

COLIN W LOVE & Co

Solicitors

CONFIRMATION

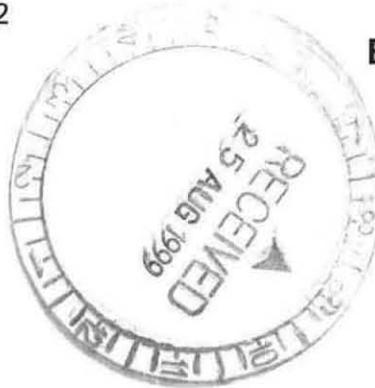
OUR REF: CWL:HE:998852

YOUR REF: Maria Shand

BY FAX: REDACTED

23 August 1999

Messrs Rigby Cooke
Solicitors
GPO Box 4767UU
MELBOURNE VIC 3001



Dear Sirs

RE: NSW INSTITUTE OF SPORT AND TENNIS NSW

We refer to our recent telephone conversation with Ms Shand and understand that there has been a complaint lodged by a former NSWIS scholarship holder in relation to an NSWIS coach when she was a minor. From what we have been told, the complainant alleges that a coach has sexually harassed her or been guilty of some sexual impropriety.

Our client is seriously concerned not only about its image and reputation, but the welfare of other NSWIS athletes who are minors pending the resolution of this matter.

As we understand the position, our client funds an NSWIS program with Tennis NSW. That NSWIS tennis program is governed by a joint management committee structure which comprises representatives of your client and our client. Section 3.5 of the NSWIS Service Level Agreement signed by representatives of your client and our client and by the Head Tennis Coach provides, *inter alia*, that "the Head Coach, and where applicable the SSO and NSO, must ensure that conduct and/or program activities do not place the Institute or the program in disrepute".

Section 5.2 of that document provides that the Head Coach is responsible to the Chief Executive of Tennis NSW and the Joint Management Committee NSWIS Tennis Program.

Section 5.2.4 provides that the Head Coach will "Adhere to Tennis NSW and NSWIS Coaches Code of Conduct in all areas of program management".

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The NSWIS Coach Code of Ethics provides that a coach must *"not engage in sexual harassment of athletes or physical contact with athletes which is unwelcome and/or represents an abuse of power which has a sexual element to it"* and must *"refrain from physical contact with athletes except where necessary for the development of the athlete's skill or athletic ability"*. It further provides that any conduct which is inconsistent with these guidelines may be the subject of disciplinary action taken against the coach.

Under the heading "Propriety", it provides that *"Coaches will refrain from any act which could reasonably be regarded as tending to bring the NSWIS, the sport in which the coach is working or the coaching profession into disrepute"*. It further provides that coaches are expected to *"refrain from any conduct which could be regarded as sexual harassment;*

- *sexual harassment is unlawful and is defined to mean any behaviour or comments of a sexual nature where any person who is affected by the coaches conduct believes on reasonable grounds that a rejection of the advance, a refusal of the request or a taking of objection to the conduct would disadvantage him or her in any way.*
- *Using a position of power, such as that of being a coach, in order to encourage sexual favours constitutes sexual harassment"*.

It further provides that a coach shall *"not engage in physical contact with athletes except where absolutely necessary for the development of the athletes skill or athletic ability"*.

Whilst our client understands that at this stage the allegation is simply that, an allegation, and that there is a presumption of innocence pending a proper investigation and hearing it is still concerned as to its obligations in relation to the matter. The Head Coach is seen as a representative of NSWIS and athletes who are minors are in the care of the Head Coach. If the allegations are proven, our client would be exposed to criticism for leaving minors in the care of a person against whom such an allegation was made pending a hearing.

Our client requires Tennis NSW to consult with it and satisfy it as to why the person against whom the allegation has been made should not be removed or suspended from his duties or obligations, so far as they relate to the supervision of minors, until the allegation is resolved one way or another. If it is not so satisfied, our client may have to consider taking steps to disassociate itself from the program and the person against whom the allegation is made.

We must say that our client is not impressed by the fact that it has been refused access to copies of any statements or interviews taken in relation to the allegation in view of the fact that it is funding the program and that the Head Coach is

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responsible to the Joint Management Committee of the NSWIS Tennis Program, which includes representatives of our client, including its Director, Mr Michael Scott. Our client may have to review its relationship with Tennis NSW as a result.

Would you please advise us what steps are being taken in relation to the matter. We also request that we be supplied with any statements of witnesses, the complainant and the person against whom the allegation is made.

Your urgent response is requested.

Yours faithfully
COLIN W LOVE & CO

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A handwritten signature in black ink, appearing to read 'C. W. Love', with a horizontal line underneath it.