

Standing Committee on Parliamentary Privilege and Ethics

**Report on person referred to  
in the Legislative Council  
(Mr P Ferris)**

Ordered to be printed 9 March 2004

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New South Wales Parliamentary Library cataloguing-in-publication data:

**New South Wales. Parliament. Legislative Council. Standing Committee on Parliamentary Privilege and Ethics.**

Report on person referred to in the Legislative Council (Mr. P. Ferris) / Legislative Council, Standing Committee on Parliamentary Privilege and Ethics. [Sydney, N.S.W.] : The Committee, 2004. – vi p. 7; 30 cm. (Report 27, March 2004 / Standing Committee on Parliamentary Privilege and Ethics)

Chair: Peter Primrose.

“Ordered to be printed 9 March 2004”.

ISBN 0958128995

1. Ferris, P.
2. New South Wales. Parliament. Legislative Council.  
Right of reply—New South Wales.
  - I. Title
  - II. Primrose, Peter.
  - III. Series: New South Wales. Parliament. Legislative Council. Standing Committee on Parliamentary Privilege and Ethics. Report ; 27

328.944 (DDC21)

## How to contact the Committee

Members of the Standing Committee on Parliamentary Privilege and Ethics can be contacted through the Committee Secretariat. Written correspondence and enquiries should be directed to:

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The Clerk

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Standing Committee on Parliamentary Privilege and Ethics

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Legislative Council

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Parliament House, Macquarie Street

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Sydney New South Wales 2000

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Internet [www.parliament.nsw.gov.au](http://www.parliament.nsw.gov.au)

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Email [privilege@parliament.nsw.gov.au](mailto:privilege@parliament.nsw.gov.au)

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Telephone 9230 2024

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Facsimile 9230 2761

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## Terms of Reference

The inquiry was conducted in accordance with a resolution of the Legislative Council of 13 November 1997 which permits citizens who are referred to in the House to seek a right of reply by making a submission in writing to the President of the Legislative Council (*Minutes of the Proceedings of the Legislative Council*, No. 16, Thursday 13 November 1997, Entry No. 2).<sup>1</sup>

The resolution is available on the Committee's page of the Parliament's website [www.parliament.nsw.gov.au](http://www.parliament.nsw.gov.au), or by contacting the Committee Secretariat.

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<sup>1</sup> The terms of this resolution have been incorporated into Standing Orders 202 and 203, which were adopted by the Legislative Council as Sessional Orders on 14 October 2003 for remainder of the sittings of the House during 2003: *Minutes of the Proceedings of the Legislative Council*, No. 24, Tuesday 14 October 2003, Entry No. 20.

## Committee membership

The Hon Peter Primrose MLC *Chair*

Australian Labor Party

The Hon Patricia Forsythe MLC *Deputy Chair*

Liberal Party

The Hon Tony Catanzariti MLC

Australian Labor Party

The Hon Amanda Fazio MLC

Australian Labor Party

The Hon Jennifer Gardiner MLC

National Party

The Hon Kayee Griffin MLC

Australian Labor Party

The Revd the Hon Fred Nile MLC

Christian Democratic Party (Fred Nile Group)



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## Report

- 1.1 On 16 December 2003 the President of the Legislative Council, the Honourable Dr Meredith Burgmann MLC, received a submission from Mr Paul Ferris requesting the incorporation of a response under the Legislative Council's resolution of 13 November 1997,<sup>2</sup> relating to the protection of persons referred to in the Legislative Council.
- 1.2 The submission referred to statements made by the Honourable Charlie Lynn MLC, during the adjournment debate in the Legislative Council on 20 May 2003.<sup>3</sup> The President, having accepted the submission for the purposes of the resolution, referred it to the Standing Committee on Parliamentary Privilege and Ethics on 27 January 2004.
- 1.3 The Committee met in private session on 25 February 2004, and decided, according to paragraph 4 of the resolution, to consider the submission. The Committee, having consulted with Mr Ferris in writing, met again on 5 March 2004 and agreed to the attached response. The response, which the Committee now recommends for incorporation in *Hansard*, has been agreed to by Mr Ferris and the Committee in accordance with paragraph 5(b) of the resolution.
- 1.4 The Committee draws attention to paragraph 4(2)(b) of the resolution which requires that, in considering a submission under the resolution, the Committee must not consider or judge the truth of any statements made in the House or in the submission.
- 1.5 The Committee recommends:

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### Recommendation 1

That a response by Mr Ferris, in the terms specified at Appendix 1, as agreed to by Mr Ferris and the Committee, be incorporated in *Hansard*.

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The Hon. Peter Primrose MLC  
Chair

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<sup>2</sup> *Minutes of the Proceedings of the Legislative Council*, No. 16, Thursday 13 November 1997, Entry No. 2.

<sup>3</sup> *Hansard*, 20 May 2003, p. 689.



## **Appendix 1**

**Response by Mr Ferris,  
agreed to by Mr Ferris and  
the Committee, according to  
paragraph 5(b) of the  
Legislative Council's  
resolution of 13 November  
1997**

## Appendix 1

### Reply to comments by the Hon Charlie Lynn MLC in the Legislative Council on 20 May 2003

I am a Director of Covecorp Constructions Pty Ltd (Covecorp) and my Co-Director is David Robertson.

1. Covecorp is a building company which has been licensed for in excess of 13 years and its licence was suspended in late 2002 by the QBSA in circumstances we consider were inappropriate. Covecorp's licence was reinstated on 12 August 2003.
2. Throughout its complete history (until recently) Covecorp has never been involved in litigation other than what could be aptly described as minor matters, all of which were satisfactorily settled. Indeed, for a company in the building industry, such minor disputes were comparatively few.
3. As of recent times, Covecorp entered into separate building contracts with two Principals, Miller Properties Pty Ltd's associated company Chias Pty Ltd and Indigo Projects Pty Ltd (totally unrelated).
4. Disputes arose in relation to the projects involved with those contracts and a specialist in construction law was engaged by Covecorp and those litigations are being pursued diligently.
5. That legal practitioner representing Covecorp (who has for a number of years represented the Queensland Building Services Authority in many major matters, which is the reason why his expertise were engaged by Covecorp) has advised Covecorp that in his professional opinion, in relation to those litigation matters, the prospects of Covecorp being substantially successful in recovering substantial funds, are good. We state this so that there can be no misunderstanding that the litigation matters that Covecorp is involved in have anything other than credibility and in circumstances where there is an absolutely genuine dispute.
6. A number of sub-contractors have not been paid on the developments as a direct result of the Principals rejection of claims submitted by Covecorp on behalf of the sub-contractors and that is the essence of the litigation matters. Notwithstanding we are still awaiting the outcome of the litigation matters, in fairness to sub-contractors, we are seeking to make satisfactory arrangements by making ex-gratia payments to sub-contractors. That is absolutely a gratuitous gesture by Covecorp.
7. Lynn Civil is one of the sub-contractors who are claiming money (from Covecorp) and is a company owned and controlled by Charlie Lynn's brother. Lynn Civil received an advance of \$50,000 from Covecorp as an ex-gratia payment to assist its financial position. This was granted by Covecorp even though legal proceedings were still on foot at the time.
8. Part of the claim against the Principal (Indigo Projects Pty Ltd) involving Charlie Lynn's brother's company will involve recovery of money for payment to Lynn Civil, but there are issues, with Lynn Civil which necessarily must form part of the litigation with the Principal.

Covecorp have been informed of this, on professional legal advice, such that any settlement with Lynn Civil could adversely impact on Covecorp's rights as against, in the context of the litigation with the Principal, Lynn Civil.

9. Covecorp has been in dispute in relation to these issues since late 2001. Normally, one would expect litigation matters to proceed expeditiously so that all matters could be resolved and Covecorp could receive funds due to it and payments made to contractors. In fact in one of the matters, Covecorp sought an early hearing by an independent expert pursuant to an appropriate provision on the Contract, but that was successfully opposed by Miller Properties such that the matter is proceeding to litigation in the Supreme Court. Following Covecorp's failure to procure a speedy resolution through expert determination Covecorp successfully applied for both cases to be listed on the supervised case list with the Supreme Court of Queensland.
10. However, the matters have not been allowed to run their proper course in the courts, for parallel with the litigation matters, a campaign has been waged by a number of individuals who have an interest in the matter. The inescapable conclusion as to the intent of what has been occurring is to put Covecorp into a position where it could not continue to trade or complete the litigations.
11. Mr Charlie Lynn MLC issued a statement about Covecorp and its directors in parliament which severely damaged Covecorp's reputation and caused substantial financial loss.
12. Copies of Mr Lynn's speech (which has reference NSW Hansard Articles: LC: 20105/2003) were distributed widely by fax on the day it was made. The list of recipients included Covecorp's sub-contractors clients.
13. In relation to the comments Mr Lynn made within Parliament and under that protection, I advise as follows:
  - "... the methods used by them to avoid paying sub-contractors" - there are no "methods" used by Covecorp to avoid paying sub-contractors. We have dozens of very happy sub-contractors who have dealt with us over the years who would attest to that fact. The particular matter that Mr Lynn is speaking about, which involves his brother's company Lynn Civil, is a genuine dispute before the Supreme Court. Covecorp has issued ex-gratia payments to their subcontractors in excess of \$3,000,000 to assist their businesses during the course of these dispute proceedings.
  - "... rogue directors of construction companies, such as Paul Ferris and David Robertson ... exploit the loopholes that exist in the Queensland building and construction industry" - Neither myself nor Mr Robertson are "rogue directors". Neither of us have ever been in trouble with the law, let alone have any convictions of any kind, we pay our debts and conduct ourselves absolutely in accordance with our fiduciary and other duties as responsible directors. We do not even know what "loopholes" Mr Lynn refers to.
  - "... Paul Ferris is probably the biggest white shoe crook operating in the Queensland construction industry today - an unashamed and unprincipled conman" - There is no evidence to support this statement There is no circumstance at all that I have been involved in which would in any way fit the description that Mr Lynn has attributed to myself and my character.

- The matters detailed in the third paragraph of his speech obviously relate to assertions by other people to Mr Lynn, the facts of which I am unaware of. The minutes of that meeting dated 13 March 2003, arranged by Charlie Lynn MP, reveal that apart from representatives of his brothers company only one other subcontractor attended.
- In relation to the statements made in his fourth paragraph the suspension of Covecorp's license had nothing to do with the issues involving the Principals or Lynn Civil Pty Ltd.
- "... I warned the New South Wales Government to keep an eye out for Ferris should he ever try to bring his unprincipled and shady business practices to this State". -There is no evidence that I or my company has unprincipled and shady business practices. I received a call from an officer of the Department of Fair Trading in New South Wales enquiring whether Covecorp had commenced any building works in New South Wales. I replied truthfully that Covecorp had not commenced any work in that state whatsoever but found it curious why he would be motivated to make an unsolicited enquiry of this nature. The inference I drew from the discussion was that Covecorp would be targeted if we ventured into a jurisdiction that falls under the sphere of Mr Lynn's influence.
- "... kickbacks have been received for contracts awarded to Covecorp ..." - This is an untrue statement. Alec Spencer Management have recommended Covecorp for a number of projects based on performance but Covecorp has never paid Alec Spencer Management either money, or in kind, for those recommendations. ASIC completed a two month audit of all companies in the Covecorp group and found no evidence of the alleged 'kickbacks'. ASIC returned all company files and stated "we have not found any evidence of insolvent trading at any time or any breaches of the Corporations Act".
- ... "I also believe ASIC would find that Paul Ferris allowed Covecorp to operate while it was insolvent" - Charlie Lynn MP made this statement knowing that the ASIC had fully investigated Covecorp and confirmed that it was not concerned with Covecorp's solvency.
- The suggestion that Covecorp "... fraudulently doctored construction contracts" and "They spoke about how contracts were doctored by Covecorp to buy time in the Queensland legal system." These allegations are untrue. It is in Covecorp's best interest to obtain a speedy resolution of these disputes. Covecorp forced both disputes onto the supervised case list of the Supreme Court of Queensland. This ensures the most expedient conclusion of the disputes available at law for our companies and our subcontractors. Despite several attempts by Covecorp to reach settlements with the Principals via mediation or expert determination no 'out of court' resolution has been possible.
- "Threats have already been made to a number of sub-contractors who attended last week's meeting" - That is untrue. To do so would destroy our business in an industry where builders only exist with the support of the subcontractor community.
- "...unsuspecting employees of unscrupulous companies, such as Covecorp Constructions, have been deprived of their legal employee entitlements." – All Covecorp Construction employee entitlements including superannuation, long service leave, holiday pay etc have been paid in accordance with the relevant awards. We have never been served with non-compliance orders or complaints from the Superannuation Fund Guarantee, the Australian

Taxation Office, the Department of Industrial Relations or any other statutory authority in respect of employee entitlements.

- “.. They spoke of people they knew who had lost everything they had ever worked for, including the family home.” –We have spoken to the subcontractor referred to who allegedly lost everything. He confirmed that he had not lost his business but that he had incurred bad debts with other clients worth about eight times the amount in dispute with our client. We confirmed with him the counsel we had given earlier to most subcontractors that if at any time they find themselves in dire need they could contact us for financial assistance. Quite a number of our subcontractors have taken up this offer and have received ex-gratia payments.
- “The sooner Covecorp is wound up and the sooner Paul Ferris and David Robertson are brought before criminal courts to answer charges of insolvent trading and company fraud...” - I do not think I need to inform you what impact this statement has had and continues to have.