

From: Kim Hamilton
Sent: 19 Apr 2013 10:15:37 +1000
To: Todd Wu;Clementine Rendle;Shona Hill
Subject: Fw: Fosters
Attachments: 2943_001.pdf, CORRSDMS-#8694748-v1-Letter_Offer_-_DOC, 2945_001.pdf

From: Richard Leder
Sent: Thursday, April 18, 2013 06:33 PM
To: Jennifer Cook <jennifer.cook@sydneycatholic.org>
Cc: Michael do Rozario; Kim Hamilton; Francis Moore <Francis.Moore@cam.org.au>; Michael Casey <michael.casey@sydneycatholic.org>
Subject: Fosters

Confidential and privileged

Dear Jen

I attach the infamous letter of offer of 31 August 1998. The reference to confidentiality appears in paragraph 3 on page 2 and relates only to the offer being confidential if it is not accepted – ie. that the offer is without prejudice. For completeness I am also attaching the application for compensation form which sets out in detail that the compensation panel process is confidential.

As I mentioned, after the 60 Minutes interview our pro forma letter of offer was amended with the assistance of Sue Crennan to spell out more clearly that there are no confidentiality restrictions in respect of the abuse, and I emphasise once again that is clear from our standard form release that it contains no confidentiality undertakings and that there have NEVER been confidentiality obligations imposed on victims who settle through the Melbourne Response. His Eminence was mistaken on this point in the 60 Minutes interview and as I have commented on various occasions in discussions, particularly with Michael Casey, it is important that he be fully briefed on this point prior to his appearance, and reminded of the stat dec that he swore and provided to 60 Mins. He will need to understand what is meant by a without prejudice offer and that it in no way restricts victims from talking about the abuse but only that it allows a settlement to be explored while protecting the rights of both the victim and the Church.

The difficulty in the case of Emma was that as she was a minor, the ordinary deed of release would have been of questionable validity and it was therefore proposed that the money would be held in trust until she turned 18. This had been foreshadowed with the Fosters before the compensation panel hearing, as you will see from the attached letter of 7 August 1998.

Finally, I am enclosing a letter of 14 August 1998 which contains other pertinent information.

Also attached is the letter of apology to Emma signed by the Archbishop.

There is of course much more background that I can provide if required.

I would note in particular that one virulent criticism made by the Fosters is that although the Independent Commissioner upheld the abuse, we did not admit it in the defence when they sued. There is a very good reason for this. The statement of claim alleged that she was raped and the Fosters now say this repeatedly, but according to the Commissioner's report, when Emma spoke to the police (before going to the Commissioner), she denied she had been raped and complained only of relatively minor abuse. This explains why in my letter of 14 August, I describe the abuse as minor. There are obviously sensitivities about saying anything in a public hearing that questions the Fosters' account of the abuse suffered by their now deceased daughter, so this issue may need further discussion.

Kind regards

Richard Leder
Partner

richard.leder@corrs.com.au

Tel +61 3 9672 3489

Mob **REDACTED**

Fax +61 3 9672 3010

www.corrs.com.au

**CORRS
CHAMBERS
WESTGARTH**
lawyers

GOLD EMPLOYER OF CHOICE 2012
AUSTRALASIAN LEGAL BUSINESS

Please consider the environment before printing this email.