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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 MONDAY 25 NOVEMBER, 2019

AT 10.00AM

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THE COMMISSIONER: Yes, Dr Chen.

MR CHEN: Commissioner, Mr Petroulias indicated by email at 9.22am this morning to the principal lawyer for the Commission that he would not be attending today. Commissioner, could I tender an email from Mr Petroulias dated today and sent at 9.22am.

THE COMMISSIONER: Yes, the email from Nick Peterson sent today, 25 November, 2019, 9.22am, will be marked for identification, MFI 71.

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#MFI-071 – EMAIL FROM NICK PETERSON (NICHOLAS PETROULIAS) DATED 25/11/2019 AT 9.22AM

THE COMMISSIONER: Yes, Dr Chen.

MR CHEN: Commissioner, there appears little that can occur today in light of that. The program was for Mr Petroulias to complete his cross-examination of Mr Green. Mr Green, as you will see, Commissioner, is in the hearing room and his counsel is here, Mr Lonergan. Commissioner, there seems little, as I said, that could be done, except to accede to Mr Petroulias's request and to resume the hearing tomorrow.

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THE COMMISSIONER: Yes. Thank you. So I'll hand down MFI 17 to counsel, Mr Lonergan and Ms Nolan so they can see it. Mr O'Brien, you also should have access to that.

MR O'BRIEN: Thank you.

30

THE COMMISSIONER: Just before we proceed, Mr Lonergan, do you want to say anything or Mr O'Brien or Ms Nolan?

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MR LONERGAN: Commissioner, the email seems to import at least in partial consideration of not being here today that he hasn't finished his applications. I mean in those circumstances if that is the only basis, and it's not clear whether that is or not, then my submission would be that Mr Petroulias loses his opportunity to cross-examine Mr Green. I mean it's simply not justifiable to stay at home to finish an application or applications and for the tribunal or the Commission to be put at a disadvantage of time by virtue of that.

THE COMMISSIONER: Yes, I understand the course of your submission.

MR LONERGAN: May it please the Commission.

MS NOLAN: Commissioner, my submission is this, that the conduct of this Commission of inquiry, without any disrespect intended to the Commission

itself, has become in my submission oppressively unfair by virtue of the continual delays occasioned by what I will characterise as the palpable metal unwellness of Mr Petroulias, who is the remaining focus of the inquiry. The delay has not been occasioned by my client, Ms Bakis, who is also a focal point in the inquiry. The length of the delay is becoming highly prejudicial for my client who by reason of the fact that she is in a domestic relationship with Mr Petroulias is enduring what she reports to me to be erratic and unsustainable behaviour. The public interest in my submission is not served by the continuation of this inquiry in this way, and in my
10 submission Mr Petroulias is, to my observation and having read three of the applications that he has prepared of the six that he intends to rely upon in these proceedings in addition to his 650-odd page statement, which I've tried to traverse as best I could to make sense of it, has demonstrated that he's just incapable of proceeding in any meaningful way such that those matters would outweigh the public interest in these proceedings continuing, in my submission.

THE COMMISSIONER: Thank you. Mr O'Brien, do you want to be
20 heard?

MR O'BRIEN: No, I don't want to be heard in relation to Mr Petroulias's application, although I do find just by way of remark if anything that that

THE COMMISSIONER: Sorry, could you speak up?

MR O'BRIEN: That email is particularly peculiar and even perhaps bizarre, given the nature of the correspondence and the request that it contains. It troubles me that there are yet more anticipated applications by Mr Petroulias
30 in the circumstances that we're here in, and I certainly don't think that they should be countenanced or considered, particularly as there have been applications made as I understand it that traverse upon decisions that have already been made by the Commission and applications that have already been determined. So the consideration of that, of more applications of that nature is troubling for my client and I, but it is regrettable, but I have nothing to say in relation to the application for it to go over to tomorrow.

THE COMMISSIONER: Thank you, Mr O'Brien. Mr Lonergan, your
40 client, where is he, where does he reside? I see he's in the hearing room.

MR LONERGAN: Tamworth.

THE COMMISSIONER: Sorry?

MR LONERGAN: Tamworth presently, Commissioner.

THE COMMISSIONER: Hamilton?

MR LONERGAN: Tamworth, I believe. Tamworth. Country Music - - -

THE COMMISSIONER: Where is that?

MR LONERGAN: Tamworth.

THE COMMISSIONER: Oh, Tamworth, I'm sorry, I didn't hear. And he's travelled down today from Tamworth?

10 MR LONERGAN: Yes. Well, last night, Commissioner, I believe.

THE COMMISSIONER: Last night for today's proceedings.

MR LONERGAN: Yes, yes, Commissioner.

THE COMMISSIONER: Thank you. Is there anything you want to say?

MR CHEN: No, there's not, Commissioner. I recognise why each of the
20 respective counsel have said what they've said, Commissioner. Mr
Petroulias has asked to, as I read his MFI 71, for it to continue tomorrow
and it would be my submission that the Commission should accede to his
request.

THE COMMISSIONER: All right. Thank you. I'll just put on the record
that these proceedings were listed today at the previous directions hearing.
The directions hearing to which I refer addressed the matters that needed to
be attended to, in particular by Mr Petroulias, in order to both progress the
public inquiry, but also for him to undertake in his own interests, that is to
30 say so that he could be heard by the Commissioner on any matter that he
considered he should be heard. He was directed to file a statement in order
to set out in that document the matters which he would regard as important
in his own interest and that there would be a hearing today, commencing
today, which again amongst other matters would serve the purpose of
providing him with an opportunity of being heard, and as well other
witnesses, in particular Mr Green, to be able to continue cross-examination
of Mr Petroulias on matters that are perceived to be of relevance to Mr
Green.

40 Mr Petroulias applied for an extension of time of a day to finalise his
narrative statement and I directed that he be given the extra time, and he did
lodge his statement that has been marked for identification as MFI 69. It
was expected therefore that the proceedings would then, as foreshadowed in
the last directions hearing, continue by way of a private hearing so far as the
evidence of Mr Petroulias was concerned, but otherwise it would be an open
hearing.

At an earlier point in time I determined in order to accommodate Mr
Petroulias that I would take his evidence in a private hearing.

There has been a history of delay and adjournments throughout this matter, most particularly in the last 12 months or so, in order to accommodate Mr Petroulias in relation to health matters in order to provide him with an opportunity of being heard in relation to any matters that he considers he wishes to be heard or should be heard.

10 Which brings us to the hearing today. The witness program for today has been on the Commission's website for some time and it was anticipated that Mr Petroulias would complete his cross-examination of Mr Green. Mr Green I am instructed is presently resident in Tamworth and travelled to Sydney yesterday in order to, in accordance with my directions, be available so that his segment of evidence could be completed, in particular with Mr Petroulias's examination.

20 The delay in this inquiry has been regrettable. I have taken the view at every step that I would endeavour to ensure that everyone who's been represented or otherwise affected by this inquiry would have every opportunity of being heard, and that applies in particular to Mr Petroulias. I'm mindful however that adjournments can inconvenience and have inconvenienced others who have been appearing in this public inquiry, in particular represented by legal practitioners, because often adjournments on short notice in particular result in cost to the particular persons in question, not to mention the fact that it adversely impacts on the Commission's work and the public interest.

30 Mr Petroulias has also foreshadowed recently, very recently, that he wishes to make application. There has been lodged an application, as I understand it, for an order to terminate or stay the public hearing and foreshadowed other applications. As to the programming of any hearing of those applications is a matter to be determined at some other point in time than today.

40 I have considered the appropriate course to follow today in light of the email sent by Mr Petroulias in the name of Nick Peterson, dated today at 9.22am, the email states, and I quote, that could be extracted into these observations. There is little explanation in the email as to the basis upon which Mr Petroulias has said in effect that he's not attending today's hearing. He has referred to the fact that he has some edits to make on outstanding applications and has by his email made the inquiry to be advised as to where the Commission's proceedings are up to, "So that I can continue tomorrow." As Mr Lonergan observed, the email doesn't explain any more than that which Mr Petroulias has stated in it, and leaves open certain unknown matters. Be that as it may, I've determined that I will yet again accede to Mr Petroulias's variation to the directions so that he can, as he said, continue tomorrow, and accordingly I propose to adjourn today's hearing until tomorrow at 10.00am, at which time I expect that Mr Petroulias and others who are involved in this will proceed with the public inquiry.

By reason of another commitment that I have in the afternoon tomorrow, the hearing will be not a full day but a shorter day, commencing at 10 o'clock, I'll take a morning tea adjournment and conclude it at 1.30 tomorrow.

10 I emphasise the importance that the work of this Commission not be disrupted and that those appearing and having been granted leave to appear in this public inquiry are not frustrated in being able to complete their evidence and to avoid wasteful costs being incurred through last-minute adjournment applications. These are weighty matters. It is important that Mr Petroulias therefore have the additional time he's requested, but that he be here tomorrow morning at 10 o'clock, as should all the other parties of course, ready to proceed and we'll try and pick up lost time as much as possible during the course of this week.

20 It's in the interests of everyone, including of course Mr Petroulias himself, that we do complete the evidence this week. To that end the original three days allotted commencing today has been extended through to Friday of this week and notice has previously been given, as I understand it, to the parties of the decision to utilise the whole of this week in the public inquiry to complete the taking of evidence.

Dr Chen?

MR CHEN: There's nothing further from my part, Commissioner.

THE COMMISSIONER: Yes. All right then. Very well.

30 MR LONERGAN: Commissioner, may I raise one additional issue?

THE COMMISSIONER: Yes, Mr Lonergan.

MR LONERGAN: The email flags an intention to lodge a number of other applications and I understood that Mr Petroulias is also seeking to lodge applications in relation to matters that I would submit have already been dealt with. Is it the Commission's intention to hear all of the applications of Mr Petroulias?

40 THE COMMISSIONER: Well, Mr Lonergan, the problem is, like you, I don't know what the other applications, other than the one I mentioned, seeks to deal with and the bases for them, so I'm afraid I'm going to, like you, have to wait for Mr Petroulias to inform us. So I think what I should require is that the applications, any further applications Mr Petroulias wishes to make be sent by email to the Commission, certainly by 9.00am tomorrow morning, and I will have Mr Broad send copies to you and to others who are involved in this public inquiry as soon as we have those applications.

I'm afraid that's all I can do at the moment until I know more about them, Mr Lonergan.

MR LONERGAN: Please the Commission.

THE COMMISSIONER: All right. Nothing else? Then I'll adjourn until 10.00am tomorrow.

10 **AT 10.43AM THE MATTER WAS ADJOURNED ACCORDINGLY**
[10.43am]