

with Richard Gordon

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Rob Morris

SFO v M D MAYER

17 FEBRUARY 2012

MEMORANDUM REGARDING FURTHER DISCLOSURE OF DEALINGS  
BETWEEN TEL AND MESSRS NOTTINGHAM

INTRODUCTION:

On 16 February last documents were received from solicitors for one Steven Gould. The documents related to proceedings CIV 2011-485-5411 between TEL and Gould's companies.

Comprised in those documents was an affidavit from Ellen Thomson filed in support of applications sought by TEL. Exhibited with those documents was correspondence between solicitors for TEL and the Nottinghams.

Of particular relevance is an email exchange between Mr Gordon solicitor for TEL and D Nottingham which recites the work done by the Nottinghams for TEL. Amongst the list of things done for TEL was negotiating a confession from Mr Mayer, keeping TEL apprised of intelligence relating to Mayer dealings and movements, locating 1000s of pages of documents and reading every single page to enable only cogent documents to be available for inspection and report etc.

What the documents show is that the Nottinghams had an intimate relationship with TEL in its dealings with the Turnbull/Mayer fall out. This relationship appears to predate the "confession" by Mr Mayer to the Star Sunday Times which now on the face of it appears to have been engineered at the direction of TEL and the "discovery" of the Level 5 documents.

RELEVANCE TO SFO v M D MAYER PROCEEDINGS:

There has been opposition to the admission of documents from Level 5 Peace Tower and the Star Sunday Times "confession". There have been rulings made by the Court pursuant to s.344a Crimes Act which permitted the Crown to adduce that evidence at the trial of Mr Mayer.

When those applications were argued the content of the documents mentioned above were not known. Had they been known at the time the applications were argued the outcome would in all likelihood have been that the evidence would not have been admissible at the trial of Mr Mayer. This for the reason that the evidence appears to have been engineered by TEL to support the allegations made against Turnbull and Mr Mayer.

It is now known that TEL had possession of Turnbull documents from the Turnbull offices when TEL took over the Turnbull offices and appointed a rental manager for the Turnbull properties. Mrs Turnbull in her evidence confirmed this. TEL never told the SFO of the Turnbull office documents in TEL's possession prior to the "discovery" of the Level 5 documents.

Likewise TEL never told the SFO that the documents "discovered" at Peace Tower had been subject to scrutiny by TEL and the Nottinghams. Ms Paine at Trial said she thought the

documents had come directly from Level 5 and was unaware of the fact that the Nottinghams had "read every page".

There is a sound basis for submitting that TEL has in fact misled the SFO in a major way. It is to be remembered that the complaint by TEL predated the discovery of the Level 5 documents. It is also probable that the Turnbull documents were in the hands of TEL about the time the complaint was made to TEL.

The new revelations disclosed by the Gould documents establish grounds for revisiting the admissibility issue of the Level 5 documents. In other words a further s.344a application in that regard and perhaps at the same time a renewed challenge to the Star Sunday Times "confession". If the Level 5 documents were ruled inadmissible the SFO would not have a case against Mr Mayer.

#### POSSIBLE SENARIOS:

a); TEL have retained the Nottinghams to assist TEL in recovering/mitigating from the damage caused by the Turnbull fraud. It is entirely possible that the Nottinghams were unwittingly duped by TEL into doing what they have done. In other words the Nottinghams have acted in good faith throughout on the Instruction and direction of TEL.

The "forger's kit" and other damning evidence found at Level 5 could have easily come from the Turnbull offices, somehow, and the Nottinghams have found the same and acted accordingly.

b): That the Nottinghams are in fact being used by TEL as a shield for TEL dirty work. Any criticism of what has happened to date would in the first instance be directed at the Nottinghams not TEL. TEL may say that they had no knowledge of what the Nottinghams were doing and that they acted outside their instructions. The Nottinghams are the fall guys accordingly.

It is apparent that this is what has happened when one considers the scrap going on between the Nottinghams and Warren Wilson liquidator, their real estate licence, etc. This is exactly what TEL contrived.

c): It is clear that if we were not dealing with the Nottinghams we would be dealing with someone else in the circumstances. The Nottinghams cannot be criticised for undertaking the sell down of the properties and the \$700k commissions earned to date. They probably worked very hard for that commission.

d): There is no utility in us fighting with the Nottinghams, it simply a distraction from the real issues with TEL.

e): Clearly the Nottinghams have fallen out with TEL and feel they have been badly treated by TEL after all their good work. The Nottinghams may not be aware that they have been set up by TEL. The Nottinghams have written that they think Mr Mayer is innocent and that they would not be surprised by what TEL would do. The Nottinghams have now catalogued what they have done for TEL in the affidavit received recently.

f): Assuming that there is no utility in scrapping with the Nottinghams we should get them alongside us to advance Mr Mayer's defence. I suggest a meeting with both the

Nottinghams to put the proposition to them that there is no utility fighting with the Mayer camp but rather direct mutual attention to TEL.

The Nottinghams could be again seen as the champions of justice by exposing the misbehaviour of TEL to date. TEL being a company chaired by Jim Bolger who not so long ago in the House slated the Nottinghams as disreputable people. It is ironic that having done so TEL now retain the Nottinghams to "assist" TEL to sort out the mess. The Nottinghams could come out of all this smelling like roses with some serious publicity praising their good work. I believe that the Nottinghams will have a very complete document trail in all their dealings with TEL which will assist them to expose in effect the TEL fraud on the SFO. The fraud being the failure of TEL to be open and frank with the SFO about what documentation they had, not telling the SFO of the situation of the Level 5 documents at the Remax office, engineering the "confession" at a time after the complaint to the SFO, and feeding the SFO "only cogent documentation", misleading the SFO about losses suffered by TEL and not telling the SFO they sold properties deliberately below value.

#### THE WAY FORWARD:

There is absolutely no utility directing our efforts at the Nottinghams who were simply TEL agents. We need to direct our efforts at the behaviour of TEL who directed and instructed the Nottinghams to assist them.

I believe that the Nottinghams, being the "champions of justice" would agree that there is no utility in scrapping with us. The reality is that they will not get any further revenue from TEL in any event.

There is however some serious mileage to be gained by them in exposing the TEL behaviour to date. Not only will it promote the Nottinghams in the market place, but most importantly it will promote Mr Mayer's defence of the serious allegations he faces.

If we can have the Level 5 documents ruled inadmissible the SFO will not have a case. The Nottinghams can assist us with that if they are handled the right way. On this basis a further challenge to the Level 5 documents should be advanced.

Assuming the SFO are unaware of the TEL conduct perhaps a letter to the Director of the SFO should be sent advising him of what we now know and inviting him to investigate the same whilst at the same time adjourning the SFO v Mayer matter until such time as they get a clearer picture of the TEL behaviour. The Nottinghams can assist the Director in that regard. The conduct of TEL could well amount to perverting the course of justice in all the circumstances.

The SFO can come out of all this without suffering any criticism and they can say they were misled by TEL and that their case to date was presented on the basis of what they were told by TEL.

Dated at Pakiri 17 February 2012.



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