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PUBLIC
HEARING

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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE PETER M. HALL QC
CHIEF COMMISSIONER

PUBLIC HEARING

OPERATION SKYLINE

Reference: Operation E17/0549

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON WEDNESDAY 2 OCTOBER, 2019

AT 9.30AM

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THE COMMISSIONER: Yes, Ms Curtin. Thank you.

MS CURTIN: Commissioner, this is a directions hearing to confirm the programming for the November hearing of this inquiry, which is set down for three days from Monday, 25 November.

THE COMMISSIONER: Yes. Thank you. Mr Voros, I see you're present.

MR VOROS: I do appear for Mr Petroulias.

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THE COMMISSIONER: Mr Petroulias is here.

MR VOROS: He is.

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THE COMMISSIONER: Ms Bakis is here. Very good. Well, now, Mr Voros, perhaps I might just address you firstly. I confirm, as Ms Curtin said, the dates we set on the last occasion for completion of the matter, 25, 26, 27 November, and the purpose of this further directions hearing is to enable anyone else who intends to appear to raise any issues and directions sought. So far as your client is concerned, Mr Voros, firstly, do you have any application to make in respect of the taking of evidence from Mr Petroulias?

MR VOROS: I do, Commissioner. I raised in writing on 24 May with a solicitor for the Commission my concerns with Mr Petroulias's deterioration, his deteriorating mental health.

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THE COMMISSIONER: I'm sorry, could you just move closer to the microphone. Thank you.

MR VOROS: I raised in writing when I was reinstructed on 24 May with a solicitor for the Commission my concerns about the deteriorating mental condition of Mr Petroulias.

THE COMMISSIONER: Yes, I recall the letter.

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MR VOROS: I again raised it in writing on 9 July. One of the things that I raised initially at first instance in May in writing was that he, Mr Petroulias, be given an opportunity to participate in the proceedings, that is, give his version or evidence by way of written form. That was an aspect which was to some extent it appears agitated in a private hearing where Dr Adams gave some evidence it appears, and there was a question posed to Dr Adams by the learned Counsel Assisting the Commission along the lines of a hypothetical scenario put to Dr Adams where, if he was given an opportunity to respond to questions in writing to enable him – and I'm paraphrasing the question – the opportunity to provide his own, his version within reasonable limits, and it appears that Dr Adams was of the view that

that would be a beneficial way to alleviate some of the stresses which he had identified in his reports.

10 Dr Adams in his evidence, when the question of a private hearing was agitated, was of the view that he did not believe that even having a private hearing in the traditional way of Mr Petroulias giving evidence and being cross-examined would alleviate the concerns and factors which were prevalent relative to his mental health. My application, and having
10 conferenced Mr Petroulias, the last conference I had with him was Monday this week, the same concerns which I had in April about his ability to participate meaningfully even in a private hearing in a question-and-answer format in the traditional way of cross-examination would cause him some concerns.

20 My application essentially, I do have instructions to seek the questioning of Mr Petroulias take place in a scenario which would afford him an opportunity to put his version across, whether it may be a formulation of direct questions or an opportunity to provide a narrative in writing as opposed to the traditional question and answering in a courtroom/traditional questioning scenario.

30 THE COMMISSIONER: Yes. Thank you, Mr Voros. Mr Voros, as you know, I've been intent to provide Mr Petroulias with an opportunity to both give evidence and respond to evidence that's been given, and there's been a series of adjournments, as you know, which has prevented this investigation and this hearing to go forward. That being the case, there was a ruling, as you'll recall, which I determined that I would conduct a hearing of his evidence in private session rather than in public inquiry, except for the fact that there be others represented in the private hearing understandably to hear the evidence of Mr Petroulias and cross-examine him if they wished.

40 The private hearing process, which was determined by me having regard to the material concerning Mr Petroulias, still stands. That is, the private hearing approach. Your application for a narrative statement I'm prepared to entertain on the basis that it provides a further opportunity for Mr Petroulias to put forward any material, any matter he wants to rely upon so that he will have every opportunity within whatever constraints may apply to be heard. So in combination, the private hearing together with permitting him to put on a narrative statement, has been designed and now is intended to provide Mr Petroulias with an opportunity to be heard, and if he wishes to have anything put to other witnesses he'll be able to do so in the private hearing.

So I will permit a narrative statement to be relied upon. It will need to be produced in advance of the block of hearing dates, 25, 26, 27 November, so it would require to be put on within six weeks, that is to say, that he should lodge the narrative statement on 18 November, 2019 and I will on that day

list the matter for mention and directions to receive that statement, or if it's been received before then, to deal with that statement.

By that I mean that I wish to make available to Mr Petroulias, if he wishes, to avail himself of the provisions of section 37 and 38 that he may produce the statement on objection so that he has the protection of section 37 and 38.

10 In all of those procedures – I'll start again. All of those procedures are designed to assist Mr Petroulias, so he'll be required to put on the statement by 18 November, to attend a hearing that will be a private hearing, and he will be required to, as any other witness, to answer questions that I permit to be put by interested parties or by Counsel Assisting, and will permit him to raise any other matters or at least apply to give evidence on any other matters that his narrative statement doesn't address which, of course, are matters that are relevant to the issues in the investigation, the public inquiry.

So, Mr Voros, do I make myself clear now as to the procedure forward?

20 MR VOROS: Yes, Commissioner.

THE COMMISSIONER: And have you anything to say about that?

MR VOROS: No. No, I do not.

30 THE COMMISSIONER: Thank you. So 18 November in effect gives your client about six weeks to prepare the statement. I encourage him to focus as much as he is able to, with your assistance, to address the evidence towards any of the issues in the proceedings. That's important because if it's a long rambling statement, and I don't suggest Mr Petroulias would do that, but it takes attention away from what are the real important issues in the public inquiry and it's necessary that I hear from him on important issues, so I just say that not by way of intended criticism but simply just by way of forewarning that it's best to keep the statement on track according to issues that are relevant to the inquiry and as they affect Mr Petroulias.

40 Mr Voros, the outstanding matters are, as I understand it, there has been an application by you to cross-examine Mr Green, Ms Bakis and Mr Vaughan and that will be dealt with at the hearing on 25, 26, 27 if you wish to still pursue an application to cross-examine those witnesses.

The other matter that's outstanding. There are two statements of two persons, one Mr Faraj. There's a Faraj statement. There was a statement of Mr Vaughan. I previously made a ruling about those, deferring the ultimate determination as to whether those statements should be received into evidence. As I understand it, Mr Petroulias did want those statements to go into evidence and I'm assuming that he still does want those statements to go into evidence, so arrangements will be made for Mr (not transcribable) and Mr Vaughan to be summonsed to attend the hearing on 25, 26, 27

November and such other time as may be specified. It may be that there is something in the nature of a voir dire hearing about their statements. Subject to that, if I determine they should be admitted then on that occasion I will make a final ruling about the admission or admissibility of the statements of Mr Faraj and Mr Vaughan.

10 I think they are the outstanding matters that needed to be addressed by way or programming. Mr Broad, principal solicitor of the Commission, will write to the parties to confirm any other matters they need to be on notice about concerning the progression of the hearing and any preparation that needs to be done and as I've indicated I will relist the matter on 18 November at 9.30am to deal with any outstanding matters that need to be addressed prior to the hearing recommencing on 25 November.

Ms Bakis, is there anything you wanted to say or Ms Nolan?

20 MS NOLAN: Yes, if the Commission pleases. The statement to which you've earlier referred, will that be made available to the other interested parties?

THE COMMISSIONER: Sorry, I can't hear you.

MS NOLAN: The statement to which you have referred of Mr Petroulias.

THE COMMISSIONER: That's Mr Petroulias's narrative statement.

MS NOLAN: Yes. Will that be made available to the other parties in a timely manner?

30 THE COMMISSIONER: Yes, I think it should be. Mr Voros, any problems with that?

MR VOROS: No, not at all.

THE COMMISSIONER: Well, Mr Voros, I think if you could serve on other parties who have been granted leave to appear copies of the statement of Mr Petroulias on or before the date it's lodged with the Commission, that is, on or before 18 November, 2019. Ms Curtin?

40 MS CURTIN: Commissioner, I understand it would need to be served on the other parties after he is afforded the protection.

THE COMMISSIONER: That's true. That's true.

MS CURTIN: So after the directions on 18 November.

THE COMMISSIONER: Yes, yes, thank you for reminding me of that. Just to amend that direction that I've indicated, the copies of the narrative

statement of Mr Petroulias are to be served after the mention and directions hearing at 9.30am on 18 November. That is to say, I'd expect they would be served within a day of that directions hearing. Does that cover everything? All right. Very well. Ms Curtin, anything else?

MS CURTIN: Commissioner, may I suggest that perhaps Mr Broad take on the responsibility of serving that statement after the directions hearing on the 18th.

- 10 THE COMMISSIONER: Yes, very well. That will be noted that the distribution of copies of Mr Petroulias's statement on or about 18 November next will be undertaken by the Commission. Mr Broad, solicitor, will supervise the serving of copies of the statement on interested parties who have been granted leave to appear. Very well. Nothing else? Then I'll adjourn.

AT 9.50AM THE MATTER WAS ADJOURNED ACCORDINGLY
[9.50am]