

YOUR REF

OUR REF: ZAB:222321

CONTACT: Zoe Brindle

PARTNER: Martin Slattery

3 August 2022

Ms Helen Hong
Principal Council Officer – Upper House Committees
Parliament House

Dear Ms Hong

JENNY WEST - PUBLIC ACCOUNTABILITY COMMITTEE INQUIRY RE APPOINTMENT OF MR JOHN BARILARO AS SENIOR TRADE AND INVESTMENT COMMISSIONER TO THE AMERICAS

We refer to the evidence given by Amy Brown on 3 August 2022.

Given Ms Brown's evidence, namely that she is maintaining issues existed with respect to our client's performance, Ms West invites the Committee to seek discovery of the without prejudice correspondence from the Crown Solicitor's office. The committee will see there is no mention of performance issues.

We refer to the Uncorrected Transcript dated 11 July 2022 provided to Ms West on 13 July 2022. We **enclose** Ms West's answers to the questions taken on notice during the enquiry on 11 July 2022.

Ms West gives consent to the in-camera evidence being published. In addition, Ms West would like to clarify a few of her responses contained in the transcript.

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JENNY WEST: Okay. "Amy - I have spoken to Minister Ayres, who has taken over the Deputy Premier's portfolio, and he has confirmed that you will not be getting the Americas role." It will be a present for someone. There will not be a role in New York for you. It has also been decided, given the other band 3s around the world, we will not be having a Deputy Secretary, Trade and International—Onshore so the role won't exist in the new structure."

The quote from Amy Brown, as she is quoting Minister Ayres should end at "...America's Role." Amy Brown went onto say "It will be a present for someone..."

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The Hon. DANIEL MOOKHEY: But, to be clear, you weren't terminated for cause and that payment wasn't withheld?

JENNY WEST: No.

For the sake of clarity, Ms West was agreeing with the two propositions put by Mr Mookhey, that is, she agrees that she was not terminated for cause and that payment was not withheld.

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JENNY WEST: No. She sent me a text message saying, "Congratulations, this is one to frame." She had an emoji of a Statue of Liberty and a champagne bottle, and she attached the Premier's signed-off briefing note of my appointment to the senior trade commissioner's role to the Americas.

Ms West instructs her response should read "Yes". She received text and verbal confirmation from Amy Brown.

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The Hon. ROBERT BORSAK: Next was your letter of termination. That's the next time you formally heard, or heard from him at all, in relation to this matter?

JENNY WEST: Yes, correct.

Jenny advises the correspondence, at this stage, occurred between the Crown Solicitor and her lawyers. She received a letter serving as an intent to terminate, followed by the termination letter tabled on 11 July 2022.

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Hon. PENNY SHARPE: I want to check, in the note you talk about that the Deputy Premier had put up a separate submission to Cabinet to get the authority for decision-making in regard to these roles to go direct to himself and not Infrastructure NSW?

JENNY WEST: It would be Investment NSW.

Ms West instructs the submission to Cabinet was in respect of changing the requirements of the Investment NSW role to a Ministerial appointment, not necessarily to the Deputy Premier himself.

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The Hon. DANIEL MOOKHEY: To be clear, you asked Ms Brown how could he just change something like that to put his mates in the role to help with the election? To be clear, when you said, "How could he", who were you referring to?

JENNY WEST: I can't remember at the time.

The Hon. DANIEL MOOKHEY: Is it possible you were making a reference to the Deputy Premier?

JENNY WEST: I can't remember at the time.

The Hon. DANIEL MOOKHEY: Okay. But you clearly had a suspicion that the reason why there was a change in the Cabinet process that led to the withdrawal of the offer that was made to you was so someone could put his mate in the role to help with the election?

JENNY WEST: I can't comment on that.

The Hon. DANIEL MOOKHEY: But that's the note you made?

JENNY WEST: Yes, it is the note that I made.

Ms West instructs she did not hold a suspicion, rather she had a 'gut feeling' at the time in question.

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The Hon. DANIEL MOOKHEY: You spoke to him as well. Did he say that he was horrified to hear about the situation you were in and couldn't believe what was being proposed?

JENNY WEST: Yes, he did.

Upon reflection, Ms West instructs that Mr Carr conveyed in his tone that he was horrified. She does not recall Mr Carr saying the word 'horrified' to her.

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The CHAIR: Going back to 17 September, when she informs this Committee that the relationship between the candidate and Investment NSW became troublesome, it is clearly a relationship between—was she implying that there was a relationship between you and the department that had somehow become troublesome? Because, for all intents and purposes, at this stage Amy Brown was still incredibly impressed with your performance.

JENNY WEST: Yes, and I was—I don't believe that it was. She used the words, I think it was "irreconcilable".

Ms West clarifies further that she believed the relationship changed. Ms West instructed that she was surprised with Ms Brown's statement as she did not believe the relationship had become troublesome or irreconcilable.

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The Hon. WES FANG: That continued all the way through to 21 November. Is that correct?

JENNY WEST: No. In terms of the time line, I took personal leave from 18 October and then I was told my employment was terminated on 19 November.

The Hon. WES FANG: After the expiry of the certificate on 12 October, you returned from the thirteenth to the eighteenth?

JENNY WEST: The thirteenth to the fourteenth of October and then I took some sick leave on the fifteenth and on the eighteenth I took personal leave and both those leaves Ms Amy Brown was aware of as well.

Ms West instructs that she is willing and able to provide the medical certificate if the Committee so requests it.

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The Hon. PENNY SHARPE: Thank you. So even though we have heard this morning that basically a role was created, which was essentially your old job, there was never any—you heard nothing until you just got your termination letter. Is that right?

JENNY WEST: Correct.

Ms West instructs there was correspondence between the Crown Solicitors office and her lawyers during this time. Notwithstanding, Ms West notes the ambit of the evidence remains true and maintains her legal professional privilege in this correspondence.

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The Hon. DANIEL MOOKHEY: You were invited to become a governor on the American Chamber of Commerce board?

JENNY WEST: Yes, correct.

The Hon. DANIEL MOOKHEY: By the chairperson?

JENNY WEST: The CEO.

The Hon. DANIEL MOOKHEY: Equally, you're a member of the Australia India Business Council, which is an organisation that Mr Farlow and I know quite well.

JENNY WEST: Yes.

The Hon. DANIEL MOOKHEY: You are a member of the Australia China Business Council?

JENNY WEST: I was, yes.

The Hon. DANIEL MOOKHEY: You are a member of the Women in Global Business network?

JENNY WEST: Yes.

Ms West instructs she held the AIBC and ACBC role as part of her government roles. She did not hold these roles in person.

Yours faithfully

Carroll & O'Dea Lawyers

Martin Slattery
Partner