

Our Ref: MOBL397

22 October 2019

NOT FOR PUBLICATION

Larina Alick
Editorial Counsel
The Sydney Morning Herald
1 Darling Island Road
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By Email: larina.alick@fairfaxmedia.com.au

Dear Ms Alick

Con Hindi

We act for Con Hindi, a former Councillor, Deputy Mayor and Mayor of Hurstville and currently Deputy Mayor of the Georges River Council.

On 2 April 2019, the Herald published an article on page 1 titled "*Councillors referred to watchdog: Exclusive. Angus Thompson*" (**the Article**).

The Article was also published online titled "*Sydney councillors referred to corruption watchdog over China trip*", was tweeted by Mr Thompson to his 2,260 followers and further published on the Sydney Morning Herald Facebook page. On Facebook and Twitter the heading was "*Sydney councillors referred to ICAC over China trip*".

In the opening paragraph, the Article falsely alleged that "*Two Sydney councillors have been referred to the state's corruption watchdog over a Chinese trip they took with a developer, whose projects they helped to push through without declaring any conflict of interest*".

The assertion of conflict of interest is repeated throughout the article by reference to Mr Hindi's voting record in support of development applications lodged by companies associated with the "investor" Yuqing Liu and "property developer" Wensheng Liu. In particular, the Article states that "*the pair (Hindi and Badalati) again made no declaration about their links to either of the Lius*".

The relevant facts are as follows:

1. At the date of publication on 2 April 2019, there had been no referral of Mr Hindi to ICAC by the Georges River Council, or at all. See for example enclosed copy emails passing between our client and the General Manager of Georges River Council on 2-3 April 2019 consequent upon publication of the Article, confirming that no Council spokesperson ever advised the Herald of any referral to ICAC. It was therefore false and malicious for the Article to assert that our client had been referred to ICAC, noting that no such allegation was ever put to our client by the journalist who wrote the Article. In this regard, our client was aware that Mr Vince Badalati had informed the journalist writing the Article that Mr Badalati and our client had paid for their accommodation and flights to China themselves.
2. On 23 April 2019, the Georges River Council passed a Motion that:
 - "a. *that Council request the NSW Independent Commission against Corruption and the NSW Office of Local Government to immediately commence an investigation into recent claims published in the Sydney Morning Herald on 2, 4, 6, 22 and 23 April 2019 regarding the allegations to determine whether any legislation has been breached.*"

Significantly, the Motion does not name Mr Hindi and was obviously a knee jerk reaction to the Article and the following articles, as listed in the Motion.

3. The Office of Local Government subsequently advised the Georges River Council Senior Legal Officer, that the Motion should not have been passed and that the matter should have been dealt with internally as a Code of Conduct investigation.
4. Mr Hindi flew to China with his wife at their own expense, and the allegation in the Article that he took the trip "*with a developer*" is false.
5. There was no conflict of interest for Mr Hindi to declare relating to his visit to Tangshan, China. The allegation that Yuqing Liu paid for his accommodation is also false. Mr Hindi's wife paid a member of Mr Liu's staff the sum of 4000 RMB for the accommodation, a fact witnessed by Mr Badalati and also by a translator, who has since provided a statutory declaration evidencing the same.
6. The purpose of Mr Hindi's visit to Tangshan was to inspect a plant owned by Yuqing Liu which converted waste to power. In this regard, Mr Hindi has had an interest with waste to power energy for about the past two years and has been involved in research and working with others in relation to the potential obtaining of a DA relating to the construction of a waste to energy plant with Dubbo Council. It was for that reason that Mr Hindi, who is an engineer by profession, travelled to Tangshan.
7. Mr Hindi has no "*link to the Lius*" which he failed to declare when voting on planning proposals by Wensheng Liu before either the Hurstville or Georges River Council or the Sydney East Joint Regional Planning Panel. Wensheng Liu was the developer. As far as Mr Hindi was aware, Yuqing Lui had no interest or involvement in the proposals. Mr Hindi does not speak or read Mandarin or Cantonese, and was never informed that Yuqing Liu had any interests in any of Wensheng Liu's developments in Hurstville. In this regard, although Mr Hindi was invited to attend a ceremony on the first day of his stay in Tangshan, he declined to attend and did not know what transpired at the ceremony.

The first paragraph of the article is therefore completely false in alleging that our client took a Chinese trip with a developer whose projects they helped push through without declaring any conflict of interest. As above, Mr Hindi did not take a Chinese trip with "a developer", and did not push through that developer's projects without declaring any conflict of interest, for the simple reason that there was never any conflict of interest to declare.

It is also significant that although the online version of the Article now contains an apology to Mr Badalati and withdrawal of any suggestion of corruption as against him, no such apology or withdrawal of any suggestion of corruption appears in relation to our client. In the circumstances, the suggestion that our client has acted corruptly is thereby reinforced to any current readers of the online version of the Article.

The Article conveys the false and defamatory imputations that:

- (a) Mr Hindi, as Councillor of Hurstville and Georges River Council, acted corruptly by repeatedly voting in favour of developments without declaring a conflict of interest arising from the payment of his accommodation for a trip to China by an investor in those developments.
- (b) Mr Hindi as Councillor of Hurstville and Georges River Council accepted a bribe in the form of paid flights and accommodation for a trip to China, in return for voting to favour development projects.
- (c) Mr Hindi as Councillor of Hurstville and Georges River Council acted corruptly by accepting payment of accommodation for a trip to China by Xinfeng, a company owned by Yuqing Liu, and then repeatedly voting in favour of developments in which Yuqing Liu was an investor
- (d) Mr Hindi, as a Sydney Councillor, acted corruptly by helping to push through projects for the developer Wensheng Liu without declaring a conflict of interest arising from a trip to China with him.
- (e) Mr Hindi acted unlawfully as Councillor of Hurstville and Georges River Council by repeatedly voting in favour of developments without declaring a conflict of interest arising from a trip to China he had taken with the developer Wensheng Liu.
- (f) Mr Hindi, as Councillor of Hurstville and Georges River Council, lied when he said that he had paid for his own accommodation for a trip to Tangshan China in 2016 to visit an energy processing plant, when in fact those costs had been paid by a company called Xinfeng, owned by Yuqing Liu.
- (g) Mr Hindi acted corruptly as a member of the Sydney East Joint Regional Planning Panel by voting for the site moderation for a proposed development without declaring a conflict of interest arising from the payment of his flights and accommodation for a trip to China by an investor in those developments.

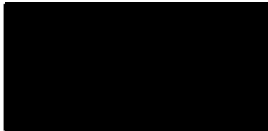
The Article has caused irreparable damage to the personal and professional reputation of Mr Hindi which he has built up over many years of community service as a local government councillor. In order to mitigate such damage and to partially restore his reputation, Mr Hindi demands:

1. that the Article be removed from the Sydney Morning Herald website;
2. that the Angus Thompson tweet be deleted;
3. the publication (both in print and online) and provision of an apology, in terms to be agreed;
4. payment of our client's costs to date; and
5. payment of a satisfactory amount as compensation.

We will defer commencing Federal Court Proceedings for a period of 14 days from this date, in the hope that the matter may be resolved on the above terms.

We await your response.

Yours faithfully



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