



Australian Government

Department of Defence
Corporate Services &
Infrastructure Group

Defence Legal

HDL/OUT/95081/2005

Dr Kathleen Dermody
Secretary
Senate Legislation Committee on Foreign Affairs,
Defence and Trade
Department of the Senate
Parliament House
CANBERRA ACT 2600



Dear Dr Dermody

I write to clarify evidence that I gave at the Senate Foreign Affairs, Defence and Trade Legislation Committee Budget estimates hearing on 31 May 2005. During the course of the hearings, in relying on material that was available to me at that time, I advised the Committee of a number of matters that I now know to be incorrect.

In relation to the matter of the Western Australia Medical Board and Dr McKenzie, Defence has in fact paid a total amount of \$384,320.86 for legal and related costs associated with Dr McKenzie. The information I provided previously reflected amounts paid to the Perth office of Phillips Fox but I have since learnt that further amounts were paid to the Melbourne office of Phillips Fox and these had not previously been identified as related costs.

The relevant delegation exercised to pay Dr McKenzie's legal fees is a delegation of the Secretary's powers under the *Financial Management and Accountability Act 1997*. The payments were made in accordance with the 'Directions on Assistance to Commonwealth Employees for Legal Proceedings' set out at Appendix E to the Legal Services Directions.

Further, a total of 28 invoices, rather than 22 as indicated at the hearing, were rendered in this matter. Internal Defence Legal procedure is for an officer to sign invoices to authorise that they are true and correct for payment, and for a different officer then to sign the proposal/liability approval. As at the date of this letter 3 of these invoices have not been able to be located for checking. Of the remaining 25,

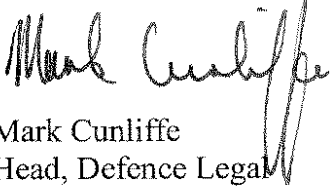
- two have been signed by an individual who did not have the appropriate proposal/liability delegation;
- two have been signed by the same individual for both certification and proposal/liability;
- one does not display evidence of a proposal/liability signature; and

- all but one of the available invoices were approved and signed by individuals within the same Directorate and thus within the same area of accountability as the individual who signed in the first instance. This is contrary to the information which I previously provided.

At page 91 Senator Faulkner asked whether the \$60,000 paid for the West Australian Medical Board of Inquiry's legal costs was paid out of the same allocation as the amount listed above – the Legal and Compensation Portfolio allocation. I can confirm that it was.

I apologise for the erroneous information that I previously provided and for any misunderstanding caused.

Yours sincerely,



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