

Damian Trehwella

From: Anita Jacoby <[REDACTED]>
Sent: Thursday, 21 December 2017 9:06 AM
To: AFI Board; Damian Trehwella
Subject: FW: AFI Board Update, Letter to Sign, Minutes 7 Dec.
Attachments: GR Letter 19.12.17.docx

Dear fellow Board members,

Respectfully, but in all conscience, I am not able to sign the attached letter to Geoffrey Rush from Alan and Damian, in the Board's name. It is important that the Board fully understands my reasons.

Firstly, there has been no significant changes in the factual situation regarding Geoffrey, excepting that he has denied the accusation and issued a writ for defamation, as is his right.

The Board asked Geoffrey to stand aside from his position as President as a matter of good corporate governance. This was done in the face of the undisputed fact that there had been a complaint made by another actor of "inappropriate behaviour" by him during his time at the STC. The STC publicly confirmed this fact and it was subsequently reported in the media. We issued a statement that made no judgement on the validity of the accusation and it went on, "respected Geoffrey's right to the presumption of innocence and due process, but also acknowledges good governance in these circumstances."

You will also recall two very important stakeholders, Foxtel and Channel 7, wrote to the Board on 1 December, 2017 wanting the Board to take action.

Damian replied to Peter Tonagh (Foxtel) and Angus Ross (Seven) dated 2nd December, 2017:

"We acknowledge the statement made by the STC relating to Geoffrey Rush is serious in nature and regret the timing of these claims being so close to our major event of the year.

Geoffrey has acknowledged that recent events would be having an adverse impact on our programs and as such has decided to step aside as President as (sic) AACTA until these matters are resolved."

We all agreed with Geoffrey's choice of action.

We cannot control how the media reports this matter or our statement. We should continue to act on the principle of good corporate governance and what is right in these circumstances. It was right to issue the original statement. That hasn't changed, and no principled case has been made to the contrary.

Whilst recognising and genuinely applauding Geoffrey's important contribution and value to AACTA, I would caution a business model so dependent on one high profile person.

I'm sorry to say I find the AFI letter an obsequious apology and can, and will, be interpreted in no other way. It can also be read as accepting that the STC accusation is false. We have no further information as to the veracity of the accusation, one way or the other.

I also find it extraordinary that Geoffrey can use this letter at any time, and at his sole discretion, with no input from the Board.

I have read Geoffrey's Statement of Claim, which is publicly available. We are cited in the writ

as having asked him to stand aside. Undoubtedly AACTA will now be involved in Geoffrey's case. In light of this, I am perplexed as to why we would send such a grovelling apology at this time. An apology that is highly likely to be used in this court case and be made public.

Has the Board had **independent** legal advice on this aspect and the appropriateness of sending such an apologetic letter?

I am disappointed that in light of the nature of the letter, it is being rushed through, days before Christmas, without any proper and considered discussion by the Board on such an important matter. I also believe this letter is not in the best interests of our Members and is a grave mistake sending it.

I would appreciate this letter being included with the next Board papers.

Regards,

Anita

From: Damian Trehwella [mailto: [REDACTED]]
Sent: Tuesday, 19 December 2017 3:54 PM
To: AFI Board
Subject: AFI Board Update, Letter to Sign, Minutes 7 Dec.
Importance: High

Hi all,

I'd first of all like to welcome Tony Petani back to the AFI Board. Tony's now cc'd to this correspondence (Tony is included in the AFI Board group email list).

Our current priority is to try and re-establish connection and trust with Geoffrey Rush. Great harm has been done and recovery not be easy. I've set out some of the situational aspects in the Board Memoir below. Most importantly our first step towards reconciliation is a letter of apology that should be signed by all the Board this week so as it can be delivered to Geoffrey pre-Christmas. Please review the letter attached and we'll find a way for everyone to be able to personally sign it.

Please also find attached draft minutes of last Thursday 7th December meeting.

The next AFI Board meeting will be a planning session 10am – 2pm Wednesday 21 March in Melbourne.

I have also attached the audited financial results for the year to end-June 2017. These are in line with results presented to the AFI Board already (including that the result is \$12k profit which is a good result after years of break-even results in challenging sponsorship environments). We'd like to finalise these this Friday so please let me know by then if any queries.

Regards, Damian

Board Memoir – analysis of damaging impacts of AFI AACTA statement

With the approval of Alan Finney I am providing this Board Memoir because the situation has become urgent regarding Geoffrey Rush and his relationship with AFI AACTA.

As we've discussed the statement we made in response to GR's step aside statement has been very damaging. After we released our statement media picked it up and were often keen to run it over GR's statement. This is likely due to it being more than a simple 'we accept GR step aside' as he expected. The additional wording including 'good governance' has created a situation through which a widespread impression has been created that we made a

judgement. This is a very difficult situation with serious business implications that will be hard to correct. Below is a brief outline of the situation.

1. Organisation background / going concern

As I have made very clear with all directors from induction onwards, this organisation exists in a very fragile state that is heavily reliant on the generous support of discretionary partners (primarily tourism/retail) whose only real interest is in connecting with the public via the talent we can access.

To reiterate, we are completely different to groups like the ABC and Screen Australia who are wholly government funded and whose main role is dispensing such appropriations (we receive only around 5% of Federal Government support).

Our organisation is built off critical partnerships and sponsorships that are heavily reliant on our access to talent.

For anybody who doesn't realise it, we do not own any talent. The only access we have to high level talent is their very good will and generosity.

Hence the very deep concerns in recent weeks as at least some on the Board have been wanting to hurry to action and in doing so have caused great harm to our model – something that has taken enormous work over many years to get where it is today.

In short, a few actions that we have taken may well have greatly jeopardised so much that has been achieved.

Geoffrey Rush has near singularly built this organisation through his tireless work over 7 years with our sponsors and partners. It has been incredible.

2. What GR has done for AFI AACTA

This is a business built fundamentally on relationships and none more important than that with Geoffrey Rush.

The AFI was in a parlous state when we transitioned to the Academy model that was launched with Geoffrey as President and he has been:

- Ø tireless in committing to the endless sponsorship requirements this organisation so desperately relies on

- Ø endlessly working on show and event elements and particularly in engaging other leading industry support

Such is the respect for GR that he is able to do this.

Note also that very few if anyone is able to do what GR does for our organisation – nationally or internationally.

No one of stature/capability has either an understanding of how this industry was built (ie that most people are beneficiaries of the hard work of those before them and the support of the nation's taxpayers) or a generosity to support others in the way GR does.

I know most of the AFI Board well understand this.

3. What GR feels about the current situation

From my conversations with GR, he seems to be appalled at what the AFI AACTA Board has done.

Not only did we put massive pressure on him and his representatives (at a very difficult time for them) to act incredibly hastily but we also did not just gracefully accept GR's statement. Instead, we decided to issue a broader statement, even though the majority of the Board initially voted in favour of a simple short statement. However the broader statement then led to many media organisations interpreting our position as one of judgement of GR – and hence creating massive problems. There is no doubt we would have been in a much better position had the statement that the Board originally agreed upon been maintained as the shorter statement may well have mitigated some, if not all, of the destruction that has occurred. A simple statement where we expressed regret in the current circumstances that we were agreeing to Mr Rush's wishes would not have caused the problems that have now occurred.

Geoffrey's carefully worded statement (which expressed great generosity on his behalf towards AACTA and our reputation by expressing no need for us to be dragged into his dilemma) was then generally interpreted as GR stepping down or "resigned from". GR knows well that the notion of a forced resignation implies shaming and self-preservation. Geoffrey requested the statement be in the precise terms he approved. Our statement indicated that AACTA wanted to distance itself from him rather than support him. I think that GR sees the AACTA Board's statement as in alignment with the unprofessional processes of the STC Board.

4. What GR representatives feel about the current situation

Geoffrey's representatives have made it clear to me that they are very unhappy with the way we have treated GR.

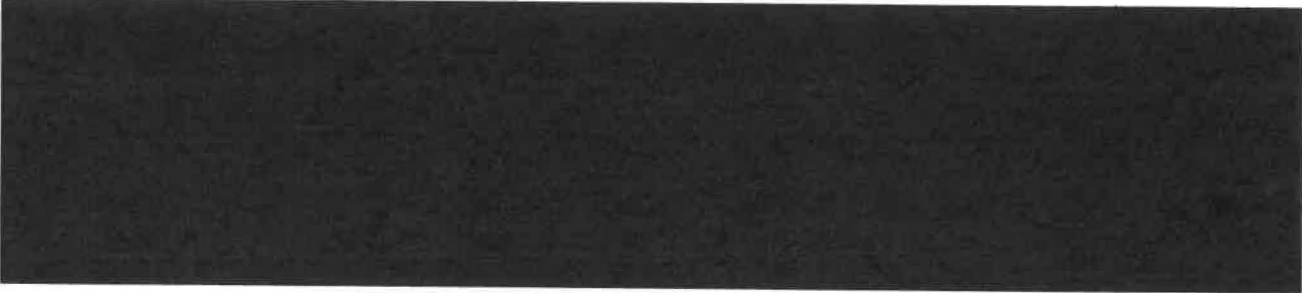
5. What are some of the significant issues this situation creates

a. Directly re GR

Obviously we have a massive issue with GR directly.

b. Directly re GR representatives (including Shanahan's)

It's clear that major problems exist here already.



We had developed an incredible relationship with Shanahan's, largely via the brilliant relationship we have had with GR over so many years - he is again where so much goodwill flows from.

Shanahan's clients combine some of the people we've most relied on over the years to build our model.

I'm also sure it won't take long for the word to get around, if it hasn't already, that people should be wary of AFI AACTA after the recent debacle.

This creates major jeopardy for our business as talent association is the only thing we've been able to develop a going concern around.

c. Directly re GR representatives internationally

On Saturday 2nd Dec I was also being strongly encouraged to pressure GR's United States representatives into hastily releasing his statement and I am very pleased I did not ultimately undertake such an endeavour or we'd be even in more dire circumstance.

GR's representatives internationally of course represent many of the world's finest practitioners. I can only hope that they are not already majorly offside as this will cause us immense problems internationally.

d. More broadly with other industry

It is certainly the case that we have a very small industry here and that (if not already) if we do not correct the situation ASAP that word will get around to be wary of AFI AACTA – if GR as President after all he has done cannot reasonably be supported against spurious allegations then what hope of support would anyone else have?

We are fortunate Geoffrey has not joined the STC and AACTA in his defamation suit.

6. What level of overall business risk has been created?

A very serious and major risk has been created, that if it is not redressed immediately (particularly with GR and his representatives) it will quickly infect and undermine all of the progress that our organisation has made and hence seriously jeopardise the organisations going concern.

Damian

Damian Trehwella
Chief Executive Officer

Australian Film Institute (AFI) | Australian Academy of Cinema and Television Arts (AACTA)

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