

The Senate

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Committee of Privileges

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Person referred to in the Senate

Mr Ian Lazar

148th Report

October 2011

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# Report

1.1 On 30 September 2011 the President of the Senate, Senator the Honourable John Hogg, received a submission from Mr Ian Lazar seeking redress under the resolution of the Senate of 25 February 1988 relating to the protection of persons referred to in the Senate (Privilege Resolution 5).

1.2 The submission referred to comments made by Senator Williams during the matters of public interest discussion in the Senate on 21 September 2011. The President accepted the submission as a submission for the purposes of the resolution and referred it to the Committee of Privileges.

1.3 The committee met in private session on 13 October 2011 and, pursuant to paragraph (3) of Privilege Resolution 5, decided to consider the submission. The committee resolved to recommend that the response be incorporated in Hansard without change. In considering the submission, the committee did not find it necessary to confer with the person making the submission or with the senator concerned.

1.4 The committee draws attention to paragraph 5(6) of the resolution which requires that, in considering a submission under this resolution and reporting to the Senate, the committee shall not consider or judge the truth of any statements made in the Senate or of the submission.

1.5 The committee **recommends:**

That a response by Mr Ian Lazar, in the terms specified in the Appendix, be incorporated in *Hansard*.

Senator David Johnston  
**Chair**



# **Appendix**

## **Response by Mr Ian Lazar**

### **Pursuant to Resolution 5(7)(b) of the Senate of 25 February 1988**

#### **Reply to comments by Senator John Williams in the Senate**

**(21 September 2011)**

On 21 September 2011, I was defamed in the Senate under parliamentary privilege by Senator Williams. As I have no other avenue to refute these allegations, I seek to respond in writing and to have my response incorporated into Hansard.

The implication in Senator Williams' allegations is that I am involved in ripping people off, "laundering money, taking people's life savings and leaving them homeless and in dire financial straits". He also makes certain very specific allegations of wrongdoing. In short, Senator Williams is in effect alleging that I am involved in unlawful white collar criminal activity, a charge which I vigorously deny.

I am aged some forty years, and have never been convicted of any criminal offence. Neither am I facing any charges of having committed any criminal offence, nor to the best of my knowledge am I being investigated for any alleged wrongdoing.

I am engaged in the business of acquiring and dealing in defaulting mortgage securities; a lawful occupation. The owners of property over which I purchase defaulting securities are inevitably in a state of financial distress at the time I acquire such securities. Such financial distress is caused by business decisions that they have made long before coming into contact with me.

In answer to some of the Senator's specific allegations, I say as follows:-

1. As to John Nicoll:-

- (a) Mr Nicoll was a pool cleaner who inherited a sum of money.
- (b) Prior to meeting me, Mr Nicoll put a large portion of his money into failed investment schemes.
- (c) Mr Nicoll approached and met the Nauruans, with whom he invested, directly.
- (d) I was subsequently engaged to manage the recovery of the bad loans.
- (e) I was involved in a mediation process before Sir Laurence Street. At that mediation the borrowers offered to settle the matter for \$2M. I was the only one who held out against such offer, with the result that the amount finally recovered was \$8M.
- (f) Some parties to the transaction recovered money in priority to others. This was by operation of law, and not as a result of any misdeeds by me. The simple fact was that some parties held independent specific securities over certain assets, and therefore recovered ahead of unsecured investments. I reiterate, I was not involved in the making of the bad investments. My involvement was in trying to recover monies on behalf of investors.

- (g) As to the allegation that ASIC found that BACF was running a managed investment scheme, this is not true. ASIC did not make such a finding. Indeed, the court appointed an independent auditor who found there was no scheme operating.
- (h) It is alleged that the BA group of companies was my group; that is not true. The BA group of companies consisted of a number of companies of which only two (Business Australia Capital Finance Pty Ltd and Business Australia Capital Mortgage Pty Ltd) were companies in which I had any interest.
- (i) As part of the overall settlement and prior of the liquidation process of entities of which I had direct involvement in, I ensured that all legitimate creditors were paid. The ASIC RATA (and an independent auditor) confirms the same. To date, the creditor claims made initially still remain unproven.

2. As to David Nicholson:-

- (a) As to the allegation that "David and his wife invested \$100,000 with Ian Lazar", I say that such allegation is false. Mr Nicholson and his wife lent \$100,000 to a private company which owned a pub in Yass. Two months after the Nicholsons made such loan, the borrower went into default. My company Business Australia Capital Finance Pty Ltd was engaged to manage the recovery of such loans. Prior to that occurring, I had not met either Mr Nicholson or his wife. The company to which the Nicholsons lent money, to the best of my recollection, went into administration. The moneys were subsequently seized by the administrator of the borrower and the administrator's lawyers. Neither I nor any company in which I held an equitable interest, received any part of the \$100,000 that was recovered.
- (b) As to the allegation that "Steven Brown of Etienne Lawyers arranged with his client Ian Lazar to take David's money in fees owed in other matters", I say that I made no such arrangement with Steven Brown or his firm. I further say that Mr Nicholson has previously made this complaint to the Legal Services Commissioner. The gist of such complaint was that Etienne Lawyers, not me, had misappropriated the money. At Mr Nicholson's request I supplied him with a statement to assist him with his claim to the Legal Services Commissioner. I understand that the Legal Services Commissioner has not yet finalised his investigation into the matter.

3. As to Kevin Jacobsen:

- (a) Senator Williams alleges that "Since the time Kevin Jacobsen first met Lazar, which was less than one year ago, he has lost all his businesses and had all his trading companies placed in liquidation". I admit that is true, but what Senator Williams did not disclose was as follows:-
  - i. Kevin Jacobsen had been in extended litigation over many years with his brother, Colin Jacobsen (better known as "Col Joye"), and companies owned by Colin Jacobsen. He was ultimately not successful in that litigation, and had orders including orders for costs, made against him. Such costs orders were in favour not only of his brother, but also in favour of his own lawyers.
  - ii. Both Kevin Jacobsen and his wife declared themselves bankrupt because of their inability to meet such costs orders.
  - iii. Kevin Jacobsen and his wife currently face eviction from their home (which stands in Mrs Jacobsen's name) because of their failure to meet their mortgage obligations to their bank.
  - iv. Kevin Jacobsen has placed his own company, Kevin Jacobsen Pty Ltd, into liquidation.
  - v. My association with Mr Jacobsen occurred when he was already in a state of extreme financial distress and he sought assistance from me to



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stop standover man, Jim Byrnes, from doing a sweetheart deal with the Sydney Harbour Foreshores Authority in respect of a dispute between one of Jacobsen's companies and the Sydney Harbour Foreshores Authority. I successfully case managed the litigation and substantially contributed funds for over two years which resulted in a successful outcome in favour of Mr Jacobsen's company.

- vi. I have yet to be paid the monies that are owed to me by Mr Jacobsen and for that reason, I appointed receivers over his company. That is what one does when one is owed money in corporate Australia.
- (b) Senator Williams has alleged that I stole Mr Jacobsen's car. I deny this and say the relevant facts are as follows:-
- i. One of Mr Jacobsen's companies, Kevin Jacobsen Pty Ltd, acquired a Lexus motor vehicle on hire purchase from Lexus Finance. His company was in default of hire purchase payments concerning the car to the tune of approximately \$12,000. Mr Jacobsen was concerned that because his wife had guaranteed the hire purchase contract herself, that she would be sued for the arrears.
  - ii. At Mr Jacobsen's request, one of my companies paid off the \$12,000.00 arrears on his behalf.
  - iii. At Mr Jacobsen's request, a motor vehicle dealer attempted to market the vehicle.
  - iv. At Mr Jacobsen's request, the motor vehicle was ultimately delivered to one of Mr Jacobsen's co-directors at Kevin Jacobsen Pty Ltd.
  - v. Mr Jacobsen subsequently threatened me that unless I gave him certain financial benefits, he would use his connections in the NSW Police Force to allege that I had stolen the car. Eventually, he made good of this threat and reported me to the Police.
  - vi. I fully co-operated with the Police and through my solicitor, advised them of what had transpired in relation to the car.
  - vii. The Police fully investigated the matter. Their investigation did not result in me being charged with any offence.
  - viii. To the best of my knowledge, Mr Jacobsen's co-director still has the car.
- (c) Senator Williams has alleged that I fraudulently charged \$84,000.00 to Mr Jacobsen's Amex Card. I say as follows:-
- i. Mr Jacobsen was engaged in Federal Court proceedings seeking to remove a liquidator who had been appointed to one of Mr Jacobsen's companies, Arena Management Pty Ltd.
  - ii. Mr Jacobsen was unable to meet the legal costs of such proceedings and sought my help to do so.
  - iii. Mr Jacobsen made a payment as part payment through his wife's credit card towards his legal costs.
  - iv. Mr Jacobsen was an authorised signatory on his wife's credit card account.
  - v. All documentation relating to that credit card payment was signed by Mr Jacobsen.
  - vi. The totality of the transaction is evidenced in an exchange of e-mails between my office and Mr and Mrs Jacobsen.

I am happy to co-operate with any investigation conducted by the Police, the Parliament, a Royal Commission or any other properly appointed regulatory authority; I have nothing to hide.

I am, however, disappointed in the extreme that Senator Williams has chosen to grandstand by airing these complaints under parliamentary privilege before passing them to the AFP. If he thought I had been involved in wrongdoing, he should have simply referred the matter to the Police and thereby given me an opportunity to answer any questions the Police may have had of me. Procedural fairness would have been served.

As it is, Senator Williams' grandstanding has enabled the allegations which he aired under the protection of parliamentary privilege, to be rebroadcast by virtually every major newspaper in the country in circumstances where I do not get a proper right of reply or get an opportunity to bring court action to vindicate my name.

The result of Senator Williams' abuse of parliamentary privilege has been to cause severe and ongoing damage to my business, against which I have no recourse. I note that as an employer I have responsibilities to my employees, who rely on the ongoing viability of my business for their wages.

I do not have a problem with the concept of parliamentary privilege. Responsibly used, it ensures political debate is not stifled. Senator Williams has not used it responsibly; as a matter of last resort after all other proper investigations have occurred. He has used it (before referring the matter to Police for investigation) to grandstand for his own purposes, regardless of the damage done to the livelihood of me and the employees for whom I am responsible.

I am told that Senator Williams was given the information about my alleged business dealings by National Party figures in Queensland who had in turn been supplied them by Mark Mclvor of Equititrust Ltd. I am currently engaged in long running litigation with Equititrust. Both Equititrust and Mark Mclvor face an existential threat from such litigation. Mr Mclvor has adopted the strategy of raking up disaffected persons with whom I have done business and then having Senator Williams do his dirty work for him under the cover of parliamentary privilege.

I note that standover man Jim Byrnes boasts that Mclvor was the best man at his wedding. I also note that Byrnes was a multi- million dollar borrower from Equititrust.

If after reading this, Senator Williams still has the courage of his convictions, perhaps he could walk the few metres from his office to the steps outside parliament, and repeat his allegations. I challenge him to do so, then they could be tested on the level playing field that our courts afford, and both he and I can risk our respective houses on the outcome. If he no longer has the courage of his convictions, perhaps he could promptly give me an apology in the same forum in which he defamed me.

I won't be holding my breath for him to do either.