

22 July 2014

BY EMAIL:

The Hon. Justice Iain Ross AO
President
Fair Work Commission

Dear Iain

I acknowledge receipt of your letter of 7 July 2014 and refer to our telephone conversation of 14 July 2014 in which we discussed that letter. You very kindly allowed me further time to weigh my response. I feel I should here express my appreciation of your friendship and help since I was appointed to the Tribunal back in 2002.

I can say that on 20 June 2014 I acted in good conscience believing that the brief action I took was not contrary any ethical duty arising from my Office. I am gratified that you accept that I acted in good faith in respect of the brief, unwanted and extraordinary events of that day.

I certainly do not expect such a circumstance to arise again and I will be taking care to ensure that it doesn't. So, in relation to this matter, I give you the assurance you seek, confident that I will never again be confronted by such exceptional circumstances.

You go on to raise two other matters in your letter relating them to my accurate statement that I had "ceased to have any official responsibility for AIRC or Fair Work Commission matters involving your partner, the HSU or the health industry, long before there was any controversy surrounding the HSU".

The first concerns my attendance at the work place during sick leave. It seems that my few brief attendances at 80 William Street during my sick leave have caught the eye of one or more of the small minded and ill disposed Members who have carried the tittle-tattle to you. I point out that my sick leave is stress related: I am not physically incapacitated or confined to my home. I did not see any prohibition on parking my car at 80 William Street, utilising my my car park entitlement, to, for example, deliver a delayed decision, or to attend a medical appointment in the City or to retrieve something from my office or to pay a social visit to a colleague. However, I respect your request and thus, save for some legitimate purpose, I will not attend the workplace whilst on sick leave.

Flowing from this, there is the second, and speculative, matter, namely that I "might have used Commission facilities and resources in assisting your partner to prepare for proceedings". If true that would represent serious misconduct. As I said during our telephone conversation on 14 July 2014 I vigorously reject any suggestion that I have utilised Commission facilities and/or resources in an improper manner and contrary to my entitlement and accepted custom and practice. I believe you accepted my assurance (just as you had accepted my explanation and assurance in relation to the identical issue in a telephone conversation at the end of May 2014). Any suggestion by a Member, whomever they might be, that I have done so, or might have done so, can only be motivated by stupidity or malice. I note that you volunteered your own view that there is malice behind these, to me anonymous, speculations.

So I have no difficulty in giving you the confirmation you seek. I think it is risible that I should be asked to do so.

In this context I record that I have been subjected to bullying, harassment and intimidation within FWC. I have sought to ignore the flow of malicious tittle-tattle and accusation which commenced shortly after my partner 'blew the whistle' on serious corruption (since proven) in the HSU. In totality this has, as you acknowledge, had a major adverse impact on my mental health. Sadly this in turn, on expert medical advice, has occasioned my sick leave. But I look forward to early recovery and a resumption of my fruitful work as a Member of the Tribunal.

With kind regards and every good wish

Michael