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3 February 2003

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Private & Confidential

The Most Reverend Dr P Aspinall
 Archbishop of Brisbane
 Anglican Diocese of Brisbane
 GPO Box 421
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Dear Archbishop,

MR GILBERT CASE

We have to hand the letter from the Diocese of the 22nd January last enclosing Mr Case's response through his solicitors Messrs Gilshenan & Luton to the matters raised in your letter to Mr Case of the 24th December 2002.

In considering the matters raised in Mr Case's response, it would appear that the draft statement of Mr Thomson provided to Mr Case was the initial draft statement of Mr Thomson with his amendments notated on the statement. This would explain the reference in paragraph 1 of Gilshenan & Luton's letter that "*when the draft statement was subsequently provided to Mr Thomson this allegation was recanted (7).*"

It would further appear that a signed copy of Mr Thomson's statement (dated 24 December 2002) has not been provided to Mr Case.

The comments we make in this letter in relation to Mr Case's response are therefore on the basis that he is responding to Mr Thomson's initial draft statement as amended by Mr Thomson and further that Mr Case has not seen the signed statement of Mr Thomson.

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The two statements are the same except to the extent that Mr Thomson has made a notation on the initial draft in relation to Mr Knight having one child and further in relation to the original allegation that "*I believe that there was some touching or attempted touching of genitals by Knight*" he has stated "*no, I did not state this*".

We make the following comments in relation to Mr Case's response:-

1. Mr Thomson states that:-

- I made it clear to Mr Case that Knight had been discharged from BBC on the grounds of irregular conduct in his attitude towards the boys.
- I definitely gave Mr Case reasons for Knight's discharge. The reasons were probably given in more general terms than in particular detail.
- I told Mr Case that Knight had made no attempt to defend himself.
- I heard later that St Paul's had appointed Knight. I recall I was surprised at Mr Case's decision.

2. Mr Case responds as follows:-

- He agrees with the substance of paragraphs 17 and 18 (in Mr Thomson's statement) in that Mr Knight was let go from BBC because of an "irregularity". Mr Case denies that he had been made in any way aware that the "irregularity" amounted to sexually inappropriate conduct.
- He believes on Mr Thomson's advice that the irregularity (which is disputed by Mr Thomson) was that Mr Knight had supplied condoms to some senior students.

Therefore it can be taken that Mr Case admits and agrees that:-

- He knew at a time before he appointed Knight that Knight had been dismissed from BBC;
- the dismissal was based on an "irregularity"; and
- the "irregularity" he believed was that Knight had supplied condoms to senior students.

Mr Case argues that the supply of condoms to senior students did not amount to "sexually inappropriate conduct".

We are of the view that these admissions alone could support a conclusion that Mr Case has breached the condition on which he was employed as Executive Director of the Anglican Schools Office as stated in paragraph 4 of your letter to Mr Case dated 24th December 2002:

"You were employed on the basis that you were a fit and proper person to hold the very senior position of Executive Director of the Anglican Schools Office and further, that you had at all times conducted yourself in a highly proper manner in the discharge of your functions as headmaster at St Paul's".

Subsequent to instructions received from Mr Bernard Yorke we have made further enquiries of Mr Thomson as to his response to Mr Case's allegation that there were in fact two telephone conversations and that it was not until the second conversation that Mr Thomson indicated that the incidents leading to Knight's dismissal "*were more serious than indicated in his first conversation*" with Mr Case.

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Mr Thomson has no recollection of the second conversation as alleged by Mr Case and comments as follows:-

- It was an ethic at the relevant time between headmasters that honest and clear dialogue took place in relation to references for teacher applicants.
- He is vehement that he would have made it quite clear in the telephone conversation in 1981 as to his view of Knight.

Notwithstanding Mr Thomson's response the facts remain unchallenged that:-

- Mr Case believed that at the time he employed Mr Knight that Mr Knight had supplied condoms to senior students at BBC; and
- Mr Case was aware that Mr Knight had been dismissed from his position as a teacher at BBC.

It is up to the Diocese to decide whether these circumstances warrant termination of Mr Case's current employment as Executive Director of the Schools Commission. There does not seem any point in standing him aside until the police action against Knight is resolved. That may prove that Knight criminally assaulted children while at St Paul's but we know already that Mr Case dismissed him for sexual misconduct in 1984.

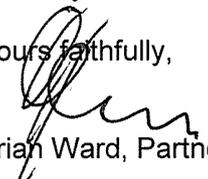
We are of the view therefore that the Diocese can terminate Mr Case's employment on the basis of a breach of the implied condition of his contract of employment set out in your letter to him of 24th December and referred to earlier in this letter.

If the Diocese wishes to communicate to Mr Case that it has found his response wanting in that he acknowledges his awareness of the "irregularity" and dismissal and nevertheless appointed Knight, it does allow Mr Case to advance the arguments that are set forth in his response and leave the possibility that a Court would find the dismissal to be unlawful. We refer to our letter to you of the 14th January last confirming that Mr Case can only exercise his remedies at Common Law on the question as to what is reasonable notice of termination.

The Diocese may elect pursuant to clause 2(d) of the contract of employment to terminate the employment of Mr Case by the provision of three months notice of termination (or payment in lieu thereof). Any such termination will not rely upon an allegation of breach of contract by Mr Case but would be a termination of employment based on the agreed period of notice set out in his contract of employment.

We would be pleased to further discuss this matter with you at your early convenience.

Yours faithfully,


Brian Ward, Partner

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