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FOR THE ATTENTION: OF:

**Officer Mr John Whitehall
Constable Tania Flaherty and
Detective Inspector Terry Walsh**

Fax

To: Mr John Whitehall

From: Val Kerrison

Constable Tania Flaherty and

Detective Inspector Terry Walsh

Fax: 9265 4198

Pages:

Phone: 9265 4100

Date: 31 October 2001

Re: Follow-up to Meeting 6 Aug 2001 **CC:**

☐ Urgent ☐ For Review ☐ Please Comment ☒ Please Reply ☐ Please Recycle

● **Comments:**

Dear Officer Whitehall

Thank you for your time and patience in this matter.

- 1 To reiterate part of our conversation, since 1995 I have never applied for any form of welfare payments such as the dole or sickness benefits.

I am currently working doing computer accounting and sometimes teaching. Businesses contact me and ask me to do this work.

Some places are aware of the full story and entrust me with keys to their premises and their most confidential business records.

Members of the public have fallen around laughing at TAFE's documents falsely claiming that I (a 62-year-old grandmother) is a potential homicide and suicide threat.

But that does not address the underlying issues which have accumulated and compounded for more than 9 years while government departments shuffle papers or fail to act.

- 2 In our telephone conversation one of the issues which arose was the question as to whether or not HealthQuest were legally empowered to retire me as a TAFE teacher.

In this regard, the Technical and Further Education Act is relevant, as is Public Sector Management Act. The wording of both these Acts is similar, and both show that there must first be a finding then recommendations/decisions made by THE DEPARTMENT.

- 3 Therefore HealthQuest can merely issue recommendations. They do not have statutory authority or power to hire/fire/terminate people outside HealthQuest. This was also confirmed to me in my conversation with Mr Harry Bauer Industrial Relations judge.

The Public Sector Management Act states in part:

s36 *Incapable officer may be retired (1979 Act, s 78)*

If:

- (a) *an officer employed in a Department is **found** [my emphasis] to be unfit to discharge or incapable of discharging the duties of the officer's position, and*
- (b) *the officer's unfitness or incapacity:*
- (i) appears likely to be of a permanent nature, and*
 - (ii) has not arisen from actual misconduct on the part of the officer, or from causes within the officer's control,*
- the Governor** [my emphasis] may, on the recommendation of the appropriate Department Head, cause the officer to be retired.*

The Technical and Further Education Act states in part:

Incapable officer may be retired:

s20. If:

- (a) *a member of the staff of the TAFE Commission is **found** [my emphasis] to be unfit to discharge or incapable of discharging the member's duties; and*
- (b) *the member's unfitness or incapacity appears to be of a permanent nature and has not arisen from actual misconduct on the part of the member (or from causes within the member's control),*
- the **TAFE Commission** [my emphasis] may cause the member to be retired.*

- 4 As mentioned in our telephone conversation yesterday, the first step to a forced retirement has to be first a FINDING that the officer has failed to carry out his/her duties of office.
- 5 You will note on all the purported certificates that the GMO officers have merely stated an opinion:
- "I am of the opinion that she is in consequence unable to discharge the duties of her office. I am further of the opinion that her disability will in all likelihood prove permanent."*
- 6 As you will notice, these words, written on all the purported certificates, at first glance appear to fit the legislation.

However, they do not.

An opinion is not a finding. A finding is a conclusion reached following an inquiry of fact.

A finding in relation to performance of duties first needs a reference to the employees' Statement of Duties and identify the duties as a term of reference. That term of reference can then be used, both sides give evidence, followed by a finding that at on such-and-such a day the employee failed to discharge some identified duty.

If a duty (as set out in Statement of Duties) was identified, and there was then a FINDING and then an illness or disability identified which could have caused that finding of failure to perform that duty, these could then be linked to construct a RECOMMENDATION to be forwarded to the Department head. Then the Department head could decide to formulate a recommendation to the NSW Governor or someone else empowered (such as possibly the TAFE Managing Director). The very high person then makes the decision. HealthQuest psychs do not. It is either the NSW Governor or TAFE Managing Director empowered to hire the govt employees - and also empowered to terminate.

Then the relevant high-ranking person such as NSW Governor or TAFE MD may (or may not) make a decision to cause the employee to be retired.

In other words this process is similar to a lawful termination (for failure to carry out duties) under the Industrial Relations Act, but much more is required.

Instead HealthQuest employees simply write words similar to the Act. They put them on a piece of paper and head it "Retirement Certificate" and post it off. By choosing to use this document Departments have seemingly circumvented Industrial Relations requirements with the Acts' inherent rights and protections.

The HealthQuest words, if standing alone, could cause people to wonder how such opinion could be formed, bearing in mind that HQ employees are far distant from the places of work where employees such as myself were currently capably performing all our duties unaware.

This is where the distracter "medical" comes into its own.

If a medical practitioner makes a pronouncement, how can a person without medical qualifications question it.

So when a medical practitioner such as a psychiatrist applies a purported psychiatric label to the employee's (previously) good name people believe it. The medical qualifications create an air of authenticity and possible reason to a 'bolt from the blue'.

And, let's face it, the very office itself as Government Medical Office, can be presumed to be above question.

The beauty of applying a psychiatric label is that a psychiatric label is subjective. It cannot be measured such as high blood pressure. And one psychiatrist can (and does) consider/state that a person is psychotic while another psychiatrist can (and does) consider/state that this same person is normal and exhibiting exemplary behaviour. And neither (bought) opinion can be disproved.

However, in the examples supplied, the psychiatric labelling was bought by the employer and applied to employee who may have simply opened their mouths to report apparent wrongdoing within their department.

As discussed with you I believe that the psychiatric/medical labelling is simply the distracter, and if one puts that aside, the Industrial Relations status can simply be observed.

One day the targeted employee is an employee and overnight s/he is retired.

And no-one in the Department saw it happen.

Then, apparently following oral or disposable instructions from higher up, the Department staff stop the wages, and change the employment status of the employee.

Fait accompli -

Previous reports of wrongdoing within the department are suddenly discredited as being the mere utterances of a psycho, and the psycho is suddenly history - shocked and without money, or a job. And with a psychiatric label, who is to give her a job.

- 7 Another question was motive. HealthQuest (unlike Ombudsman's office, ICAC etc) is self-funded. If employers do not contract HealthQuest's services its funds dry up and it could either fold or be downgraded - similar to businesses. HealthQuest charge its clients (mainly govt departments) a fee for service. Its fee for "Fitness to Continue" service is about \$800 and when contracted to perform this service for their clients (Departments such as DET, Police, TAFE etc), if it does not deliver satisfaction it (as with businesses) risks not being contracted again in the future.

If HQ fails on the first round to deliver the desired 'service' to the Department, the Department can (and sometimes has) simply ordered the employee to again go to the HQ shrink under the guise of 'care and concern' for the employee.

If the targeted employee refuses to submit to HQ's psychiatrist the Department has in the past simply sacked the employee for refusing to carry out an order and used Crown Solicitor to fight it through the courts. (Ref. Marlese Zechner IR cases).

- 8 Officer Whitehall, I understand from our conversation that the PD would need to have a possible crime set out specifying who, what where when why etc.
- 9 This is made difficult because TAFE have attempted to prop up their purported termination since 1995, and have made all sorts of backdated changes to my employment status through the years in their efforts.
- 10 Much of the following is repetitive to a) my first complaint to the police officers Constable Tania Flaherty and Detective Inspector Terry Walsh on 6 August; b) my fax dated 30 October 2001; c) telephone conversation with yourself, Officer John Whitehall on 30 October 2001.

Please Note: I cannot know what is or is not understood and ask for assistance in this.

- 11 Another issue which arose was that the police require original documents. Again this is difficult but not impossible. At this stage, many of the documents which I hold are not originals as I have obtained them under FOI and only copies were supplied.

I refer you to the following:

Attachments and Summary Explanation:

- 12 In early 1994 I reported to the (then) Managing Director of TAFE's investigators that a teacher had awarded herself 100% marks and thereby obtained qualifications.
 - 12.1 If true this could constitute being false entries in TAFE's public registers as set out in s336 of Crimes Act (See extracts from the Act attached)..
 - 12.2 A similar a case was successfully prosecuted and reported in the media late last year.
 - 12.3 This made me a potential witness to be called.
- 13 On 5 August 1994 TAFE's (then) Managing Director Dr Gregor Ramsey wrote of this (Docs available).
- 14 Commencing 8 September 1994 TAFE officers threatened me with danger and mentioned the Managing Director when they did so.
 - 14.1 I was frightened and wrote to Dr Ramsey in late 1994
- 15 On 17 January 1995 Dr Ramsey referred to my allegations of false entry stating it as being "Irregular Student Enrolment and Assessment Practices", and while he conceded that he accepted my allegations as being true, and he urged 'HealthQuesting' (Docs available and some supplied already)
 - 15.1 It contains in what appears to be Dr Willmott's handwriting the handwritten note "Noted 25/1/95 For attention Kerry Walshaw"
- 16 I was unaware that in April 1995 TAFE officers made false allegations about me of potential homicide and suicide and sent them to HealthQuest. (Docs available). They also alleged that I was not working. I was working on and around this time.
- 17 On 16 June 1995 HealthQuest officers Dr Eva Mandel and Dr Helen Jagger wrote and signed a document headed "RETIREMENT CERTIFICATE" (attached to my previous fax) addressed it to NCI TAFE and put it in the mail. Dr Jagger wrote a letter addressed to me at my home in Kempsey. sent it to the North Coast Institute of TAFE (NCI TAFE). The Managing Director of NCI TAFE at that time was Dr Gary Willmott. I was working unaware.
- 18 TAFE verbally told me to not come in any more, wrote and thanked me for my many years of valuable service, and evidently used the "certificate" to 'authorise' its staff to cut off my wages and filled in forms to sever my superannuation with State Super (docs available).
- 19 After protest TAFE recommenced my pay but did not allow me back to work. I hold payslips stating "ordinary pay" up to approx April 1996.
- 20 April 1996 TAFE suddenly stopped my wages and claimed that they had taken my extended leave entitlements without my knowledge or consent. No TAFE officer is

empowered to do this, but seemingly it was a further attempt to break me. So I worked elsewhere in order and earned money on which to live.

- 21 By this time it was obvious that I was not 'retired', thus making the certification of retirement a false certificate. Being a false document it is automatically null, and void.
- 22 Late 1996 TAFE again filled in documents to sever their superannuation commitments to me. (Docs available)
- 23 State Super contacted me. I told them words to the effect that I had not resigned or retired, and TAFE had not terminated my employment.
- 24 In 1997 State Super apparently telephoned TAFE and their record indicates that TAFE told them that no decision had been made.
- 25 Late 1997 the AntiDiscrimination Board contacted TAFE regarding my complaints that TAFE victimised me because I lodged complaints including allegations of discrimination against Aborigines.
- 26 TAFE officers then generated more allegations against me that I was considered homicidal/suicidal.
- 27 Probably around that time TAFE formulated a Voluntary Redundancy package for me, but did not tell me - apparently because this showed that they knew that I was not retired.
- 28 In 1998 State Super sent TAFE a bill for my superannuation.
 - 28.1 So TAFE wrote documents to somehow change my employment status to Sick Leave without pay and backdated to 1996 - and sent it to State Super to terminate their superannuation responsibilities.
 - 28.2 This did not work so TAFE then formulated documents to somehow change my employment status to Leave without pay and backdated to 1996 - and sent it to State Super to terminate their superannuation responsibilities.
- 29 State super 'accepted' this and severed my superannuation with TAFE for something State Super termed "withdrawal" (docs available). This State Super document which was sent to me did not mention TAFE's/HealthQuest's purported "medical retirement"
- 30 When I found out I protested but to no avail.
- 31 TAFE's computer system, the last time I looked, showed my employment status to be "medically retired".
- 32 Since then I have again asked for access to my accumulated extended leave but it was not given. I do not know whose instructions and signature took it, but this could also constitute fraud.

It should be noted that government Departments including TAFE officers and Managing Directors have access to their own departmental legal branches for assistance and advice. The targeted employee does not, and, Mr Whitehall, we can be easily duped.

My current concern is that in more than 2 months the Police have not actioned my complaints (including allegations of false certificate manufactured then used to dupe), nor has any contact with me been made in this long-running and involved matter.

Still the years and months go by -- the high-ranking people who did the actions are left free to redo their past actions and not even questioned -- the victim is left to fend for herself attempting to formulate this into an actionable case, unassisted.

- ♦ **In light of this I again ask that these 3 submissions to your office now be sent higher to both the Police Integrity Committee and to Commissioner Peter Ryan.**
- ♦ **I ask that I be contacted and informed when this has been done.**
- ♦ **I ask for assistance to sort out and define actionable affidavit and documents.**

Yours sincerely

Val Kerrison