BARBARA POCOCK: Thank you. Eight years. Can I then go to Mr Peter van Dongen, Mr Wayne Plummer and Mr Tom Seymour, who were given notice under the same terms—'for similar reasons', to use the language of PwC.

Ms Court: The only one of those that I have information about in front of me is Mr Tom Seymour. He is also a former director of a number of PwC companies, including—and this is a different company—PriceWaterhouseCoopers ASEANZ Consulting Pty Ltd. He ceased his involvement in those companies—all of them—on 18 May of this year. I can make the same inquiries as I have undertaken to do with Mr Calleja.

Senator BARBARA POCOCK: Did the same delegate look at Mr Calleja, Mr Seymour and Mr Collins?

Ms Court: No. Again, to take a step back, it is a very different process for an investigation in relation to a potential breach of the director's duties under the Corporations Law. The investigation taken in relation to Mr Collins was an administrative matter that was referred to a delegate, in relation to a potential breach of director's duties. That would usually be a longer set of inquiries. A series of legal tests would need to be met for ASIC to take action in relation to those. Each one of those four categories involves a slightly different investigation process on ASIC's behalf. Mr Seymour and Mr Calleja both fall into the potential director's duties contraventions, as opposed to the authorised representative issue we were looking at, and the fit-and-proper person test we were looking at in relation to Mr Collins.

Senator BARBARA POCOCK: Many Australians out there know much more about these matters than perhaps they ever thought they would. They are certainly paying attention; they are interested. They want to know whether correct consequences flow to the right people. What you are putting to me needs explanation, in my view. I look forward to detailed explanation as to why different outcomes have occurred. I thank you for your explanations, but I look forward to seeing them in writing.

Answer

The question was answered by ASIC's Deputy Chair, Sarah Court at the Senate Economics Legislation Committee, Supplementary Budget Estimates on 26 October 2023 as follows:

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Ms Court: We have undertaken extensive inquiries within ASIC in relation to the full suite of potential contraventions of our laws that may have been engaged in by PwC corporate entities and the individuals within PwC. We became aware of the extent of the confidentiality breaches, along with many others, in May this year, and we've engaged extensively with the Tax Practitioners Board since that time. We have received the information in relation to Mr Collins in particular that we talked about last week, and we have moved quickly to refer that matter to a delegate, and the delegate has dealt with that, as we spoke about last week.

You also last week, Senator, referred me to a number of other individuals that PwC has publicly identified as having exited the PwC partnership. I think I undertook to come back to you in relation to them. I do have that information here if you would like me to go through it, or I'm happy to give that to you on notice. What would you like me to do, Senator?

CHAIR: If you've got time—

Senator BARBARA POCOCK: Could you summarise it?

Ms Court: I could summarise it.

Senator BARBARA POCOCK: Rather than read a long document, take us to the headlines.

Ms Court: I can summarise it and then we can provide any further information that would be of assistance. As you referred me to last week, Senator, in July this year PwC made public announcements about the exit of a number of its partners. Four of those people were identified by PwC as having been involved in the confidentiality breaches, the core of the issue that we have been examining. They were Mr Bersten, Mr Collins, Mr Fuller and Mr McNab. We've dealt with Mr Collins, as I've already indicated. We do not have any jurisdiction with those other three individuals. I have put them in one bucket and parked that.

The next suite of people identified by PwC as having exited were because their actions failed to meet their professional responsibilities. It was put on that broad level. Those gentlemen are Mr Konidaris, Mr Moussa and Mr Gregg. I can confirm for you that none of those three individuals effectively trigger ASIC's jurisdiction.

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They're not registered liquidators, they're not registered company auditors and they've never been an authorised representative of a PwC licence holder, so we are not doing anything in relation to those three individuals.

The next category of individuals was another five gentlemen who exited the partnership. It was described as being for the reasons of failing to adequately exercise their expected leadership or governance responsibilities to address the culture or deficiencies at the firm or to hold others accountable for their behaviours. They are Mr Callega, Mr Gregory, Mr van Dongen, Mr Plummer and Mr Seymour. I think they were the names, Senator, you gave me last week. Mr van Dongen was a registered company auditor until 30 August this year. Our jurisdiction only extends to taking action against a registered company auditor while that person remains registered. Now that Mr van Dongen is no longer registered, we do not have any jurisdiction to take action in relation to him. Mr Plummer and Mr Gregory were both formerly authorised representatives of the PwC licence holder. They are in the same category, if you like, as Mr Collins. We are engaging with the Tax Practitioners Board in relation to any findings that board makes regarding those two gentlemen. We are working closely with them. In the event that the Tax Practitioners Board ascertains any similar issues, of course we will get involved.

Senator BARBARA POCOCK: That's Mr Plummer and Mr Gregory?

Ms Court: Mr Plummer and Mr Gregory—that's right. It is Mr Wayne Plummer. Mr Gregory, Mr Seymour and Mr Callega are all former directors of various PwC companies. We have considered that issue because we do have jurisdiction to take action, speaking broadly, against directors of companies where those directors have breached their directors duties. Those duties are owed by the director to the company to which they are appointed. Those three gentlemen held dual roles as both directors of those service companies as well as being PwC Australia partners. If we are assuming that the conduct we're concerned about relates to the breach of confidentiality, that occurs in the context of their work as partners in the PwC Australia partnership. In our early assessment, that conduct is very unlikely to amount to a breach of the duties owed by that person to the particular PwC service company. There is a difference there.

Senator BARBARA POCOCK: Just summarise where you are on those last three. Are you saying you do not expect to make findings? Is that what you are saying?

Ms Court: Yes, that is what I am saying. I am saying that we are continuing to look at these issues, but we think it's unlikely that there will have been a breach of directors duties that we can prove relevant to their directorships with those PwC service companies.

Senator BARBARA POCOCK: You will be disappointed to learn that there are, of course, a range of other named figures out there who have left PwC. I wonder whether you could tell us whether you intend to—I ask that you would—examine people I did not go to, because I was caught with only this list in front of me.

Ms Court: Indeed.

Senator BARBARA POCOCK: Will you further examine other people who have left PwC? Is that your intention?

Ms Court: Yes. As I said, we are very aware of the interest and understandable concern about this range of issues. We are continuing to liaise with other agencies. Certainly we are continuing to look at that full suite of action, Senator. We are very happy to continue to keep the committee advised.