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09/04/08

Greg Walsh & Co  
PO Box 185  
Oatley NSW 2223

Your Reference: GW:ja:201118

Dear Sir

**Name: CHUTE John Kostka**  
**DOB: 13/06/32**  
**Seen: 31/03/08**

Thank you for asking me to see your client and for your qualifying letter and accompanying documents which I have subsequently shredded in accordance with my usual practice.

I informed your client that the consultation was for the purposes of a report, not treatment, and that our interview would not be confidential. The report was typed at the same time as I saw your client and thus comprises my record of interview. There are no handwritten notes or other materials. Concluding remarks and any comments on documentation were written shortly after seeing your client.

I certify that I am familiar with the Code of Conduct for Expert Witnesses. To the best of my ability, this report has been prepared in accordance with the Code. I note in this context that I had earlier been his treating psychiatrist albeit briefly. However, my report is prepared as close as is possible from the perspective of an independent expert seeing to shed light on his offending behaviour to facilitate the Court's decision-making process.

**Herewith my report:**

Your client recalled me well from my earlier dealings with him notwithstanding the lapse of time. I asked him what charges he faced. He replied, "An act of indecency on person between 10 – 16 years." I understand the charge involves six boys and eleven separate incidents.

He has copies of the "Bench Information/Charge" sheets and Statement of Facts saying, "This was something that happened twenty two years ago." I viewed his copy

I asked how he had been feeling in himself. He looked close to tears as he said, "everyday I fight the shame."

He had seen another psychiatrist, Dr Roberts who apparently ordered an MRI. Apparently he had been somewhat forgetful at the interview with difficulties recalling details of his medication. Apparently he forgot to tell Dr Roberts that he had been involved in a serious motor vehicle

accident in New Zealand around 1974 or 1975. He has only a fragmentary recollection of the incident but apparently spent "at least" a night in hospital. He added, "The only reason I remember about that accident is because I was talking with some brothers from that time."

Dr Roberts has apparently told him that he may have had a number of small "strokes."

He alluded to his difficulties recalling where I worked though he did remember reasonably clearly where Encompass and the Wesley Private Hospital were situated. He tends to stick to "absolute paths that I follow" even it means he has to "go the long way round."

He puts this down to "age or memory - I'll be seventy six in two weeks time." I asked him when his birthday was - he told me and when I remarked this was not two weeks away, he corrected himself saying, "In two months time."

He has entered a guilty plea saying, "I think it would be the right thing because of my history over a number of years." On the other hand, he says, "I have no picture in my mind of who these young people are - I don't know if I taught them - I do know that if kids came to me and were upset or needed counselling, I often gave them a cuddle, and it could easily have been - it's not a recollection that I can say 'No' but it's not clear - I know that in reading one of them and it hurts a lot because I know I did it. It says I showed him a pornographic film - I don't even remember seeing a pornographic film - the most I would have seen might have been on SBS."

He says that his memory and concentration have deteriorated over the last five years. He spoke of commenting on this to Brothers at Mittagong - apparently, they replied on the lines of, "We've been trying to tell you over the last five years." he added, "My sister's always telling me that my memory's gone - one of my sisters says, "You weren't there John - you're telling us about incidents that you weren't a part of because weren't there John."

I asked if he could think of an example. He spoke of an occasion when he was around nine years old. At the time in question, his father had been unwell. He has a recollection of his mother saying to him, "John I want you to come in and say goodbye to your father." His sisters apparently say, "John that did not happen."

I asked about his memory for recent events. He was given some tickets for the races last Saturday by one of the Brothers. He was asked what he found most memorable. He could recall - he did not remember who had won. He alluded to a recent evening when he was watching a TV show. He asked the name of the show - his fellow Brothers replied, "You just asked us a moment ago." he added, "it was Robin Hood and I was enjoying it."

He relies heavily on diaries. He gave other instances in which he had forgotten.

He recalled that he had made a contract with Encompass for continuing care. He spoke of meeting of meeting once a month with "the team" which I gather was his support group. He could name (albeit hesitantly) the members of his support group. He also had a monthly meeting with a clinical psychologist in Bowral whom he sees once a month. He remains in spiritual direction with a Sister Hilda Scott at Jamberoo. He had continued coming once week "for quite some time until the team suggested I withdraw to meetings of SLA." I gather he did this "for months."

He regularly rang "the lady that was in charge of continuing care." He could remember the names of both Maria Scoda and Felicity, the clinicians currently coordinating Encompass' continuing

care program. He had trouble remembering "the name of the person in charge" – saying, "I think it was Geraldine – I've forgotten her family name, her married name – I think Tony's her husband – is it O'Donoghue?" In fact, the people concerned are Dr Geraldine Taylor and Dr Tony Robinson. Given their prominence in the Encompass program, his inability to recall their names seemed significant.

He admitted, "as the time gets closer to the Court appearance, I get very anxious – I certainly need to call on my skills I learnt from Encompass... I had my sister suggesting that Greg Walsh wasn't doing the right thing by me... I discussed that with my psychologist..." I asked him what he was referring to – he explained that there had been a class action against a Marist College. Apparently because he had been charged, his name appeared in the papers – his sisters were cranky about the fact even though there apparently were other players.

He spoke of his growing anxiety as "the time gets closer." He spoke of "anxiety and fear and even anger with myself that comes up daily..." What did he do with his anger? "I don't take it out on others – I have others I can talk to – I ring them up – I go to the gym – at night time I'm sleeping really well and I'm eating well – being a diabetic I have to watch what I eat."

He is afraid "for the repercussions of this – for the victims and their hurt – I'm afraid of gaol – I'm afraid for my family and their disgrace – they've been very supportive... but it doesn't take away the anger and fear and I suppose I ask, 'Why did I do this?' and also that I sought help in all sort of ways and somehow or other I didn't seem to be getting it."

He is adamant he would never hurt himself – "no, no, no – that's very definite."

### **Mental State Examination**

Your client presented as a casually clad man of elderly appearance whose demeanour throughout the session was very anxious. He had significant problems with concentration and short-term memory. For example, when asked to repeat a four-item list comprising "apple, president, charity tunnel," he reproduced on two occasions as "apple president, charity, tongue." When asked to perform the serial sevens test ("Count backwards from 100 by seven"), he gave the following response: "100, 93, 86, 79, 72, 63, 56, 49, 40, 31, 22, 14, 4." When asked afterwards to repeat the four item list, he replied, "Tongue, charity, president, honestly I haven't got a clue," meaning that he could not recall the fourth item.

He appeared to be trying hard to perform the tests and I note that he recalled fifteen out of fifteen items on the Rey fifteen item test (a screening test for malingering – his score strongly suggests that he was not "faking bad").

### **Summary and Conclusions**

Your client is an anxious man who presents as deeply ashamed of his offending behaviour and its consequences for his victims, his Order, and the Church. He shows evidence of cognitive impairment which appears aggravated by his anxiety. I note he did not show cognitive impairment when initially assessed at Encompass in 2002. However, given his history of ischaemic heart disease and hyperlipidaemia, he may well have deteriorated since that time and I think it would be wise to repeat his neuropsychological testing. I note in this context that an MRI scan may have shown evidence of cerebrovascular disease which would be entirely consistent with his performance on "office" cognitive screening.

He seems somewhat bewildered by what he is facing. I note however that he is very likely fit to enter a plea and to stand trial in that he has a broad understanding of the charges, a recollection of having probably done most of the things of which he stands accused, and an understanding of the implications of entering a plea. I did not pursue further "Presser" issues with him.

I note his history of having been sexually molested in youth and of growing up in a setting which provided virtually no opportunity to acquire a deeper understanding or integration of his sexuality. I note also a recurring theme in his history: specifically, that he had asked for help and received none until very late in the piece (ie, the Encompass referral). These factors sadly contributed substantially to his history of offending behaviour.

I think it is fair to say that he made a determined attempt to engage in therapy – I did see him on two further occasions following his initial presentation to Encompass and at the time in question decided not to start him on medication for his anxiety because he reported that he was sleeping and eating well. However, his anxiety was nonetheless very real and with the wisdom of hindsight I find myself questioning my decision.

I assume that a custodial sentence is inevitable. I think given his age, his general physical health coupled with his concurrent anxiety disorder and possibly cerebrovascular disease that this man may quite likely die in gaol overcome by shame and guilt. In so saying, I do not intend to be an advocate. It is for the Court and not the psychiatrist to determine the balance between punishment, deterrence, and the particular problems posed by a now elderly offender in a fragile state of health.

With best wishes



(Electronic Signature)

Chris Canaris

## **CURRICULUM VITAE OF DR CHRISTOPHER CANARIS**

Dr Chris Canaris was born in Accra, Ghana in 1958. He speaks Polish fluently. He came to Australia in 1970 and completed his HSC in 1975. He began his medical studies in 1976 at the University of Sydney graduating in 1980 with a BSc (Med) and with his MB BS in 1982.

He worked as an intern and resident medical officer at the Royal North Shore Hospital at St Leonards from January 1982 until January 1984 when he embarked on his psychiatric studies as a trainee psychiatrist at the Macquarie Hospital at North Ryde. He obtained his FRANZCP thus qualifying as a psychiatrist in October 1989.

He continued to work at the Macquarie Hospital as a staff specialist until June 1991 when he resigned to begin private practice.

He has been a VMO at the Wesley Private Hospital since 1990.

He works as a consultant psychiatrist to the Alcohol and Other Drugs inpatient program at the Wesley Private Hospital and is a member of the Australian Professional Society for Alcohol and Drugs (APSAD) as well as the Section of Alcohol and Other Drugs of the Royal Australia New Zealand College of Psychiatrists.

Since beginning full time private practice, he has worked as an adult general psychiatrist and has worked extensively in forensic psychiatry in civil and criminal jurisdictions. He is a member of the Section of Forensic Psychiatry of the Royal Australia New Zealand College of Psychiatrists.

He has completed training in the assessment of Whole Person Impairment under the Workers Compensation Act through the University of Sydney and WorkCover.

He is a consultant psychiatrist to Encompass Australasia, a psychosexual program for professionals with a history of sexual boundary violations and/or psychosexual problems.

He is a member of the Australian New Zealand Association of Therapists of Sexual Abusers.

He has a special interest in working with adults with Asperger's Disorder and Autistic Spectrum Disorders.

He has several published letters and articles in peer reviewed journals and has participated in a number of conference presentations.

### **PUBLICATIONS**

CA Canaris. Psychological Sequelae of induced abortion. Australian and New Zealand Journal of Psychiatry 1990; 24:9-11 (Letter to Editor)

Christopher Canaris and Stephen Jurd. The diagnosis of alcohol related brain damage: A retrospective study in alcoholics undergoing inpatient rehabilitation. Drug and Alcohol Review 1991; 10:85-88.

CA Canaris. Comments on "The great legalisation debate." Drug and Alcohol Review 1991; 10:89 (Letter to Editor).

Chris Canaris. Psychiatrists' views on abortion. Australian and New Zealand Journal of Psychiatry 1993; 27:526 (Letter to Editor).

Christopher Canaris. The 'out of house' solution to boundary violations. Australasian Psychiatry 2003; 11:406-409

#### CONFERENCE PRESENTATIONS

Christopher A Canaris and SM Jurd. A retrospective evaluation of the clinical mental state examination in the diagnosis of alcohol-related brain damage. The Royal Australian and New Zealand College of Psychiatrists 27<sup>th</sup> Annual Congress Adelaide: May 19<sup>th</sup> – 23<sup>rd</sup>, 1991.

Dr Chris Canaris. Murder and Mayhem. Seminar Presentation for Legal and Accounting Management Seminars Pty Ltd Sydney; 8 March 2000.

Chris Canaris & Tony Robinson, Encompass Australasia. Psychopharmacological adjuncts to the treatment of professionals who commit sexual boundary violations, Sexual Boundaries Symposium. The Royal Australian and New Zealand College of Psychiatrists Section of Forensic Psychiatry Annual Conference 2000 Cairns: 25 June 2000.

Canaris, C. (Psychiatrist in private practice), & Robinson, EA. (Encompass Australasia). Psychopharmacological adjuncts to the treatment of professionals who commit sexual boundary violations. Australian Psychological Society, first Forensic Psychology Conference, Sydney: 10 February 2001.

Felicity O'Connor, Chris Canaris, Tony Robinson, Encompass Australasia. Themes that emerge: a case review within a community based setting. The Australian and New Zealand Association for the Treatment of Sexual Abuse. Second Biennial International Conference. Working With People Who Sexually Abuse: What Measures Success? 5 April 2002, University of NSW, Kensington.

Gerardine Taylor, Chris Canaris, Tony Robinson, Vanessa Patterson. Compulsive Sexuality; Its Clinical Presentation, Comorbid Diagnoses and Its Responses to a Combination of Psychopharmacological and Psychotherapeutic Intervention. Australian and New Zealand Association of Psychology, Psychiatry and the Law, Annual Congress, Fremantle, 25 – 28 September 2003.

Christopher Canaris. Autistic Spectrum Disorders and the Psychiatrist. Autism Practitioners Conference 2006, University of Canberra, Australia, February 24 – 25 2006.

Dr Chris Canaris & Dr Gerardine Taylor. The influence of Asperger's Syndrome on a priest's abuse of internet pornography. 2006 ANZATSA Conference. *Preventing Sex Crime: From Evidence and Explanation to Policy and Practice*. 31 October to 3 November 2006. Gold Coast, Queensland. Hosted by Griffith University.