

**IN THE FEDERAL COURT OF AUSTRALIA (FCA)
NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA
FAIR WORK DIVISION**
No: NSD580/2012

NOTICE OF FILING

This document was filed electronically in the FEDERAL COURT OF AUSTRALIA (FCA) on 8/06/2012.

DETAILS OF FILING

Document Lodged: Affidavit - Form 59 - Rule 29.02(1)
File Number: NSD580/2012
File Title: James Hunter Ashby v Commonwealth of Australia & Anor
District Registry: NEW SOUTH WALES REGISTRY - FEDERAL COURT OF AUSTRALIA



Date: 12/06/2012

Registrar

Warwick Soden

Note

This Notice forms part of the document and contains information that might otherwise appear elsewhere in the document. The Notice must be included in the document served on each party to the proceeding.



Form 59
Rule 29.02(1)

AFFIDAVIT

FEDERAL COURT OF AUSTRALIA
DISTRICT REGISTRY: NEW SOUTH WALES
DIVISION: FAIR WORK

NO NSD 580 OF 2012

JAMES HUNTER ASHBY

Applicant

THE COMMONWEALTH OF AUSTRALIA
and another named in the Schedule
Respondents

Affidavit of: Catherine Heather Mann

Address: 50 Blackall St, Barton, Australian Capital Territory 2600

Occupation: Lawyer

Date sworn or affirmed: 8 June 2012

Contents:

Document Number	Details	Paragraph(s) of affidavit referring to annexure(s)	Page
1.	Affidavit of Catherine Heather Mann in support of an application for production, affirmed on 8 June 2012.		1
2.	Annexure CM-1 being email from Harmers Workplace Lawyers to the Australian Government Solicitor (AGS) dated 28 May 2012, with attached letter dated 28 May 2012 and affidavit of Michael Harmer.	3, 4	5
3.	Annexure CM-2 being letter from AGS to Harmers Workplace Lawyers dated 1 June 2012.	5	57
4.	Annexure CM-3 being letter from Harmers Workplace Lawyers to AGS dated 4 June 2012.	6	59
5.	Annexure CM-4 being letter from AGS to Harmers Workplace Lawyers dated 5 June 2012.	7	61

Filed on behalf of the First Respondent, The Commonwealth of Australia

File ref: 12026851

Prepared by: Catherine Mann

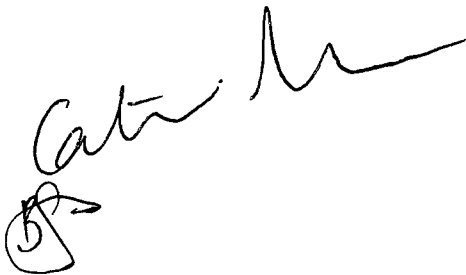
Australian Government Solicitor.

Address for Service:
Australian Government Solicitor,
50 Blackall Street, Barton, ACT 2600
sarah.wright@ags.gov.au

Telephone: 02 6253 7630
Lawyer's Email: sarah.wright@ags.gov.au
Facsimile: 02 6253 7381
DX5678 Canberra

I, Catherine Heather Mann of 50 Blackall St, Barton in the Australian Capital Territory, lawyer, affirm:

1. I am a solicitor employed by the Australian Government Solicitor (AGS). I have carriage of this matter on behalf of the First Respondent.
2. On 18 May 2012 the Court made the following order:
 4. The Applicant serve any further particulars of the Statement of Claim on or before 28 May 2012, together with the documents referred to on page 14 of the Originating Application filed on 20 April 2012 save for documents subject to a claim for privilege, which claim is to be supported by an affidavit served at the same time.
3. After close of business on 28 May 2012 the Applicant's solicitors emailed to AGS a letter dated 28 May 2012 which attached, relevantly, an affidavit of Michael Harmer affirmed on 28 May 2012. The version of Mr Harmer's affidavit served on the first respondent annexed a redacted copy of an affidavit sworn by the applicant on 13 April 2012. Mr Harmer deposed that the redacted parts of the affidavit were the subject of a claim for advice legal professional privilege and/or litigation privilege.
4. Annexed to this affidavit and marked CM-1 is a copy of the email dated 28 May 2012, with the attached letter dated 28 May 2012 and affidavit of Mr Harmer.
5. On 1 June 2012 Sarah Wright, a solicitor employed by AGS, wrote to the Applicant's solicitors seeking an unredacted copy of the Applicant's affidavit. Annexed to this affidavit and marked CM-2 is a copy of this letter.
6. On 4 June 2012 the Applicant's solicitors wrote to AGS and sought the basis on which the First Respondent considered it was entitled to an unredacted version of the Applicant's affidavit. Annexed to this affidavit and marked CM-3 is a copy of this letter.
7. On 5 June 2012 Ms Wright wrote the Applicant's solicitors with a response. Annexed to this affidavit and marked CM-4 is a copy of this letter.
8. A copy of the unredacted affidavit has not been served on AGS.

A handwritten signature in black ink, appearing to read 'Catherine Mann', with a stylized flourish at the end.

Affirmed by the deponent

at Canberra

Cathy M

on 8 June 2012

Before me:

Signature of witness:

Belinda Jenhouse

Name of witness:

Belinda Jenhouse

Qualification of witness:

lawyer

Schedule

**FEDERAL COURT OF AUSTRALIA
DISTRICT REGISTRY: NEW SOUTH WALES
DIVISION: FAIR WORK**

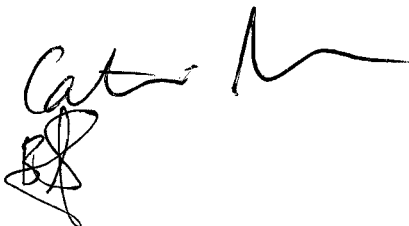
NO NSD 580 OF 2012

Respondents

Second Respondent

Peter Slipper

Date: 8 June 2012

A handwritten signature in black ink, appearing to read 'Peter Slipper', with a stylized flourish at the end.

ANNEXURE CM-1

**FEDERAL COURT OF AUSTRALIA
DISTRICT REGISTRY: NEW SOUTH WALES
DIVISION: FAIR WORK**

NO NSD 580 OF 2012

JAMES HUNTER ASHBY

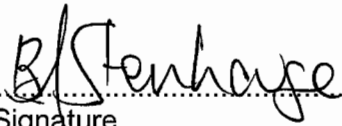
Applicant

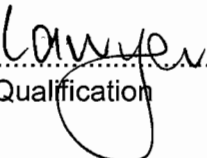
THE COMMONWEALTH OF AUSTRALIA

and another named in the Schedule

Respondents

The following 51 pages is the annexure marked CM-1 referred to in the affidavit of Catherine Heather Mann made 8 June 2012 before me:


.....
Signature


.....
Qualification

Mann, Catherine

From: Kit Yap [kit.yap@harmers.com.au]
Sent: Monday, 28 May 2012 6:12 PM
To: Mann, Catherine; Wright, Sarah; skeating@mauriceblackburn.com.au; jbornstein@mauriceblackburn.com.au
Cc: Michael Harmer; Greg Robertson; Brad Buffoni
Subject: Ashby v Commonwealth of Australia & Anor (NSD580/2012) [HWL-HARMERS.FID775611]
Attachments: Letter to Respondents sent 28 May 2012.PDF; Affidavit of Rodney McKemmish sworn 24 April 2012.PDF; Affidavit of Michael Harmer affirmed 28 May 2012.PDF
EmailPrinted: -1
Objective: -1

Dear Colleagues,

Please see **attached** correspondence.

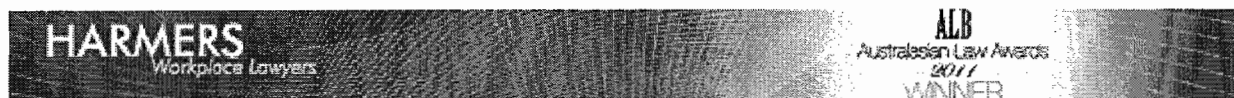
A hardcopy will follow by way of express post.

Kind regards,

Kit


Kit Yap
 Solicitor

D +61 2 9993 8551 | **T** +61 2 9267 4322 | **F** +61 2 9264 4295
E kit.yap@harmers.com.au | **W** www.harmers.com.au
A Level 28, St Martins Tower, 31 Market Street, Sydney NSW 2000



Harmers Workplace Lawyers – “Employment Specialist Law Firm of the Year”
 ALB Australasian Law Awards Winner 2006, 2007, 2008, 2009, 2010 & 2011

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- Occupational Health & Safety
- Human Rights & Equal Opportunity
- Legal Risk Management

Our ref: MDH:GKR:20121209

28 May 2012

Australian Government Solicitor
50 Blackall St
BARTON ACT 2600

**Attention: Sarah Wright /
Catherine Mann**

**By express post and by email:
sarah.wright@ags.gov.au /
catherine.mann@ags.gov.au**

Maurice Blackburn
Level 10, 456 Lonsdale Street
MELBOURNE VIC 3000

**Attention: Siobhan Keating /
Josh Bornstein**

**By express post and by email:
skeating@mauriceblackburn.com.au /
jbornstein@mauriceblackburn.com.au**

Dear Colleagues,

JAMES ASHBY v COMMONWEALTH OF AUSTRALIA & ANOR (NSD580/2012)

We refer to the order made by his Honour Justice Rares on 18 May 2012 that the Applicant “serve [...] on or before 28 May 2012, [...] the documents referred to on page 14 of the Originating Application filed on 20 April 2012 save for documents subject to a claim for privilege, which claim is to be supported by an affidavit served at the same time.”

In accordance with his Honour’s orders, we **enclose**, by way of service, copies of the following documents:

- 1 Affidavit of Rodney David McKemmish sworn 24 April 2012 (including the two exhibits to the affidavit); and
- 2 Affidavit of Michael Daniel Harmer affirmed 28 May 2012 (excluding the confidential exhibit to the affidavit).

In relation to (1) above, we note that an initial report was prepared by PPB Advisory on 13 April 2012 prior to the filing of the Originating Application on 20 April 2012. Subsequent to

MELBOURNE

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417 Collins Street
Melbourne VIC 3000
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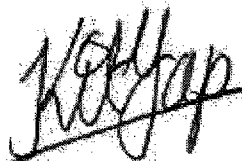
that, PPB Advisory prepared a further report dated 24 April 2012. Mr McKemmish's affidavit annexes both reports.

Yours faithfully

HARMERS WORKPLACE LAWYERS



Michael Harmer



Kit Yap

Affidavit

No. NSD 580 of 2012

Federal Court of Australia
District Registry: New South Wales
Division: Fair Work

James Hunter Ashby
Applicant

Commonwealth of Australia
First Respondent

Peter Slipper
Second Respondent

Affidavit of: **MICHAEL DANIEL HARMER**
Address: Level 28, St Martins Tower, 31 Market Street, Sydney, NSW
Occupation: Solicitor
Date: 28 May 2012

I, Michael Daniel Harmer, of Level 28, St Martins Tower, 31 Market Street, Sydney in the State of New South Wales, affirm:

- 1 I am the solicitor for the applicant.
- 2 This affidavit has been affirmed in response to an order made by his Honour Justice Rares on 18 May 2102.
- 3 Annexed hereto and marked "**Annexure MDH-1**" is a copy of a document styled as an "affidavit" in anticipation of these proceedings and sworn by the applicant on 13 April 2012 (**Draft Affidavit**). Parts of the Draft Affidavit have been redacted on the basis of a claim of by the applicant of legal advice legal professional privilege and/or litigation privilege which privilege has not been waived. Without disclosing the content of communications with the applicant I have not been instructed by the applicant to make any general waiver of legal professional privilege in communications recorded the Draft Affidavit.
- 4 The Draft Affidavit was a document I caused to be prepared recording communications between the applicant and Greg Robertson, a solicitor in my employ. The Draft Affidavit was not intended to be served (and was to remain a record of confidential




am. Harmer

communications) but was sworn in circumstances where allegations could have been made which were serious and I wished to ensure that any allegations that were made on the basis of my instructions were made on a basis that would be verified by the applicant on oath. The communications were undertaken, and the document being the Draft Affidavit was brought into existence, for the dominant purpose of giving or obtaining legal advice to the applicant.

- 5 The Draft Affidavit also constitutes material created at the instigation of me for the dominant purpose of conducting anticipated litigation.
- 6 The unredacted parts of the Draft Affidavit reproduced as “**Annexure MDH-1**” are the formal parts of the Draft Affidavit and those parts of the Draft Affidavit relied upon by me to support the allegations made in the Application dated 20 April 2012.
- 7 Exhibited to me and marked “**Confidential Exhibit MDH-2**” is an unredacted version of the Draft Affidavit.

Affirmed by the deponent
at Sydney
in New South Wales
on 28 May 2012

)
) 
)
) Signature of deponent
)

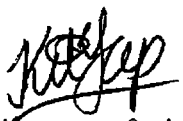
Name of witness: Kit Woon Yap

Address of witness: Level 28, St Martins Tower, 31 Market St, SYDNEY NSW 2000

Capacity of witness: Solicitor

And as a witness, I certify the following matters concerning the person who made this affidavit (the **deponent**):

1. I saw the face of the deponent.
2. I have known the deponent for at least 12 months.


Signature of witness

Annexure Certificate

No. NSD580 of 2012

Federal Court of Australia

District Registry: New South Wales

Division: Fair Work

James Hunter Ashby

Applicant

The Commonwealth & Anor

Respondents

This is the annexure marked **MDH-1** produced and shown to **MICHAEL DANIEL HARMER** at the time of affirming his affidavit on 28 May 2012.

Form 59
Rule 29.02(1)

Affidavit

No. of 20

Federal Court of Australia
District Registry: New South Wales
Division: Fair Work

James Hunter Ashby
Applicant

The Commonwealth & Anor
Respondents

Affidavit of: **James Hunter Ashby**
Address: 2907 Old Gympie Road, Beerwah, Queensland, 4519
Occupation: Adviser to the Speaker of the House of Representatives (Peter Slipper)
Date: 13 April 2012

[*Insert table of contents if affidavit (including annexures) exceeds 10 pages] **Contents**

Document number	Details	Paragraph	Page
1	Affidavit of [deponent] in support of [application] for [insert details] [sworn/affirmed] on [date]		

I, James Hunter Ashby, of 2907 Old Gympie Road, Beerwah, Queensland, 4519, Adviser to the Speaker of the House of Representatives (Peter Slipper), affirm as follows:

1. I am the Applicant.

Filed on behalf of (name & role of party)	James Hunter Ashby, Applicant
Prepared by (name of person/lawyer)	Michael Daniel Harmer / Gregory Keith Robertson
Law firm (if applicable)	Harmers Workplace Lawyers
Tel (02) 9267 4322	Fax (02) 9264 4295
Email	michael.harmer@harmers.com.au / greg.robertson@harmers.com.au
Address for service (include state and postcode)	Harmers Workplace Lawyers, Level 28, St Martins Tower, 31 Market Street, SYDNEY, NSW, 2000

[Form approved 01/08/2011]

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A handwritten signature in dark ink, appearing to read "J. Blotto" or similar, with a stylized, cursive script.

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8 I had attended a branch meeting a Mooloolah at one of the Member's homes and it was there that I met one of the young LNP members, which was Rhys Reynolds.

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10 Rhys had told me that he had a fairly good relationship with the Member for Fisher, Peter Slipper and his wife Inge. He had told me that he had met Peter and Inge when he was at Beerwah High School as school captain. He was invited by the Member for Fisher down to Canberra ... or won the opportunity to go to Canberra with the Federal Member, and one of the female classmates of his was also selected to go down as well. I know that Rhys had explained to me he'd been there for about a week down in Canberra at that time ... so they'd become fairly good friends. Rhys obviously had aspirations for a political career and currently still does. He'd invited me to Peter and Inge's house for dinner, the girl was also going along, that had been to Canberra with Peter and Rhys. Rhys asked me to go along just to talk to Peter and Inge about his plans to run for Division 1 in Council.

11 This meeting was probably June/July last year ... June/July/August. I went along thinking we were having dinner. There was no dinner put on, in fact, it was told to us when we got there that they had dinner plans with somebody else and that was Inge's parents that lived in the area. The only thing served up was wine. We had had a joint conversation with Rhys, myself, Inge and the other girl - I can't remember her name - Peter came in after about half an hour's worth of conversation just with his wife. They presented like any normal husband and wife to be honest ... seeing them in their own home environment was totally different to the environment in which I'd seen Peter the first time. He was quite stale the first time I met him ... I can't really describe, he just



doesn't have much personality when you meet him as a politician, whereas in his own home, he obviously was slightly different, he was in his comfort zone, he was bit more open.

- 12 He'd asked to have a chat with me on my own just in relation to Rhys' campaign and wanted to know what I thought about his chances. I'd explained to Peter that Rhys' chances were as good as any. He had the passion, having had a debating background, school captain background, he was used to talking in front of people. He grew up in the area, so he knew the area well, he was supported by family that had grown up in the area and participated in business within the Sunshine Coast region he was running for, so I expressed to Peter that whether or not he's a candidate to win or not, is totally different, but he certainly had everything that was required to run in that seat. Peter had said to me that he had some concerns about Rhys' sexuality.
- 13 Peter said to me - Do you see a problem ... do you see any problems with Rhys' campaign? I said - No I don't. He went along the lines of saying - Is there anything about Rhys that could hold him up? Could pose a problem? And I said - No I don't see any problems. He said - Does he have a girlfriend? I said - Not that I'm aware of, not that that matters. He said - Do you think Rhys has ever had a girlfriend? As I said to him, that didn't matter. He then went on and said - Do you think Rhys likes girls? I said - Well that's not for me to enter into, that's not part of running as a candidate. He said - Are you sure? He was really pressing me trying to find out ... it eventually came out that he wanted to know whether Rhys was gay or not?
- 14 He asked me whether Rhys was gay. I knew where he was heading with it but it wasn't my place to either "out" Rhys or assume Rhys was gay. I knew Rhys was, but that was not my place to ... and he said to me - Do you see this being a problem for Rhys? And I said - No, and I think that that's easily challenged anyway. If any of his competitors in the race for that Division 1 seat were to bring it up, it wouldn't look good for them if they were bringing into account someone's sexuality, it would ruin their campaign. Homophobic comments would be used to ruin another candidate's chances.
- 15 He said I don't believe you, you'd have to prove it. And I said - Well you'll have to take my word for that.
- 16 The conversation, I remember, turned to gay marriage, which I remember only weeks before he had come out publicly and said that he didn't support gay marriage. That's cool, didn't worry me, in all honesty, I don't either, but I think that's neither here nor there, everyone's entitled to their own opinion on that.
- 17 We did discuss gay marriage at the time. We discussed in a conversation that he had publicly come out and said that he wouldn't support it and didn't support it. We continued talking about Rhys' campaign a little bit after that, at which stage, his wife had come in and was trying to hurry him up to get ready to go to her parents' place for dinner, they actually had dinner organised.
- 18 I remember Peter didn't want to leave to go to Inge's parents' place, he was actually more interested in staying around talking with Rhys and myself about his campaign and in the end, we wanted to go anyway, it was sort of moving on in the night, we were all hungry because we hadn't eaten thinking we were going to eat there, so I ended up getting a lift back to my house by Rhys. I'd come to Inge and Peter's house with Rhys and Rhys dropped me home.



19 On the way back, I discussed with Rhys the conversation that I'd had with Peter ... Peter's determination to find out whether Rhys was gay or not and we discussed that. Rhys at that stage didn't feel the need ... Rhys had said to me on the way back, he said - If Peter asks me direct, I'll be honest with him and I'll tell him yes. But he said - Peter's never asked me direct so I have no need to just go and tell him.

20 Before we left, Peter made sure that I was given his personal email address and his mobile number and he said - Stay in touch, if you've got any questions in relation to Rhys' campaign or if you need any advice on something to do with campaigning, by all means, give me a call. Actually, he suggested that texting was better because he wasn't always able to take a phone call. I gave him mine as well, I gave him a card actually, for the farm.

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A handwritten signature in dark ink, appearing to read "Alberto", with a stylized, scribbled flourish to the left.

 *Albert*

Employment Offers

28 When I got back from holidays, I think I was texted first, I was asked whether or not I would be ... basically it was aduded to that if a position became available as media adviser, would I be interested.

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Two handwritten signatures are visible at the bottom of the page. The signature on the left is a stylized, cursive name, possibly 'M. P. ...'. The signature on the right is also cursive and appears to be 'Robert'.

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37 He told me over the phone because he'd said to me ... cause he'd asked me to
reconsider taking the job and I said to him no, I've made my decision and thanks for the
offer but no, it wasn't going to take place.

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42 He once again said to me "Do you want the job?" and I said no.

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A handwritten signature in dark ink, appearing to be "Robert" or similar, with a stylized, scribbled initial or flourish to the left.

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Offer of Advisor Role

55 He had then contacted me a few days after he'd accepted the Speaker's role and asked me if I would like to be part of the Speaker's employ ... like part of the Speaker's staff and whether I'd like to take on a role as Adviser ... a fairly significant role.

56 This would've been on the phone. I remember straight away just thinking, wow, this is a huge role.

57 He said "Would you be interested in being an Adviser, taking on an Adviser role?" He explained to me, and it must have been on the phone that he gave me the full in-depth explanation. He explained to me that as the Speaker was entitled to additional staff. He said that Tim Knapp would naturally take on an adviser role too.

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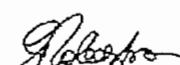
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Two handwritten signatures are present at the bottom of the page. The signature on the left is a stylized, cursive name, possibly 'John'. The signature on the right is also cursive and appears to be 'John' followed by a surname.

- 64 I was rapt to be able to take on that role.
- 65 I asked for 2 weeks to make my decision. I think I made my decision ... I didn't want to act too keen if that makes sense, I wanted to act pretty cool about it ... I'd established what the pay rate was and I said to him "I'd like the letter of offer put forward because if it's in writing, it's very clear and I can then make that decision". He questioned why I wanted that in writing and I said "Look it's a safeguard for me knowing that the offer is there and I'm not going to go and quit a job that pays very well and a job that I love - cause I did, I loved the farm, I was there for close to two years - I said if I was going to go forward with this, I want it in writing.
- 66 So he did, within a day or two, he had that letter of offer (the letter of 5 December 2011) to me.
- 67 Correct, the letter I supplied. It's a copy of it. It came direct from his personal email and it outlines the pay rate, the fact that I would be personal staff to the Speaker of the House of Representatives and it was explained to me that my position was only, I guess, good, while he was Speaker, it was made very clear to me that if he was removed as Speaker, my job would go. I was aware of that and I just had to get in my head ...

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I took on the role and my official starting date was just before Christmas, a couple of days before Christmas. I wasn't supposed to start till after Christmas but Peter had said to me "We might as well put you on the books and that way you get paid, even though it's holidays, you get paid" to be honest with you, I wasn't going to say no because it's



close to 4 grand a fortnight, so it was like an extra 4 grand in my pocket if I was starting just before Christmas.

- 75 My official first day on the job though ... I had gone and filmed the Christmas message at Peter's house with him and his wife, only Peter was filmed but his wife was there as well. The Christmas message we filmed and it was put on You Tube and then linked through to his Facebook, I think it was just Facebook account. There were little things that I did. I did another video as well that he wasn't present at but I went over to their place one or two days before Christmas, where I'd scripted something and he just did the voice over and I put all the vision over the top of it and that was for a thing that Maleny Dairies had done, they were giving away 10,000 litres of milk - I was just trying to actively get him to be seen to do more community things and look like he was being more involved in the community, in his electorate, he was often guilty of just being away from the electorate.

First week

- 76 My first official day doing anything within the office or travelling on official electoral business was, I think it was 2 January.
- 77 We didn't meet in the office. We were to fly out from Brisbane to Canberra and we were to spend a week down in Canberra. Peter had asked me to go down to familiarise myself with Parliament House, get my office set up, meeting with the Sergeant at Arms and the Department for Parliamentary Services, (DPS) and meet with the head of that. There are a number of roles which I had no idea that the Speaker was responsible for and in fact the Speaker's office is responsible for over 1,000 employees in Parliament House. Some of those include Parliamentary Services, the Security and a number of other things as well, Parliament House's Postal Service. So part of that week was familiarising myself with those different sections. I was taken on some fairly exclusive behind the scenes looks at Parliament House and just seeing how it all worked. So it was a good week.
- 78 Peter had insisted on me staying at his residence that he owned in Canberra, in the suburb of Hughes. He owned a house there which had a granny flat attached to it so he said to me that he rented out the house, the house was unoccupied actually, it had just had an Ambassador staff member move out I think it was and the granny flat attached was the residence in which he stayed at whenever he was in Canberra. He would normally have Tim Knapp, his other adviser, stay at the house. He had a bed, a single bed, which was made up in what can sort of be described as the lounge room area of the actual apartment. And he said to me while Tim wasn't down that week I could stay in the house, save on expenses with travel, being accommodation and he said I get to keep the TA, which is the travel allowance paid for when you're away, so each night you're away, you're paid a travel allowance and that's to cover your accommodation, meals, things like that.
- 79 Peter said to me "look while Tim's not there you might as well stay in the apartment with me". He said "there's a bed there for you. Tim normally stays in it, but while he's away you might as well stay there and you save on the expense of accommodation, you get to keep your TA." He also told me that staff had stayed there from time to time - while Tim usually was the one to stay, but if Tim was away, other staff would stay. I know that Richard, his former media adviser, had stayed there, so, I knew it was a fairly stock standard thing that staff stay. His residence at Hughes was no more than probably



ten minutes by cab from Parliament House. So it did, it sounded like an ideal thing to do, to stay there, particularly while I was getting myself familiar with Canberra. He had suggested that in future that I could look at staying at some cheap accommodation that he recommends to people called the Kurrajong Hotel. So anyway he said keep that in mind for the future. We got down to Canberra on the 2nd, we were driven from Peter's house, I had met at Peter's house at the Sunshine Coast that morning to catch the Comm Car down with him, which is the Commonwealth vehicle which MP's are entitled to. It was, actually the vehicle which we caught from his residence to the Airport wasn't a Comm Car it was a chauffeured limousine which he said he had used for ever and ever.

80 We ended up getting into Canberra. We went to Peter's house by Comm Car, an official Commonwealth vehicle. Caught the Comm Car to his house and I remember just dropping everything off at..

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Massage

87 So he had those pressures on him that week and I remember on day 2, he was complaining about a sore neck – I think it was just built up stress, natural built up stress – he gets himself into these states just by stressing about, quite often insignificant things to you and I, but they're quite significant things to Peter.

88 He complained from first thing in the morning when we arrived at Parliament House, from his flat.

89 I was staying in his house still this week.

90 He didn't complain about a sore neck at the house, he had complained about being stressed. He complained every day about the stress factor, but he had complained as soon as we got to Parliament House that day that he had a sore neck. I'd been on a complete tour of Parliament House, just a quick walk through if that makes sense ... here's this, here's the food court, here's the gym, here's the doctor, here's the Ministerial wing, here's the Senators' wing. I'd seen a snapshot of everything, I wasn't really across everything, but I knew that we had a gym, I knew we had a spa, I knew we had a hairdresser, I knew we had a doctor, cause he'd shown me all that and part of that gym side of things, there was a little sign saying "massage therapist" and that sort of thing as well, I said to him, go and get a massage or get them to come into the office. The Speaker's office is really well equipped, it's got a change room, dressing room.

91 So I said to him, get a massage, and he said no, that he didn't want to get a massage just for a neck, it wasn't worth it, and he didn't have time. There were a number of reasons why he didn't want to get a massage and they all seemed pretty reasonable things to me and I thought, yep, that's fair enough, why would you go to the expense if it's just the neck, but that to me also meant that it wasn't as bad as what he was saying because if it was that bad you'd do something about it.

92 He had complained about it all day, just on and off, it wasn't a constant whinge, whinge, whinge, it was every now and then you would see him pulling weird faces because of the pain for his neck and then he'd say something. That had gone on all day. We had left for the day. We normally got away from Parliament House around 6 or 7 each day, the days seemed to go pretty quick. We'd gone from Parliament House, grabbed dinner at a Chinese or Indian joint, and we'd gone back to the house and he was still complaining of the sore neck. He then asked if I would give him a neck massage.

93 Basically, the only thing that he said about the sore neck was it was still sore and that he could really do with a neck massage. I sort of joked about the whole thing, I said "I told



you to get a massage" it could have been solved, it could have been all over. I'd said to him earlier throughout the day, use Nurofen or anything like that. I noted too, he generally drinks a couple of Red Bulls a day and normally has a couple of coffees through the day as well, so I sort of thought well, you haven't really helped yourself, if you've got a sore neck, , this is the last thing I'd certainly take, cause it only makes matters worse.

94 He then said to me, "Can you massage my neck?" and I did.

95 I just said to him "Yeah, righto", that's all the response that I could give. It was at his house. He lay down on his bed, he had shorts on, but he had no shirt on. I massaged his neck and it was ... I would say no more than a minute and he began to just moan ... it was a moaning that was uncomfortable. It was an uncomfortable moan, it was like a pleasure moan I suppose that you would anticipate seeing on a movie during a sex scene and I just stopped straight away because I thought, ah this is not right and I said "you're done". I remember him saying words to the effect of "Oh that felt so good" and I thought, mm, all good but it didn't sit right with me and I left his room straight away and he didn't come out of his room. Called it a night and I went to bed.

Shower / Toilet Comments

96 The next morning, there was no mention of anything, he woke up fine. I do remember each morning I would normally wake up to the sound of the front door being opened or he'd generally be coming back from an early morning walk. One thing I noticed during that week was he was always an early riser, he would always go for a walk early in the morning ... very early, it was generally 5 o'clock in the morning. I'd always wake up to the sound of the door by about 6.30/7 o'clock and it was generally on his return.

97 We were both getting ready that morning for work and he said to me that, and it was just out of the blue, he said "You're a strange one" and he said I was weird because I showered with the door shut. It was just so bizarre ... it wasn't a normal sort of thing just to come out of the blue.

98 He said to me "You're weird because you shower with the door shut". I quizzed him and I said "What's weird about that?" He said "You're a prude". I said straight back "You can call me what you like, I'm happy to wear the tag of prude, I don't know what you private schoolboys got up to in your day, but I've never found it normal to shower with the door open. My Dad's never done it, I've never done, my mates don't do it, that's not weird".

99 I tried to laugh it off cause I thought this is just a bizarre conversation. He said to me "But you even go to the toilet with the door shut". To me that was even weirder because I've never gone to the toilet with the door open, unless I'm home alone, if I'm home alone, sure you go for a leak with the door open, but I don't know, it was just so bizarre for that question to be raised and I just said to him "It's not weird and it's normal" and he said to me "You should try showering with the door open" and I said "It's never gonna happen".

100 It was the kind of conversation and questioning that was so awkward that you've got nowhere else to go with it so it died a fairly quick death and I just continued getting ready. But I just remember thinking, I don't want to be here. It was already weird enough. It's tough enough spending all day with him cause he's quite different and quite



persistent and full on, you end up with a headache at the end of the day yourself sometimes with just having to deal with him, but that's part of the job.

- 101 I just remember thinking to myself I'm not staying here again, it's just too much, too full on. It was clearly sexual innuendo. None of this sort of behaviour had ever occurred before me working for him and none of these sort of conversations had ever come up, not that I'd ever stayed in the house with him ... I suppose when you're in an environment where you start to see people in their private life versus their work life, you can make your own assessment about them, but that's an unusual assessment to make of anyone.
- 102 It would be different if he said to me, I've noticed you don't clean your teeth of a night time before you go to bed, that's different. That's an assessment which is worthy of bringing up, but not that.
- 103 I remember though waking up the next morning. I could hear the shower running and I could see the entrance to the bathroom but I couldn't see anything past that from where the bed was. I got up and I noticed that the door was open on the bathroom and he was clearly showering with the door open. You couldn't see anything as I say, but you knew that he was showering because you just know by the sound of the water, when you turn the shower on for it to warm up, you hear it hit the floor, but when you're under it, you hear the Oh that's right, during that conversation, he said to me about showering with the door open, he said "What have you got to hide? What are you doing in there?" and I said "I'm not doing anything in there, it's just not normal to shower with the door open".
- 104 So he was alluding to the fact that I must have been doing something in there. It just was a really uncomfortable line of questioning.
- 105 So the next day, he started showering with the door open and there's no denying, he was having a shower cause you could hear the water. It was just getting more and more bizarre, day by day, but I knew the week was coming to an end, I was pretty keen to get it out of the way. I had called the office a couple of times, I had spoken to Karen Doane and explained a couple of weird things that he'd done during that week.

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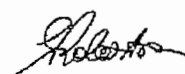
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Shirt Comment

- 114 The week finally came to an end and I ended up wearing a purple Polo shirt, it's just a cheap shirt I bought that week while in Canberra cause I didn't have any casual clothes and I was sick and tired of wearing suits. We were travelling home via Sydney. I don't know why we travel home via Sydney but anyway we did. We had a stopover, we went to the lounge first, had a few drinks, I'd say two drinks. Normally there wasn't much time between flights to have anything more than that but I'd had two bourbons and we were downstairs waiting at the gate, there was a bit of a line there, and he said to me "I wouldn't have worn that shirt if I was you" and I said "Why is that?" he said "I would've worn a large. No actually, I would've worn an extra large. You look fat in that". I'd already had a bitch of a week with him, I was tired, we'd had huge days, huge nights, just late nights and early mornings and I just said to him "You're being a real cunt" and I was that furious that I wanted to make a real point that you are being an unreasonable deadshit right now and that's why I chose that word.
- 115 It was a word that he uses every day, there's no issue there, so I knew it wasn't going to upset anything or anyone, but I wanted to prove a point that he was just being unreasonable. It's not the kind of thing you say to anybody. I got my own issues ... I used to be fat, so I suppose it ... hits a raw nerve with me at times if I'm ever accused of being fat, but that's neither here nor there. But he just really, really pissed me off that week, there were just so many things that he annoyed me with.
- 116 Peter was almost gave a smirk when I said to him that he was being a cunt. It was almost like self satisfaction knowing that he had successfully pissed me off, because it does take a fair bit to break me, mainly because I see when you break, a sign of weakness and I don't like to crack very often. He got satisfaction out of knowing that he pissed me off.
- 117 I'm very open about the fact that I lost a hell of a lot of weight. I was 96 kilos and I've often said to people it is possible to lose the weight, it's not an issue, you can do it. I used to be fat, I'm not anymore. He did know that I used to be fat. I don't think he realises that it is something that ... the old saying, once you lose the weight, you'll never go back to being fat, it's just something that I live by anyway, I certainly never want to go back to that place again. Yeah, he knew. Most people's comments to me, including his, is that he never believed that I was fat and that's most people I come across, they find it difficult to believe, I'm certainly nowhere near 96 kilos.
- 118 I think this was meant to be a spiteful comment, because it couldn't be taken as anything else. It's just unnecessary. I can't think of it being anything other than spiteful for the sake of being spiteful.
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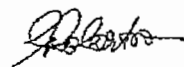
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A stylized, handwritten signature in black ink, possibly reading "M. J. P." or similar, with a horizontal line extending to the right.A handwritten signature in black ink, possibly reading "Roberto", with a horizontal line extending to the right.

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*Alberto*

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Text Messages

135 The incident that really took me by surprise was text messages I had received from 1 February. We'd had a tough day with Peter. When I say "we", Karen and I, we were seen as the media team, even though my role wasn't media, Karen and I worked together on things and it was encouraged of us to work on things together because there was the trust in me for good judgment on media even though it was Karen's idea 99% of the time to do certain media stories.

136 We had received a request from the Sunshine Coast Daily which is our local newspaper on the Sunshine Coast. We had received a request for information on Peter using social media. Karen and I had worked hard to really try and get him to embrace social media. As I've expressed several times to Peter, this will be the very last time any State or Federal election will be run that doesn't involve the use of social media. There are many reasons behind using social media, one is there is zero cost attached to it, it's a very easy way to communicate with people that like you and don't like you. YouTube is great it's your own TV channel basically. We got him involved in Facebook, we got him involved in Twitter. They were all things that beforehand he was quite cagey about and he's not afraid of technology, but he slowly embraced it but we certainly pushed him to embrace it more.

137 A lot of the media was starting to recognise that Peter was getting quite involved in social media. We were recording videos, posting them to YouTube, linking them to his Facebook page and Twitter account and it was becoming apparent to media that he was accelerating his use of social media and in comparison to most other Federal and State MPs, he certainly was on the front foot not the back foot.

- 138 The Sunshine Coast Daily rang and requested an interview. They had compared Peter's use of social media with that of Wyatt Roy and Kevin Rudd, both very good with their social media, and I guess the comparison was with the younger politician being Wyatt Roy who is 21 versus a bloke that's 60. They had a few questions in relation to social media, but it was basically ... we saw it as entrapment. We didn't feel that there was any right answer. Every answer that he was to give could've been skewed in the way they reported it because some of the questions they were asking were along the lines of - Do you do all your social media? Do you do all your own tweets? Do you do your own Facebook? Do you do your own YouTube videos? We could just see that, given that Peter had been given an extra allocation of staff numbers, there was room for them to take the story in another direction and that is ... because the stories that had previously come out days before was that he wanted a third media assistant advisor. We knew that wasn't the case, he only had one media advisor. He had an Advisor and the new role was an Assistant Advisor.
- 139 We saw that as the outcome and he went against our decision and did the interview with Kathy Sundstrom, she was journalist at Sunshine Coast Daily and I was really annoyed, I was ropable because two professional people with media experience had advised him not to do it and he chose to go against our advice and we questioned him, we said what's the point of us being here? If you're not going to listen to us. In the end I did text him because he wouldn't take phone calls in the end from us. The text messages that I originally sent him, I have provided there and you can see at 5.44pm on 1 February, I had said "Do not do the social medial interview with Kathy. They are digging for a new angle. It will not be good. The questions are laced with double meaning, it's like answering the 'Do I look fat?' question. There is not a right answer. The Daily do not like you, you do not like them, I do not like them, do not help them sell papers".
- 140 Because I had been advised by Tim Knapp that he did the interview I sent another text message to him straight away at 6.10pm, I said "You're not funny. I can't believe you called her. We'll have to clean this mess up now. Fuck, fuck, fuck."
- 141 At 7.06pm, he replied "Relax my friendlx" with an exclamation mark with a cross, not that I took any notice of that.
- 142 I wrote to him "Very hard to when you care about the bloke they keep fucking over. I hope like hell they don't fuck you over with this report".
- 143 At 7.19pm, he'd written "Xxx". Which was bizarre, I know myself, an x at the end of something could be the slip of a ... I've sent enough messages where I've accidentally put a "b" at the end of something and it doesn't make sense, but I didn't read into the earlier one, but I did look at the "Xxx" at 7.19 as bizarre.
- 144 What followed on from that was even more bizarre because he was away, I can't recall where he was, but I'm only guessing it was Canberra. At 9.38pm on 1 February, he wrote to me in text and said "Would be good if you here but perhaps we're not close enough?" followed by a question mark, so he was clearly looking for a response. I had felt that that was weird.
- 145 I think that night I was at dinner with friends of mine from up north, they work in a mining town, I can't remember what the town is, but it's north west of Mackay. I didn't respond to anything. Peter has a habit of ... which is evident through texting whether it be to me or any of the other staff, if you don't respond to one of his text messages, he will copy and send you the same message again until you do respond to it. So at 10

o'clock, the same message came through: "Would be good if you here but perhaps we're not close enough?". The rumours of Tim and him having had a relationship started to become evident because I had spoken to Judy McArdle before I started and she had said to me there is the rumour of Tim and Peter having a relationship. She said there's been people that have seen them kissing in the car park out back of the old office and that had been seen by ABC staff that were in the same building. She said but I don't know, it's all just rumour and innuendo and she said that however, there was a video which I do believe exists of a sexual nature between Tim and Peter and she said it was seen by one of the staff members in the office after she borrowed a video camera from work and the story goes that she was checking what she'd filmed and come across what had been filmed previously on that camera. Judy didn't elaborate but she said it involved both Tim and Peter on a bed and there was something involved.

- 146 Tim was down in Canberra ... or Tim was away with Peter at this stage, wherever they were, and that's why I assume it's Canberra, I can't quite remember. I wrote: "Ha ha where's Tim tonight?" and he wrote; "Missing".
- 147 I just wrote back: "Gone to pick up. LOL" (laugh out loud) trying to keep it light hearted cause I didn't know where it was going and I wasn't fishing for anything but at the same time too, I just want to deflect it. He wrote back: "Do you think Timbo is closer to me than you?" and I text back saying "Yeah, but that's to be expected. He's known you longer that sort of stuff doesn't worry me".
- 148 There was a comment passed in the office in that first week actually in my office, he said to me, it was along the lines of "Tim says that you're my fuck buddy". I've heard that term used plenty of times before, it's like when you're in high school, everyone says you're like bum chums or fuck buddies or whatever, but you don't look at it as anything weird. I suppose I brushed over that, but it sort of started to become apparent why Tim may have said that in these text messages. So I said "Gone to pick up LOL", he then said "Do you think Timbo is closer to me than you?" and I said, "Yeah, but that's to be expected. He's known you longer that sort of stuff doesn't worry me".
- 149 He wrote back to me saying "Gone to prick up whom and closer to you than Pete?". I wrote back and this is getting later in the night, this is at 10.16pm "No, he's closer to you, I hardly know him" and then I followed up with the following text saying "A random root. LOL". I wrote then following that "I've got to stop being rude to my friends, text you when I leave" with a wink smiley face.
- 150 At 10.37pm he wrote to me "You getting rocks off? Pity" followed by "If you interested we could be closer?" and I ignored it and then he wrote "?" again and I followed up with "I think we're good already. I'm happy seeing Tim being closest. I hate stepping on toes".
- 151 At this stage, I had already come home and my flatmate was in the lounge room and I said to him, I'm getting some really bizarre text messages from Peter tonight and I read them through to him. So I followed up with a response to his question mark about "If you interested we could be closer" and I said "I think we're good already. I'm happy seeing Tim being closest. I hate stepping on toes" with a smiley face.
- 152 Peter then wrote "Your call if you want to keep degrees of separation, no toes", followed by "I told Tim position open", followed by another text saying "But your call and no hard feelings in that you only want business like contact. In that event, of the difficulty in our persona". Once again, I'm reading these to my flatmate. I said I can't




believe the nature of the texts and that he's stupid enough to text them, just foolish. As I said to Will, there's no issues with him if he is gay, who cares, it's not a problem, but you don't go and do this, you don't hit on your staff.

- 153 Will said to me – Will is my flatmate in Queensland and is in his 40s and he's a pretty smart fellow. He's retired, he's 42, he's retired and has been since he was 30, he's a scientist and he's a smart fellow and he said to me – he hasn't really said anything too far, but you need to ask him to be clear on what he wants. So I sent him a text message and I said "I don't know what type of contact you expect Peter. Perhaps you should define what you would like and I can then be clear on my position".
- 154 He wrote back "You want something more? You're brilliant at massages".
- 155 I just wanted to shut it down cause I knew where he was heading with it.
- 156 And I wrote "No I'm happy the way things are. Care for you Pete but the massage is as far as it goes, life's a lot more simpler when it's business and a few drinks after work".
- 157 At 11pm on the dot, he wrote back "Oh" followed by "No problems and thanks for" I'm guessing that's I, but it looks like a capital I.
- 158 I wrote "All good" with a smiley face.
- 159 He followed with "Sorry things not working out but appreciate your frankness. In future, in circumstances, please arrange all communications" followed by "through Tim as cannot guarantee availability. Sorry you're missing Sydney harbour cruises".
- 160 This is where ... I was annoyed at this just because I turned down his offer for anything of a sexual nature, is what I believe that this series of text messages was alluding to, I was now being punished for not taking up his offer and I wanted to clear this right up and I said "Am I missing it now?".
- 161 He followed my question with the response "Suspect if you miss" followed by "If you miss okay. Tim has girlfriend abd" I would assume that that should have been "and" because he follows that up with "And Pete needs to sort ou" which I'm thinking means "out".
- 162 Then 11.17, I had sort of come to a point where I wasn't really too keen on texting anymore, cause I was annoyed at the whole thing. He wrote "Okay, your call, sorry? You still happy to ? come to Can? If not can cover".
- 163 I wasn't responding, I'd had enough and I only assume that given the number of spelling mistakes in the text messages, can only assume that he had had a bit of a night on the drink as he normally does have a drink every day, so I just left it.
- 164 The reference to the harbour cruise was to a harbour cruise which had been locked in with a delegation of Samoans. We had the Deputy PM from Samoa flying in on the 5th ... the delegation I think was here before the 5th, but we had a cruise here on Sydney harbour which involved the Deputy PM and a number of delegates from the Samoan government and we were showcasing Sydney harbour to them. I was invited to participate as part of that day and I was looking forward to it. The travel I like, I enjoy the travel side of things, but I more enjoy the fact that when you create relationships with these countries, you then open doors for export trade opportunities, import




opportunities and just a whole lot of connections. It's good to have those sort of connections.

165 I did end up going on the cruise the following week or whenever it was, it was 5th February.

166 The next day, at 6.40am on 2nd February, I got a text message from him obviously early in the morning, it said "Ha, only joking last night. How media/daily? Sometimes I feel depressed and as though the weight of the world is on my shoulders" followed by at text at 7.53am on 2nd February "Suspect I'm pretty stressed about next week" which referred to his first week of Parliament recommending for the new year and he would then be the official Speaker for the House of Representatives.

167 I wrote back to him at 8.39am and said "Yeah I get that, just be mindful, we all carry the same level of commitment and stress for various reasons".

168 He followed that with a message which just said "Okay" smiley face.

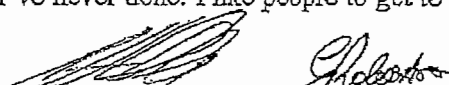
169 At 10.01am, he wrote "How daily? Media?" so that referred to the Sunshine Coast Daily and general media.

170 That sort of gives you an indication of what I had to go through and I felt it was necessary to show that to someone in the office. My housemate knew about it, but I was feeling increasingly ... there was an increase of things running through my mind as to I don't want to be caught in a situation where I'm left in a room with him on my own. I didn't know what to do with that, series of messages. I was annoyed that all of a sudden my job seemed in jeopardy. I didn't know what to feel after that. I started questioning why I was hired in the first place. I questioned a lot of my own abilities all of a sudden and what was I hired for? That was the big question that I had on my mind was ... what was it?

171 He knew that I was gay, but ... I don't know, was it just to try and get something further out of me cause he knew that he had half a chance, knowing that someone's gay is a good start than someone who's straight to try and hit on. It fucked with my head. Big time. And Karen was the only person I could talk to.

172 We went and had a coffee and I showed her the text messages because I wanted to get her personal opinion as to whether or not ... just see what she thought about the situation and what she thought that I should do. Together we agreed that because the Government was hanging by a thread with numbers, neither of us wanted to be responsible for any problems with the Government. We were mindful that this would bring us into a position where we would be chased by the media, while my family are very supportive of me and have been very accepting from day one from the day that I came out to them ... I don't go and flaunt my sexuality to people and I don't go and rub it in their face because I think that ... one, I'm a very conservative person as it is, but it's not my place to go and flaunt to people sexuality, same as it's not your place to go and flaunt yours to gay people or bisexual people. It's what you do in your own personal time is your business as long as it doesn't hurt anyone and that's always been the way I deal with things.

173 If someone was to ask me are you gay, I don't have any hesitation saying yeah, mate, there's nothing wrong with that, it's just not something that I go and openly go and say "Hey I'm James, I'm gay". I've never done. I like people to get to know me one on one



level and like me for who I am or don't like me for the way I act. You either like me or you don't for the way I conduct myself, it's not because of your sexuality that you like or don't like somebody and that's always the way I've been.

- 174 I didn't really want for that to ... I wasn't prepared ... I'm still partially not prepared for people to judge me ... but at the end of the day, I am a good person, I'm a normal person and people will judge someone regardless of what you say and do. We get judged every day on the way we look, whether it's by dress or hair colour or whatever, so people will be judgemental if they want to but the reality was I didn't want to set out in putting that in people's faces.
- 175 So Karen and I spoke about it for a while and we just said no, there's too many things that can happen, Karen said you've made it clear and I agreed, I had made it clear, I wasn't interested. I wasn't interested in whether Peter was gay, bisexual or straight, I still don't care, all I cared about was not being hit on at work or harassed over stupid questions you know what I mean? The questions that were asked during the week that I was down in Canberra. I felt that providing I had somebody that I could confide in at work, that could keep an eye on the situation, so watch, not leave me in a room on my own with him, that I would be right. When I say don't leave me in a room on my own with him, there are times where private conversations need to be held but private conversations are normally a door away from another person and I found that the moments that he was asking the bizarre questions have always been when no one else is near so I felt that if I kept someone nearby, I'd be right. So we did, we let it go and I was prepared to let that all go but I was also of the mindset that he's been told now, it's been made clear, I'm not interested and I shouldn't have any more issues. But it never stopped.

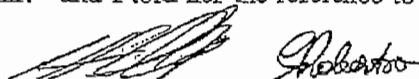
Question on 14 January

- 176 We had received a complaint from a business, a number of businesses, via phone. I had taken the phone call as constituent advisor in the office. It was in relation to an upgrade of the Bruce Highway between the Caloundra turnoff and Sunshine Motorway.
- 177 The State Government had indicated to businesses and land owners, residents, that they had proposed a series of changes to a stretch of Bruce Highway which was only a 5km stretch of road and had put out a notice to all residents that had businesses that would be affected by the proposed changes.
- 178 It was a \$2billion exercise, money not yet obtained through the State or Federal Government, but it was a long term commitment to the region that they were going to upgrade this stretch of highway because it had exceeded or was approaching the exceeding limit of vehicles on the stretch of road.
- 179 Their proposal was to remove a number of on and off ramps, 6 in total, and all 6 had significant impact on businesses and residents for a number of different reasons, effect on their financial position, effect on time in which it would take to get kids to and from school, effect on emergency response vehicles reaching home or business in the event of an accident. So I recognised that there was a need to get a copy of these plans and I had called the Department of Main Roads. I met with them, seen the plans, didn't like what I saw myself, and advised Peter that we should take a real interest in this because while it was a State Government initiative, the \$2billion was to be Federally funded so there was crossover of local council, State government and Federal government involvement in the funding and upgrade of this stretch of road.

- 180 Peter's position as independent speaker gave us – it definitely gave us a stronger ability to liaise with the State and Federal governments and the benefit to me taking on this role was that I had the time to do it and I had already found the trust in some of the businesses that I had visited during work time to find out how it would impact their business.
- 181 I asked Peter to come out on 14 January and meet with some of the business owners. He agreed, he was in town and he agreed to come out. We also, between Karen and I, arranged for the local media to join us out there to raise greater awareness that Peter was actually assisting the businesses to stop these changes taking place.
- 182 I was asked to pick Peter up from his house on the 14th. It was early in the morning, I remember I picked him up and he wanted a coffee before we left and I said, don't worry about making a coffee, we're not going to be late, cause he has a habit of being late to everything. I said we'll grab a takeaway coffee, get in the car and we'll go and we'll grab that. Down the road from his house, probably less than 2kms from his house, there is a set of shops and I know there is a little patisserie/café, so we pulled over there and we grabbed coffees. It was at that same location, he said to me in the car out of just nowhere "Have you ever come in a guy's arse before?". Talk about knock you over with ... once again, it was just one of those out of the blue questions that you just don't expect anyone to ever ask you. It's not a normal question. It's not something that I would anticipate any of my friends saying. At 60 years of age, I could not ... my Dad's only 52, I couldn't imagine my Dad asking that of somebody, nor could I imagine my grandparents ever asking a question like that. I don't care how comfortable you are with a person or how good a friend you think you are, that's not a question you ask somebody. I told him, it's not the kind of question you ask people Peter. The conversation died.
- 183 It was awkward because it's not like you can turn away and just walk away from it. We're in a car together and I'm driving and it was like ... what are you thinking? What surprised me was he has no ... I'm trying to explain the way he is. It's almost like he feels he has a right to ask those questions.
- 184 There's no lead-in, you know what I mean? Even if you did want to ask those questions, wouldn't you try and build up to leading into somehow, there was no lead in, it was just a ... bang. I didn't know what to do and once again, I told Karen. I had to laugh because I thought this is not normal, this not normal for a person to want to ask that and even if you were so comfortable in talking about that, who's to say the other person is? And I wasn't comfortable talking about ... it's not a conversation I'd ever had with anybody.

Second Question

- 185 I remember he asked that same question again some weeks later and I didn't diarise them, I am kicking myself I never did, but I do remember though as part of that second time he asked, he also asked about Twinks and Bears, what am I in to? And I said it's not questions you ask, but that was the best response to give him because it told him that I wasn't one, comfortable but two, it's just not the questions you ask someone.
- 186 Twink and Bear are terms that I wouldn't typically say.
- 187 They were his words, they were the questions he asked, the words used in his question to me and to me it's not normal because I told my Mum about the questioning and Mum said to me "Oh what's a Twink?" and I told her the reference to a Twink is someone

 Roberto

that's normally younger, gay, they're normally fairly metrosexual, quite boyish and a Bear on the other hand is someone that's normally fat, hairy, manly ... Mum laughed because she said ... she found it amusing because she's a hairdresser and she said "I'm guilty of using the term Twink because it's a type of perm" and she said I'm going to have to be really careful how I use that. Mum's been really good in that respect, she's tried to look at things in a different light and stay a little bit humorous rather than get all depressed and upset by it. Mum and I have got a good relationship where we can have a bit of a laugh or try and turn something negative into a positive just by talking it out. Even she said too, that's not normal.

- 188 I knew it's not normal. Even Karen said the same thing, it's not normal.
- 189 As far as I can recall, it was in another car trip and again, the question came out of the blue.
- 190 Two words that I guess are not run of the mill ... my Dad wouldn't know what they were and most straight guys don't.
- 191 I don't have many gay friends, most of my mates are all straight and I can just assure you, none of them would know what those terms are. They just don't.

Text messages on 26 February

192

193




- 194 So anyway she stayed there with me that week. We got down and we decided we'd go straight out for a meal and we went to the Kingston Hotel, it's a bit of a hotspot for Parliamentary staff and journalists all go there looking for a bloody story. We just got in there, you cooked your own steak, so we were cooking our own steaks on the bbq there. I started to get this bombardment of text messages from Peter and the conversation was between Peter and I but he referenced in his text messages, a conversation between Tim Conroy and he'd written in one of his text messages which we can go through, but he said in there "Tim thought I was a nice Twink" and once again, it sort of highlights he knows these terms.
- 195 First of all I was concerned about the conversation that he was having with this Tim fellow that I didn't know. This began on 26 February at 5.37pm, he texted me saying "1,593" which is in reference to his Twitter followers, he's quite proud of his Twitter followers. I had written back to him saying "Yeah, there's a lot now, it's growing and growing". Peter then wrote "I think my Tweets might be helping the generating where are you now?". Then he followed that with "Can we do another YouTube tomorrow, Alex Forbes suggestion on Twitter was good". I had written "What was the suggestion?" followed by "Are you down already?" asking if he was in Canberra.
- 196 So by 7.16pm, he had written back to me "Sydney just arrived you?" I wrote "Yeah I'm here in Canberra". Peter wrote back "Lucky Canberra. Tim Conroy thought you were a nice Twink!". I showed Karen cause we were both having dinner together and then didn't respond cause I was annoyed. He then repeated the same text "Lucky Canberra. Tim Conroy thought you were a nice Twink!". I thought straight away, one, who is Tim Conroy. I thought he was a politician to be honest, I thought he was an MP at first, the name rang a bell but I couldn't quite put two and two together and I wrote back to him "Why would he have seen a pic of me? That's a little weird that comment from him. Weird he was having that convo with you". He wrote back 7.56pm "Met you in person" and I said "When? Why don't I remember meeting him. Is he the bi/gay one" cause he'd mentioned he'd had dinner some weeks before with a State MP that was in the Valley and Peter said that he suspected he was gay or bi, so that's my reference to that one. And he wrote "No, the LNP member who owns the hired - [that should've been car I think] he has three daughters" and I wrote back "Oh Tim what was the discussion about" and he wrote "You". My response was "In a good way I hope". He wrote "About whether your loyalty was to the thugs in the LNP or to me. I told him I was hopeful your loyalty was to me". He then followed on saying "Though after the event I found out you did a video for a party that wants to terminate my career without telling me which does make me feel a bit vulnerable". He wrote in another one "Having said that, had I been consulted, I would have encouraged you to help Andrew though I cannot think of any other Coast LNP candidate worth supporting except Steve Dixon". He then wrote "Happy dreams. In this job you are no longer a free agent and I get held to political account for whatever you do". He then wrote "Sadly you are no longer a free agent".
- 197 And because I hadn't given a response, he wrote it again "Sadly you are no longer a free agent". I wrote back "I supported Andrew by making that video because if its someone you get along with, I am a free agent in my own time and I do not see an issue with helping friends, I consider Andrew a friend as much as you do. I've made it clear to you before, that I have your best interest at heart, I will not turn my back on friends who haven't turned their back on me. You need to respect my decisions outside of work, the same as I respect your decisions".



- 198 Andrew is reference to Andrew Powell the State member for Glasshouse and I did a campaign video for him at his campaign launch just weeks before the State election took place and cut it up and produced it and put it on You Tube.
- 199 My reference to Andrew being a friend and not turning my back on friends who haven't turned their back on me, there are a lot of people that could've wiped me for taking this job with Peter Slipper's office because he's not very well respected in political realms within the LNP, but politics aside, I have a great deal of respect for many of the politicians that I've met whether they're Labour or Liberal and Andrew being an LNP member, we only have LNP members on the Sunshine Coast, we don't have any Labour members, so I didn't really have any Labour mates until I got to Canberra. I wasn't going to turn my back on somebody that hadn't dumped me. As I say, I take people on face value and how they treat me.
- 200 Andrew had gone a bit quiet on me since starting at Peter's, but he explained to me that it was because he didn't like what Peter did and they have to be careful as to what information they feed through to Peter because Peter could then feed it back to the Labour party and that's fair too.
- 201 So he continued on in his text messages and says "Happy dreams. In this job you are no longer a free agent and I get held to political account for whatever you do". He wrote "No problems with helping Andrew but you need to run everything past me because I am judged by what you do". He then wrote "The problem with helping Andrew was only that I was not told".
- 202 Still on 26th February at 8.17pm, he wrote "I would be upset if anyone else running for the party that is seeking to end my career was helped. You can be absolutely certain that come the Fed, every last one including Andrew will be trying to ensure my demise", Fed means Federal election. He then wrote "You must choose between those who are intending to destroy me and me".
- 203 I wrote "You don't get held to political account for my private life Peter, I'll not have my private life managed, I would not bring you into disrepute through my actions. If I felt my actions would have an impact on you or the Speaker's role, I would resign. I'm proud of the fact that I took on this role against all advice from the LNP. I am as independent as you in my right to make decisions".
- 204 He then wrote "Is that unreasonable", he then followed that "Sorry if you intend to assist my political enemies, that is your right, but you owe it to me to tell me so you and I can sort out our respective positions".
- 205 I then wrote to him "I think this should be discussed in person. Text does not give a reasonable opportunity for both sides to state their case. I am more than loyal and anything that is discussed or planned for you is private. We're all working for your re-election, to think otherwise is just ludicrous".
- 206 I then followed that with "I've told you the only assistance is and will be towards the State candidates. I have no respect for Mal Brough and never will".
- 207 He then wrote "To assist the election at State level of people who will seek to prevent my re-election at the next Federal poll is not a loyal act".

208 I wrote "Well why would you insist on having coffees and catch up with Andrew and Steve Dixon, you draw a very blurry line".


209 And that reference there is he has been hunting Andrew Powell down. Andrew doesn't want to have coffee with him, he doesn't respect him, he doesn't like him and while there may have been some relationship there while Peter was the Federal Member within the LNP, he's no longer part of the party and Andrew doesn't have to tolerate Peter at all so. Anyway I wrote, on a different subject, once the media crews camped out at the arrival doors they're hunting in a pack, you're bound to be confronted by them, don't have too many wines cause they will no doubt want comment based on your YouTube message, just reiterate what you've already said on YouTube. Now that comment there was when the, Kevin Rudd, Julia Gillard caucus was to occur and the media were literally hunting in packs. You could not leave that Airport, you couldn't come through the doorways of Canberra without the media right there in your face. And so that's why that comment was put forward. Peter wrote those guys okay, bec, so in other words, because, neither will work to put either of us out of a job and I should be told, other cunts will. You make me out to be like a guy who is being cuckolded. Peter wrote, again those guys okay because neither will work to put either of us out of a job because I should be told, ahh, but I should be told, other cunt will, you make me out to be like the guy who is being cuckolded. I wrote back, it's unreasonable of you to have this conversation on text, I'm actually angry you would do this, it makes for a jolted conversation and doesn't come across reasonable.

210 I am aware what cuckolded means and it's normally a term that's, well cuckolded is in my eyes it's a term that's used to reference a jealous lover and you know, I found it just a bizarre word to use, but he's no stranger to big unusual words as well at times or you know words that aren't typically used in a standard day to day conversation. In all my life he's the only person I've ever heard use that term cuckolded, to be honest with you. I knew what it meant but I'd never ever heard anyone ever use it before so. He gave the wink smiley face and said okay I do like you but must understand I get upset when you play with my enemies and keep me in the dark, it's not what I expect of someone I consider I am close to. If you find this intolerable please discuss. He then wrote I previously advised I did not want any LNP State candidates helped without reference to me, to me the key element of eligibility for you/us to assist them is whether they will support/oppose or be neutral at the next Federal poll. Basically Peter's belief was now that he was independent speaker of the House of Representatives, kind of the Westminster tradition typically, both Labor and the Liberal Party, well the LNP in this case, would not context the seat of Fisher – so they wouldn't put forward a candidate for either party so that's what his reference is there. I wrote we will discuss tomorrow but understand what happens at work, stays at work, anything I do in my personal life is always measured, I would not put myself or you in a position of question. I believe in a professional attitude at all times. Followed by a message from me again at 8.49pm – I had advised you of my assistance to Andrew before yesterday. Whether you chose not to listen or take it in is not my fault. I have never been dishonest with you Peter, my core values from a young working age has always included complete honesty. I don't hide things on a professional basis from you, if mistakes or decisions are made I will always man up and tell you, I would tell anyone. I'm a grown man who has worked in positions of integrity for many years. I will not alter my professionalism now that I work sideline to a politician. Karen and I have only one priority – your office and future political career. You know how hard we work on that. I have not let you down once. You don't want an office of weak staff like Richard. (Richard is his former media advisor). I am strong and you knew full well my relationship, good and bad, with the



LNP. I see the good and bad in them for sure. Don't let the party or the haters detract from the good work you are achieving. Stay true to course and you will run a very strong race in 18 months. Independence means you don't have to watch your back, just look forward and never backwards.

- 211 He wrote back at 9.38pm. Well no problem -- I'm assuming that's supposed to be "with Andrew" -- a threshold question of any other LNP candidate is do they intend to work against my re-election at the next poll. He then wrote -- if they will not commit to not opposing me then they are not to be helped.
- 212 I wrote -- I am mindful of that. I am off to bed. If you feel this needs further discussion we can talk about this tomorrow. Goodnight.
- 213 He then wrote -- Also, please do nothing to assist any LNP candidate until I am consulted. Also do not treat you and Karen as a person, you are different people.
- 214 Then he wrote -- okay we should discuss in person however there are two non negotiable points. Firstly, you cannot have any ex-curricular political, in capitals, activity without my consent. And secondly I will not tolerate your working for anyone who will not support me at the next election.
- 215 He then wrote -- otherwise it's like being married to someone who is sleeping with someone else.
- 216 He then wrote -- ie being cuckolded.
- 217 I wrote back -- I will discuss with you tomorrow. I already told you the only thing I had planned is to hand out how to vote cards for Mark and Rhys in Council.
- 218 Mark is Mark McArdle. Peter and Mark don't get along, I've not bought into their dispute. What they have as a dispute is between them and not me and I've always been very upfront. I've said the same thing to Mark and I've said many a times to Peter. Mark does not bring Peter up. Mark does not speak negative of Peter. I do and am aware that they don't like each other, but that's not my place to get involved.
- 219 Peter then followed on to write -- working in my office at your level means you cannot have divided loyalties.
- 220 I wrote -- I haven't.
- 221 The then wrote -- no problems with HTV -- which is How To Vote -- for McArdle or Rhys, though I don't recall you mentioning Rhys in this context.
- 222 I then wrote -- No, I once again don't see Rhys as a threat to your political future. Let's talk about this tomorrow.
- 223 He then wrote -- I said I have no problem, wrt (which I'm guessing is with) your handing out Rhys How to Vote, HTV, just I don't recall you having told me before.
- 224 I wrote -- it was something I was discussing with Rhys this week. Nothing's planned 100%, let's talk tomorrow.

- 225 He then wrote – okay but if you're a senior person in the speaker's office you cannot freelance without consent. I had thought we had already agreed on that and thus my high levels of angst, concern and obvious discompture. [sic – discomfiture?]
- 226 I wrote – you've never said that I cannot do anything for anywhere else. No where have I seen that. Never have you insisted that.
- 227 He then wrote – I have enough challenges without having to second guess / monitor you.
- 228 He then wrote – we I now have.
- 229 I then wrote – that's the thing, I don't need monitoring.
- 230 He wrote – without my express consent.
- 231 I wrote – I'm trying to sleep Peter. We will discuss further tomorrow.
- 232 He then wrote – well I am starting to wonder.
- 233 Followed by – okay. But if you are a senior person in the Speakers office you cannot freelance without consent. I had thought we had already agreed on that and thus my high levels of angst, concern and obvious discompture. [sic – discomfiture?]
- 234 I wrote – no need for further angst. I will consult with you on any further requests for assistance from outsiders.
- 235 At 10.46pm he then wrote – thanks, appreciated, sleep well my friend.
- 236 Then the next morning at 6.40am, the 27th of February, I get a text message, first one in the morning – Good morning, trust you slept well. 1,751.
- 237 So there's like a all of a sudden – he's almost bipolar and I know his wife jokes about that bipolar disorder but as she said he's never been diagnosed with anything. He runs hot and cold. He gets stuck on subjects and what we've discovered is it's better to just say that you're right Peter and it's over and done with – it's quicker, it's easier. Like I'm always one to, if you're wrong, you admit you're wrong, but sometimes easier just to say you're wrong when you know you're not, but, it's just easier.
- 238 Okay. Now there were a couple of incidents of touching and a few other things. Do you want to cover those?

Touching on 1 March

- 239 In March we were still extremely supportive of everything that he's doing or trying to do our best to you know, part of me is thinking God this is a big challenge, he is a challenge, but we stayed strong and we've always stayed strong in trying to build some credibility for him. My feeling towards the YouTube videos has swung from trying to make Peter a superstar into trying to make him an educator of politics. I think one of my biggest criticisms of politics is that very few people follow it and there's nowhere really for people to learn about politics either. You either watch Question Time or you don't and we have a lot of very uneducated people in this country when it comes to politics. So I had recommended to Peter that we try and do informative videos that could be posted on YouTube and one of the things that I'd discovered that was lacking was any




reference to the Mace which is the House of Representatives cannot sit without the Mace being in the Chamber and it always leads the procession and it's part of politics and a lot of people aren't aware of that. So I asked him to do a bit of an education lesson on the Mace. So I had shot all the overlay vision before Parliament began that morning at 9 o'clock. It lives normally in his office in Parliament House and it's kept behind glass. It's opened and taken into Parliament each and every morning and then it's returned at the close of Parliament. So we got some good vision and I asked Peter to do a piece to the camera where he could tell people how it originated, the Australian Mace anyway, and the importance of it in politics and so we did that. He recorded that just before 9 o'clock, before he went into the opening of Parliament for that day. And throughout the morning I cut it up and by the afternoon, he likes to check you know everything's fine before it goes online, which is fair enough, he's never once said no it can't go up, he's always approved everything but I didn't have a problem with him checking it out, it was good. But he came and stood over me cause it was on my laptop and I use a personal laptop because Parliamentary Services won't allow programs to be put on Parliamentary computers unless it's approved and that process takes forever and the computers really aren't cut out for video edit. So I used mine, he came and stood over me, over my left shoulder and was watching it on my laptop screen. The video only went for maybe a minute and a half and he was, I was sitting like this with the keyboard in front of me and he put his arm on my arm, on my left arm, he put his hand on my left arm and he stroked it and said you do, in this really low tone voice, you do such a beautiful job with these videos. And sort of stroked it. I just had to drop my arm because it just, it sent shivers down me. It's just not something that, look, I'm the first to admit, I have turned to people and you know given them a tap on the shoulder, hey that's a good job or you know, in the past but, with my own employees in the past, but this was just seedy. I was just uncomfortable. And I suppose I'm already on edge too. But it was just not normal. And I just, he was very aware I'm sure that I didn't like it and, so that sort of

240 I told Karen about that. There was only me in the room but Karen's office in Canberra is sort of diagonally through, and we can see each other.


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A stylized, handwritten signature in black ink, possibly reading 'M. J. F.' or similar, with a horizontal line extending to the left.A handwritten signature in black ink, possibly reading 'J. Robertson', written in a cursive style.

Incident on 20 March

245 20th of March was a day that we, Karen and I had, Karen mainly, Karen had been dealing with a series of emails that were coming through from journalist Steve Lewis who works for News Limited and mainly The Australian. I had never dealt with Steve before, never met him. He had a reputation as the bloke that broke the Ute Gate Scandal with Kevin Rudd some years ago when he was Prime Minister. But Steve had been quite persistent with his questioning of the use of Parliamentary funds to purchase wine, the involvement that Peter Slipper had with Get Wines Direct and the owner Tony Sells. There was a series of questions relating to the supply of wine, as to whether it was donated to his last election campaign, and look it was a nonsense story, it wasn't going to go anywhere. It had no substance, we knew it had no substance. We could tell by Peter's reaction that it had nothing. And we had suggested to Peter that he try a method of putting out the questions and answers cause everything's always done by email, so we had a log of questions and answers. With any journalist they only pick and choose what they want to write, pick and choose bits of substance or something that might sell more papers and we thought we'll get your story out there. I had been tipped off that it was going to be a big story, like a front page story and in all honesty Karen and I were tired of mopping up messes so we thought well rather than let this become a mess let's just go and put all the questions and answers out there publicly for every journalist to have instead of it being an exclusive rule on this story, give it to everyone you know. So we compiled, well Karen compiled the questions and answers from email. I had suggested that we just tweet it holus bolus and so we put a teaser on Twitter, on Peter's Twitter. At this stage he had I think around 2,500 followers, a lot of which were journalists, from all newspapers, TV networks, radio stations across the country. We thought bummer it we will put it out to them. We knew it was going to ruin the story. And it was a tactic that had never been tried before. And yes there was a lot of nervous moments, for particularly Karen because it was her name that was on all these emails. And the strategy worked very well. We teased on Twitter that we were putting out a press statement in 20 minutes. Took about an hour to put out. By which stage we had every journalist in the Country aware that something big was going to come out. And we posted this thing on Twitter. It stung the shit out of every journalist in this Country because it had never been done in this manner before. We had created a new hash tag, hash tag is a term on Twitter that trends, so we created hash tag grubby journalism and it trend very well. In fact people are then using that hash tag to put with other stories that were grubby journalism you know, or stories of no substance that were turned into something fabricated. We had quite a lot of chatter through all the MPs offices. In fact it was fairly significant chatter to the point where both sides, Labour and Liberal, were well aware of the strategy that was put forward and put out there publicly. The journalists were shocked that a tactic like this had been used because it changed the playing field of journalism. Most journalists refused to email us anymore. They shut down basically on us. And we knew it would set a precedent, we knew it would be talked about, but we didn't expect to the extent that it would be throughout the MPs office. We had Bill Shorten come straight to the office and ask for a copy of what we had done, what terms we had used and everything. When Parliament had finished that night we had a number of MPs, Labor and Liberal, flock back to the Speakers office for




a drink, they were all talking about it. But before they came back, Peter had walked into the office and I was the only one in my office but Karen was in hers. And he walked straight up to me and he goes can I kiss you both, but was just looking at me. And I went "no!" and tried to dodge him and I said it loud enough that Karen looked straight up. And it was just like, once again, you just don't say that. Particularly, and I know that, I'm edgy about everything that he does and says, but we weren't both in that room, we weren't you know, it was just bloody uncomfortable. Just yeah, I didn't like it. Karen asked me what went on and I told her and she said I can't believe he's still doing this. And that was my last week in Canberra, that was the final week.

246

Abuse of travel entitlements

- 247 I think that there's a genuine need to notify the Federal Police in relation to these. My biggest concern, I travelled with Peter Slipper on three occasions which involved trips to Sydney. Some were stopovers, some were purely for a trip to Sydney to meet with certain people. The first trip I had travelled to Sydney on was on the 27th of January and we had a meeting with Anthony Albanese – well Peter had the main interview, the main meeting with Anthony Albanese – I was asked to come down on a 6am flight that day to attend part of that meeting at 11 o'clock in Anthony Albanese's office at Marrickville. I flew down at 6, caught a cab to the CPO which was in Phillip Street in Sydney. I was given instructions that they, to print out all the job applicants for the Assistant Advisers role and bring them with me to the meeting with Anthony Albanese. We were later then to travel onto Canberra for further meetings with the Cuban Ambassador. At 11 o'clock I had to meet Peter Slipper at Anthony Albanese's office in Marrickville. I took a cab from the CPO, the Commonwealth Parliamentary Offices. My whole reason for travelling that day was to ask Mr Albanese, as the Infrastructure Minister for the Federal Government, to record a piece in relation to the Bruce Highway upgrade which was to occur on the Sunshine Coast between the Caloundra turn off and the Sunshine Motorway. A piece that they had planned on spending \$2billion on. We had consulted Anthony Albanese over the issues that the residence and businesses had raised and Anthony Albanese, while he couldn't attend a forum that I had organised for Peter he was prepared to record a piece to camera which we could play on the night of the forum which was happening on Sunday. So I went along with my gear, my camera gear, and filmed that. I arrived by cab, Peter was already in Sydney. I believe he flew down the day before on Thursday the 26th. I met with Peter and Anthony in Anthony's office. We filed the piece and we then had a connecting flight to catch from Sydney to Canberra. Peter had asked me to travel with him. He had a chauffeured car that was waiting for him. He explained it as a, he had a mate, he explained at first he had a mate picking him




up, a friend I think his words was, not mate, but a friend. We left Anthony Albanese's office, walked across the road where Peter had then called his friend Antoine and arranged for a pick up spot. That pick up spot was across the road from Mr Albanese's office, down a side street which had a bottle-o right beside it. So we got in the car there, the car was a black Audi A8, so top of the range, limousine style vehicle. And I commented on how nice the car was, had all the trimmings, the bells and whistles. I didn't think it was, I genuinely thought it was a mate's car because in Queensland we have what we call L plates, or limo plates, that they start with an L, but it certainly didn't look like a Comm Car. It wasn't a Comm Car, which is a Commonwealth vehicle, and it certainly didn't look like a limo, that's why I was led to believe that it was a friend's vehicle. To me it looked like normal number plates. But I've, I never took down those number plates, but I remember the car and I remember the blokes name, Antoine. And when we were in the car I sort of asked a couple of questions about the car because you know, it was a nice vehicle. And Antoine was this short Lebanese fellow, bald head, wasn't overly dressed or anything. He had a pair of pants on with, slacks, with just an open neck collared shirt, so no tie or anything, so I didn't suspect for a moment that he was a chauffeur driver. But during the course of our trip we ended up having to go back to the CPO to collect my luggage that I was then going to take on board the plane down to Canberra. And we had to go, as I said, back via the CPO, and then to the Airport. So I asked a couple of questions while we were driving and Peter said that Antoine had been driving him for. He asked Antoine actually, how many years have you been driving me Antoine and to my memory he said, 19 years. And which made me sort of think to myself okay well maybe they do call themselves friends but it obviously started out as a driver client relationship. When we got out, sorry before we got out at the Airport, at Sydney Airport, I remember Peter asking Antoine how many cab charges did he require and he said three. And I thought it was really strange because you know this was suppose to be a friend picking him up and yet the friend was referring to payment via cab charges and in cabs that I've ever caught you pay one lump sum. Like you pay one form and you fill it out with all the details. Although we've all been issued cab charge cards. This was not a cab, this was not a Comm Car and yet Peter was issuing just signed cab charge forms, they weren't filled out properly. I saw him sign them, —but there was no other writing or any other detail contained on those cab charges.

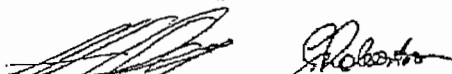
- 248 There was no meter, nothing in this car.
- 249 And I thought it was bizarre. I didn't question it. I did note it though in my diary. And I noted in here he paid him with the old school cab charge, click clack machine style forms, more like a cheque size you know.
- 250 Like the credit card slips. That's why I refer to the click clack style, you know that you run across. So I didn't say anything because I was only in my first couple of weeks there, I didn't know what arrangements you know had been made, and you know, you expect that things are done right. On the 5th of February, just a couple of weeks, a week or two later, we had another trip to Sydney which was a Sunday. Early flight again, 8.30 from Brisbane to Sydney. It was only for a day trip. We were coming back that night. On that Sunday I took a cab to Sydney Harbour. I waited at the Harbour and Peter and Inga arrived by Antoine, the Audi driver.
- 251 After the Cruise had finished, which would have been around 3 o'clock and we were picked up by Antoine in the same spot in which Peter and Inga were dropped off and that was at Circular Quay. I remember the weather was a bit funny, it was sort of hit and




miss weather, rainy in parts and then sunny in other times. And he pulled in just underneath the train line or something there, there's an upper level platform of some form. So he pulled in there. And that's precisely where we met him. Once again when we were taken to the Airport to fly home that night, Antoine was given cab charge forms. Once again there were three cab charge forms. And it was just an unusual method of payment for a vehicle that, as I said, wasn't a cab and wasn't a Commonwealth vehicle. Once again I didn't say anything. But on the following week we had another delegation, on the 11th of February. And I had flown down once again for the day and the flight was at 7.25 in the morning from Brisbane to Sydney. We met at 11.30 at Circular Quay to board the boat. We were picked up from the Airport by Antoine in the same vehicle. It's always a black Audi A8. Look without knowing the rego or checking the rego, I can't say 100% that it's the same vehicle but I have no doubt it's the same vehicle because there couldn't be too many, you wouldn't own too many quarter of a million dollar cars. On this trip the car wasn't in pristine condition on the inside. It was a bit dirty and I remember saying oh what did you have a big night in the car or something last night Antoine. He said that he'd had a wedding or something the night before so that car had had a bit of use. So it occurred to me for sure that the vehicle was definitely some form of hire vehicle, chauffeured vehicle. Once again we were dropped off at Circular Quay. We had another boat cruise, same sort of thing as the week before for the Samoans, but this week was for the Cyprus Delegation, we had the President of Cyprus with us. And we were given, I remember we had gotten off and there was indication that a gift was to be dropped off by the Cypriot's driver to our driver and the meeting place was just behind, there's a little, like a zoo or something down on the boardwalk there of the Circular Quay sort of area, or on the harbour there's a little zoo, there were two women out there with snakes, with a snake actually. I just can't think what that zone was because it was different to where we were picked up. So we were met by the vehicle

252 I'm not sure, it could have been either Circular Quay or Darling Harbour. I'm not sure, I'm not familiar with Sydney. There was like this little zoo, not zoo but. it was definitely an animal land of some sort. So we met there, there was a gift apparently for the drivers to do a swap but they couldn't find each other and Peter had given me Antoine's number to call and arrange for the meeting spot so I had called Antoine. That's how I ended up with his phone number. So we had met, they had a carton of beer to give to us and they also gave us each a, token, which was a paper weight. So I got that from the President. We got a lift back to the Airport. Oh sorry no we didn't. we were suppose to go straight to the Airport but Peter had plans to meet with a NSW QC at a pub in Anthony Albanese's electorate because I remember him saying oh we're in Anthony Albanese's electorate. And the pub was on, the rail line and it had a TAB and Keno and a couple of pokies in there and the rest was just normal pub. And I was allowed to stay part of that meeting for maybe ten minutes before I was asked to leave and give them some time to talk. Antoine was told to hang around when he dropped us off and then once the QC and Peter had finished having their chat, they're both very religious, because the QC and him only spoke about religious matters when I was at the table with him.

253 I don't remember the name of this person but I would know him by face. Something tells me it's John someone. He's quite a tall fellow. I remember certain features about him. For a QC he wasn't, Peter had told me he earns \$10,000 a day. I know that he was a Labor QC. He explained to me that he was very well connected to the Labor Party. For a man that earned that sort of money he was very tight with money, his clothes were old, his shoes were pretty drab, he had a weeping left ear. He had quite a large number



of sun spots or what appeared to be scabby scaley spots on his forehead and face. He had cufflinks of cricket bats. Thinning on top, with really light hair and he would have been in his 60s and I remember making comment to Peter after we got in the car what my observations were. He was a nice enough fellow, nothing wrong with him, but there were just certain things that I remembered about him.

254 And we were picked up outside the pub by Antoine again, he had been waiting. We were then taken once again to the Airport and multiple cab charges given to Antoine again.

255 I do not remember there being questions about the number this time. Peter Slipper just signed a number of them. He just, hands over a number of these cab charges. So it, by this stage, I have a little philosophy I've always lived by and I tell my friends the same philosophy. You have to think like a criminal because if you're not thinking like a criminal you're bound to be taken for a ride. Even though you think like one you don't have to act like one, it's just to make sure you don't get caught out for you know behaviour that, many of my friends have been ripped off and scammed in the past and I've always said to them you've got to think like a criminal. If they propose something to you well you have to think well you know, what's the worst that can happen. And I don't know, I suppose I just looked at what I knew of people's history with travel rorts and what occurred to me was that there's been large questions over a certain cab charge in 2009 where Peter had a cab charge that I think was around eight or nine hundred dollars here in Sydney. And I put two and two together. He said that he had been using Antoine for 19 years and I thought to myself okay well if Peter has been using him for 19 years questions are his 2009 questionable cab charge has been the result of using Antoine's services and what I thought myself was how do you avoid a eight, nine hundred dollar cab charge because he's been pinned for it. So he would have been looking for the way around not getting pinned again for a \$900 or \$800 cab charge. And it occurred to me that my suspicion was that hence the multiple documents because if you break it down it doesn't flag on a system as a big lump charge for a cab. If you put through multiple cab dockets it's not going to show up. And I asked some questions of this behaviour to a former MP, Federal MP and he said that is not right, that is not legal, that is not kosher, it is the wrong thing to be doing. And I explained my theory to him in relation to why I thought he did it and his words to me were – how is it in three months you've managed to discover how Peter has been using these fares in Sydney when for 20 odd years people have never been able to catch him out. And I just said to him well it's my suspicion that that's what's occurring and the MP, former MP said to me, you have an obligation, if you believe that there's any criminal activity to report it. And I said well I don't disagree with you, if that's what's going on, it's not right. And yeah, I just sort of had to think about it a bit. You know I've second guessed myself a couple of times thinking okay well hang on it could be legit. But if it was legit and he was doing the right thing he would have caught cabs but the car has always been on hold. He has always made that car wait for us. So that's why I don't believe that, well that's why I believe that the fees are as high as they are when he catches that transport while in Sydney. So, I also noticed that Peter, when he flies to Canberra, will very very rarely catch a direct flight to Canberra, he always comes via Sydney. And it's only a theory, but it makes good sense that, and it would need to be checked against records, that those documents could be but through on dates in which he passes through Sydney, so that's where it's highly likely that that's what's been occurring.

256 I later found out that the name of the company that owned the car was called "Unity" but the cab charge voucher went through a company named "GM".



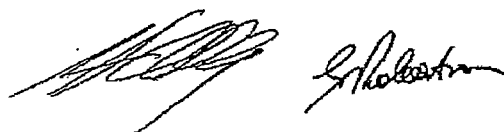
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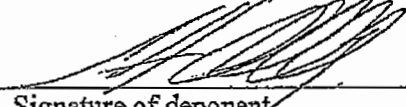
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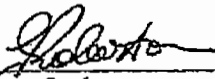
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A handwritten signature in black ink, appearing to be "Shalston" with a stylized, overlapping initial or flourish to the left.

45

Affirmed by the deponent
at Sydney
in New South Wales
on 13 April 2012
Before me:

)
)
)
)
)

Signature of deponent

Signature of witness

[Name and qualification of witness]

ANNEXURE CM-2

**FEDERAL COURT OF AUSTRALIA
DISTRICT REGISTRY: NEW SOUTH WALES
DIVISION: FAIR WORK**

NO NSD 580 OF 2012

JAMES HUNTER ASHBY

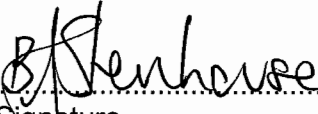
Applicant

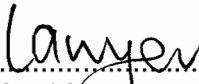
THE COMMONWEALTH OF AUSTRALIA

and another named in the Schedule

Respondents

The following 1 page is the annexure marked CM-2 referred to in the affidavit of Catherine Heather Mann made 8 June 2012 before me:


.....
Signature


.....
Qualification



Your ref. MDH:GKR:BDB:20031553
Our ref. 12026851

1 June 2012

Mr Michael Harmer
Harmers Workplace Lawyers

By email

Dear Mr Harmer

Australian Government Solicitor
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Sydney
Melbourne
Brisbane
Perth
Adelaide
Hobart
Darwin

James Ashby v Commonwealth & Anor (NSD 580/2012)

1. We refer to the affidavit of James Ashby, sworn on 13 April 2012 served on the first respondent after close of business on 28 May 2012.
2. The version of the affidavit served on the first respondent has been heavily redacted.
3. In our assessment, the references in the original application to the claims being "supported by sworn/affirmed evidence" waived privilege in the entire contents of the affidavit, not merely those portions which you have subjectively assessed as supporting the claims made in the original application.
4. Accordingly, the second respondent is entitled to a copy of the affidavit in unredacted form.
5. Please serve a copy of the unredacted affidavit by close of business on 5 June 2012. In the event that you do not do so we will seek instructions to file an application with the Court to compel its production, with the matter to be listed for argument on 15 June 2012.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'Sarah Wright', written over the printed name.

Sarah Wright
Senior Executive Lawyer
T 02 6253 7630 F 02 6253 7381
sarah.wright@ags.gov.au

ANNEXURE CM-3

**FEDERAL COURT OF AUSTRALIA
DISTRICT REGISTRY: NEW SOUTH WALES
DIVISION: FAIR WORK**

NO NSD 580 OF 2012

JAMES HUNTER ASHBY

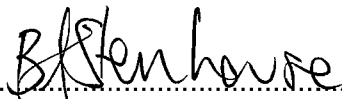
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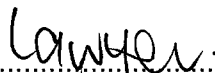
THE COMMONWEALTH OF AUSTRALIA

and another named in the Schedule

Respondents

The following 1 page is the annexure marked CM-3 referred to in the affidavit of Catherine Heather Mann made 8 June 2012 before me:


.....
Signature


.....
Qualification

- Change Management
- Industrial Relations
- Employment
- Occupational Health & Safety
- Human Rights & Equal Opportunity
- Legal Risk Management

Our ref: MDH:GKR:20121209

4 June 2012

Australian Government Solicitor
50 Blackall St
BARTON ACT 2600

**Attention: Sarah Wright /
Catherine Mann**

By email:

**sarah.wright@ags.gov.au /
catherine.mann@ags.gov.au**

Dear Colleagues,

JAMES ASHBY v COMMONWEALTH OF AUSTRALIA & ANOR (NSD580/2012)

Thank you for your letter of 1 June 2012.

We do not propose to provide your client with an unredacted version of the affidavit of Mr Ashby by close of business on 5 June 2012 as requested.

We note that in those circumstances you propose seeking instructions as to whether your client proposes to make an application.

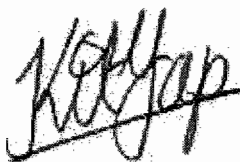
Prior to doing so, can you please explain to us the basis of the legal proposition asserted in paragraph 3 of your letter (including by reference to relevant authority) so that we may consider our client's position.

Yours faithfully

HARMERS WORKPLACE LAWYERS



Michael Harmer



Kit Yap

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ANNEXURE CM-4

**FEDERAL COURT OF AUSTRALIA
DISTRICT REGISTRY: NEW SOUTH WALES
DIVISION: FAIR WORK**

NO NSD 580 OF 2012

JAMES HUNTER ASHBY

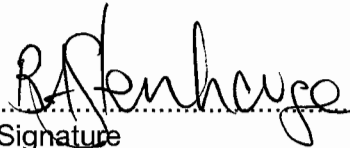
Applicant

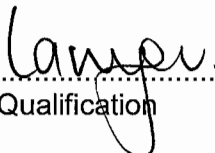
THE COMMONWEALTH OF AUSTRALIA

and another named in the Schedule

Respondents

The following 2 pages is the annexure marked CM-4 referred to in the affidavit of Catherine Heather Mann made 8 June 2012 before me:


.....
Signature


.....
Qualification



Your ref. MDH:GKR:BDB:20031553
Our ref. 12026851

5 June 2012

Australian Government Solicitor
50 Blackall Street Barton ACT 2600
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Mr Michael Harmer
Harmers Workplace Lawyers

Canberra
Sydney
Melbourne
Brisbane
Perth
Adelaide
Hobart
Darwin

By email

Dear Mr Harmer

James Ashby v Commonwealth & Anor (NSD 580/2012)

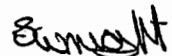
1. We refer to your letter of 4 June 2012 querying the basis for the statement in our letter of 1 June 2012 that:

the references in the original application to the claims being "supported by sworn/affirmed evidence" waived privilege in the entire contents of the affidavit, not merely those portions which you have subjectively assessed as supporting the claims made in the original application.
2. As you would be aware, any act which is inconsistent with the maintenance of privilege brings about waiver (*Mann v Carnell* (1999) 201 CLR 1). A court is bound to analyse the acts or omissions of the privilege holder that are said to be inconsistent with the maintenance of privilege. In our assessment, the reference in the Application to the sworn evidence, waived privilege in the entirety of the sworn evidence obtained from Mr Ashby and any other witness whose evidence was taken on the subject prior to filing the Application.
3. It would appear to be accepted between the parties that the filing and serving of a document expressly referring to the existence of sworn evidence as supportive of the claims made in the document was an act inconsistent with maintenance of privilege. Such an approach is an orthodox application of the principle in *Mann v Carnell*.
4. The first respondent's position is that the Applicant, having disclosed the substance of the affidavit in the application that was filed, waived privilege in the whole of the underlying affidavit. Such an approach is consistent with the approach taken by the courts in other disclosure cases. For example, disclosure of the gist of an advice has the consequence that privilege in the entire advice is lost, see *Bennett v Australian Customs Service* (2004) 140 FCR 101. There is no principle that waiver extends only to those parts of the advice that are consistent with the disclosure that has been made.
5. Further, as the court made clear in *Mann*, the inconsistency principle is also informed by considerations of fairness. Accordingly pre-Mann authorities such as *Gray v Associated Book Publisher Pty Ltd* [2002] FCA 1045 remain relevant. In *Gray*, Justice Branson comments that "waiver as to one part of a protected communication should result in waiver as to the rest of the communication on that subject matter". On the

material available to the first respondent, there is no reason to think that the redacted material in Mr Ashby's affidavit relates to different subject matter to the disclosed portions. Accordingly, waiver extends to the entire communication.

6. As previously requested, please serve a copy of the unredacted affidavit by close of business on 5 June 2012. In the event that you do not do so we will seek instructions to file an application with the Court to compel its production, with the matter to be listed for argument on 15 June 2012.

Yours sincerely


Sarah Wright

Senior Executive Lawyer

T 02 6253 7630 F 02 6253 7381

sarah.wright@ags.gov.au