

BAYSIDE CORPORATE CENTRE  
9 WRIGHTS ROAD  
DRUMMOYNE NSW 2047



TELEPHONE: 02 9819 6299  
FACSIMILE: 02 9819 7299

ALL CORRESPONDENCE TO:  
PO Box 512  
DRUMMOYNE NSW 1470

EMAIL: [jwhitfield@whitfields.com.au](mailto:jwhitfield@whitfields.com.au)  
WEB: [www.whitfields.com.au](http://www.whitfields.com.au)  
ABN: 20 629 710 736

**JOHN M. WHITFIELD**

YOUR REF: 158/602/80163946  
OUR REF: JW:KF:15-014

8 April 2015

Mr Stuart Clark  
Clayton Utz  
Level 15, 1 Bligh Street  
SYDNEY NSW 2000

BY COURIER

Dear Stuart,

**RE: ARTHUR JOHN HACKING**

We refer to the correspondence in this matter of 10<sup>th</sup> March 2015 and now enclose herewith a cheque in the sum of \$340,517 in favour of your client. I will explain the make-up of this amount below.

I do not believe that it is proper for your firm to hold these funds in trust as they are properly payable to the NSWRFSS and this is what I require in the interest of my client. It seems strange to me that your client is rejecting receipt of these funds. Is there a reason? I require that the NSWRFSS provide a receipt for these funds.

In terms of the amount of monies, on our client's calculation, he has received a sum in total \$360,067 and provides a sum of \$290,517 as a component of this sum. A sum of \$69,550 cash was seized by ICAC and is held by them in an account as evidence. These monies form part of the total of \$360,067. Your client is entitled to these funds and although it is a matter for ICAC our client is prepared to do what he can do as being necessary to co-operate to enable release of the funds to NSWRFSS held by ICAC.

A further amount of \$50,000 is paid as being an estimate of what my client sold on e-Bay as property of the NSWRFSS. It is an estimate based on a schedule shown to my client and it may be more or less than the actual figure.

Yours faithfully  
WHITFIELDS

  
John M Whitfield

**Commonwealth Bank**  
Commonwealth Bank of Australia

Date 08-04-15

BALGOWLAH NSW

Pay NSW Rural Fire Service or bearer

The sum of Three Hundred and Forty Thousand Five \$ 340,517.00  
Hundred and Seventy Dollars Only.

JOHN MICHAEL WHITFIELD TRADING AS WHITFIELDS TRUST  
ACCOUNT

**NOT NEGOTIABLE**

*John Michael Whitfield*

This cheque contains special security features including Thermochromic ink and micro printing



Email and post

10 April 2015

Mr J M Whitfield  
Whitfields Solicitors  
PO Box 512  
DRUMMOYNE NSW 1470

[jwhitfield@whitfields.com.au](mailto:jwhitfield@whitfields.com.au)

Dear Mr Whitfield

**NSW Rural Fire Service and Mr A J Hacking**

We refer to your letter dated 8 April 2015 and the enclosed cheque in the sum of \$340,517 drawn on your trust account.

We are instructed to acknowledge receipt of the sum of \$340,517 on behalf of the NSW Rural Fire Service (RFS) from your client, Mr Arthur John Hacking.

We note that:

1. Neither you nor Mr Hacking have explained how he came to be in possession of monies the property of the RFS, save for a reference to having sold property of the RFS on e-Bay.
2. Neither you nor Mr Hacking have explained how the sum of \$360,067 has been calculated, save for a reference to an amount of \$50,000 "... as being an estimate of what ... [your client] ... sold on e-Bay as the property of the NSW RFS".
3. You expressly state in your letter that the estimate of \$50,000 "... may be more or less than the actual figure".
4. While you say that an amount of \$69,550 in cash was seized by ICAC and that our "... client is entitled to these funds ...", neither you nor Mr Hacking have explained how he came to be in possession of those monies nor the basis upon which they can be said to be the property of our client.
5. Neither you nor Mr Hacking appear to have made any allowance for the payment of interest on the money he has taken from our client.

Given the repeated assertions by you, on behalf of your client, that he has stolen from, or defrauded, our client of a significant sum, our client is willing to accept the payment of \$340,517 on account of the debt owed to it. However, our client reserves its rights to take whatever action it deems necessary to recover any and all moneys owed to it by Mr Hacking or his associates, including interest, the legal and other costs incurred by our client and/or damages.

In so far as the sum of \$69,550 you say was seized by ICAC is concerned it is not for our client to take action to establish its entitlement to that money. Given that you say, on behalf of Mr Hacking, that the monies were unlawfully obtained by him from the RFS we are instructed to demand the immediate repayment of that sum and the interest thereon. Should Mr Hacking fail or refuse to repay that amount by 5pm on Monday 12 April 2015 our client will take such action as it may be advised to recover those monies from Mr Hacking.

Mr J M Whitfield, Whitfields Solicitors

10 April 2015

We are further instructed to demand that Mr Hacking also:

1. account to our client in writing for any and all:
  - (a) monies he has unlawfully obtained from our client; and
  - (b) our client's property that he has stolen or otherwise converted;
2. provide our client with a written statement setting out the basis upon which he has calculated the amounts that he says he owes to it;
3. provide our client with bank statements, PayPal records or any like documents demonstrating from where, and to where, funds he has obtained from the RFS, or the sale of RFS property, have been paid;
4. provide our client with a written statement identifying:
  - (a) the property which he has stolen or otherwise converted; and
  - (b) the person or persons to whom he has sold or otherwise transferred that property

by 5pm on Monday, 12 April 2015.

Yours faithfully,



**S Stuart Clark, Partner**  
+61 2 9353 4158  
sclark@claytonutz.com

**Larissa Cook, Special Counsel**  
+61 2 9353 4602  
lcook@claytonutz.com

Your ref JW:KF:15-014  
Our ref 158/602/80163946

**NSW ICAC EXHIBIT**

\* PLEASE NOTE NEW ADDRESS:

DRUMMOYNE CHAMBERS  
SUITE 3, 27 LYONS ROAD  
DRUMMOYNE NSW 2047

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**JOHN M. WHITFIELD**

YOUR REF: 158/602/80163946  
OUR REF: JW:KJ:15-014

4 May 2015



Clayton Utz  
GPO Box 9806  
SYDNEY NSW 2001

BY COURIER

Dear Colleagues

**RE: ARTHUR JOHN HACKING**

I refer to your letter of 10 April, 2015 in this matter and note as follows, initially using your numbers in the third paragraph:

1. This is a matter that our client has explained to an ICAC investigator and will explain to the Commissioner of ICAC and no further correspondence will be entered into;
2. This is a matter that our client has explained to an ICAC investigator and will explain to the Commissioner of ICAC and no further correspondence will be entered into;
3. This is a matter that our client has explained to an ICAC investigator and will explain to the Commissioner of ICAC and no further correspondence will be entered into;
4. This is a matter that our client has explained to an ICAC investigator and will explain to the Commissioner of ICAC and no further correspondence will be entered into;
5. Noted.

In relation to your fourth paragraph, the contents are noted but any suggestion that our client should pay your firm's costs are rejected. I contend there was no basis for your firm to be involved in the reimbursement of funds and any claim for damages is rejected.

In relation to paragraph 5, the the contents are noted but not understood as all funds have been repaid and there is possibly an overpayment. The arbitrary date set by you is not accepted.

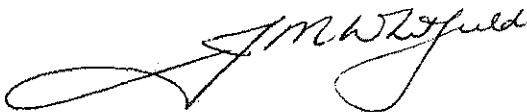
In relation to the first paragraph on page 2 of your letter, my client will not enter into any further correspondence with your firm other than to return items, the subject of the following paragraph with this letter. Our client has disclosed all details to ICAC.

I have had delivered to me by John Hacking, the following items which are provided with this letter:-

- 1 x Apple iPad
- 1x Apple Charger for iPad
- 1 x Apple iPhone
- 1 x Apple iPhone Charger
- 1 x Telstra Mobile Phone
- 1 x Samsung Galaxy S5 Mobile Phone (in box with all accessories)

It would be appreciated if you would sign and return the enclosed receipt in acknowledgement.

Yours faithfully  
WHITFIELDS



John M Whitfield

Confidential

Email and post

6 May 2015

Mr J M Whitfield  
Whitfield Solicitors  
PO Box 512  
DRUMMOYNE NSW 1407

[jwhitfield@whitfields.com.au](mailto:jwhitfield@whitfields.com.au)

Dear Mr Whitfield

**NSW Rural Fire Service and Mr & Mrs A J Hacking**

We refer to your letter of 4 May 2015.

On behalf of the NSW Rural Fire Service (RFS) we acknowledge receipt of the following items from your client:

- 1 x Samsung Galaxy 5S mobile telephone (black) in a brown box bearing barcode number 353423/06/722129/8, with a headphone set and battery charger;
- 2 x Apple iPhone/iPad battery chargers;
- 1 x Apple iPhone 6 Plus (gold) bearing IMEI 354380066526938;
- 1 x Telstra dumb phone (black); and
- 1 x Apple iPad 16GB (silver) bearing IMEI 012804001424739 and serial no. DQTGDMABDFJ1.

Those items were received by us on 5 May 2015. We have today sent them to the RFS.

With respect to the four numbered paragraphs on the first page of your letter, we do not understand why your client is not able to explain to his former employer how he arrived at the calculation that he came to owe it what he says is the sum of \$360,067.

The fact that he has disclosed information about those monies and calculations to an investigator of the Independent Commissioner Against Corruption (ICAC) and will explain them to the Commissioner of the ICAC does not explain why he cannot now disclose those matters to the RFS.

We assume that your client has been truthful in his dealings with the ICAC. We fail to see how it would prejudice the ICAC investigation in any way for him to disclose the method by which he arrived at the sum which he says he owes to the RFS or account to it for the monies he says he has misappropriated.

We refer to the second paragraph on page 2 where you say that "all funds have been repaid". We assume by this that you mean that a sum of \$340,517 has been paid to the RFS and a further sum of \$69,550 in cash has been seized by the ICAC and is being held by it. As we explained in our letter, the seizure of money by ICAC is not a means by which your client can discharge a debt he owes to the RFS. That is not money to which our client has access nor is it apparent that our client is entitled to it.

In circumstances where your client refuses to provide any explanation whatsoever as to how he has arrived at the sums he says he owes to the RFS, the RFS is unable to understand how he says the debts

Mr J M Whitfield, Whitfield Solicitors

6 May 2015

arose. Furthermore, it is by no means certain that the sum of \$69,550 will be paid to the RFS. It may, for example, be forfeit to the Crown as the proceeds of crime under the *Criminal Assets Recovery Act 1990* (NSW).

We reiterate the demands we made on behalf of our client on the second page of our letter and look forward to your client's compliance with them by 5.00 pm on Friday 8 May 2015.

Yours faithfully,



**S Stuart Clark, Partner**  
+61 2 9353 4158  
sclark@claytonutz.com

**Larissa Cook, Special Counsel**  
+61 2 9353 4602  
lcook@claytonutz.com

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PO Box 512  
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**JOHN M. WHITFIELD**

YOUR REF: 158/602/80163946  
OUR REF: JW:KJ:15-014

7 May 2015

Clayton Utz  
GPO Box 9806  
SYDNEY NSW 2001

Dear Colleagues,

**RE: ARTHUR JOHN HACKING**

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I refer to your letter of 6<sup>th</sup> May, 2015 in relation to the above named and note receipt of the items forwarded by courier.

In relation to all other aspects of your letter, I have indicated previously that my client is not prepared to enter into any further correspondence in relation to this matter and does not accept that you have any right to set an arbitrary date for compliance with a reply.

I will further correspond about the caveat position in due course.

Yours faithfully  
WHITFIELDS

  
John M Whitfield

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ABN: 20 629 710 736

**JOHN M. WHITFIELD**

YOUR REF: 158/602/80163946  
OUR REF: JW:15-014

14 May 2015

Clayton Utz  
GPO Box 9806  
SYDNEY NSW 2001

Attention Stuart Clark.

Dear Mr Clark,

**RE: ARTHUR JOHN HACKING**

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I refer to previous correspondence in this matter and in particular referring to the sum of \$69,500 cash held by ICAC. I have made representations to ICAC that these monies be refunded to the NSWRFSS and have received a response a copy of which is attached. Based on that letter I invite you on behalf your client to make representations to ICAC to pay these monies out to the NSWRFSS on the basis that the NSWRFSS is lawfully entitled to be paid these monies.

I put you on notice that this letter may be tendered in any proceedings in which Mr. Hacking is sued and or charged as evidence of his attempts to have the sum of \$ 69,500 repatriated to your client. This includes on any argument as to costs including costs on an indemnity basis in any civil proceedings.

Yours faithfully  
WHITFIELDS

John M Whitfield

Mr John Whitfield  
Drummoyne Chambers  
PO Box 512  
Drummoyne NSW 1470

11 May 2015

Your Ref: JW:KW:15-014

Our Ref: E14/0418

Dear Mr Whitfield

**RE: ARTHUR JOHN HACKING**

I refer to your letter of 8 May 2015 requesting that the Commission allow the sum of \$69,500 to be paid to the NSW Rural Fire Service on behalf of Mr Arthur John Hacking.

As you are aware, this money was seized by Commission officers from Mr Hacking's premises under search warrants executed on 14 February 2015 and relates to a current Commission investigation. You have suggested that safeguards could be put in place to overcome any evidentiary difficulties in disposing of the money at this stage of proceedings.

Even if retention of the money is not reasonably necessary for the purpose of an investigation or a prosecution, the Commission may only dispose of the property in accordance with the instructions of the person who appears to the Commission to be lawfully entitled to possession of the property, or in accordance with a court order.

You have indicated that Mr Hacking does not claim to be lawfully entitled to the money. Therefore the Commission is not able to deal with the money in accordance with Mr Hacking's request.

Yours sincerely

  
Roy Waldon  
Solicitor to the Commission