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1 February 2010

The Hon John Ajaka MLC
Committee Chair
Select Committee on the NSW Taxi Industry
Legislative Council
Parliament NSW
Macquarie Street
SYDNEY NSW 2000

RECEIVED

29 JAN 2010

**LEGISLATIVE
COUNCIL**
SL 10/14

By Facsimile: 92302981

Dear Mr Ajaka:

RE: ENQUIRY INTO THE NSW TAXI INDUSTRY

Thank you for your letter to Mr Kermode dated 28 January 2010. On the advice of Counsel I am responding on behalf of Mr Kermode. The reason for my response will become apparent when you read the contents of this letter.

On 5 January 2010 Mr Kermode responded to your invitation to make a written submission in relation to the Enquiry into the Taxi Industry and set out, in short, the reason why he was unable to assist the Enquiry.

I assume that you are now aware of the exchange of emails and telephone calls between the writer and the Committee Director, Ms Rachel Simpson relating to the invitation extended to Mr Kermode to appear in person before the Committee. Under normal circumstances Mr Kermode would be delighted to assist the Committee in any way possible to provide a comprehensive and accurate summation of the events, arising from the Enquiry's terms of reference.

The decision not to accept your invitation weigh's heavily on Mr Kermode as it will be the first time that he can ever recall not providing assistance when invited to do so by any Government or Statutory Authority relating to any Transport matter that he has knowledge of. As you would be aware Mr Kermode has for many years not only worked closely with both sides of State and Federal Governments in matters pertaining to Transport but has also been appointed to serve on many Government Boards and Committees. One would be hard pressed to find any other individual with the bank of knowledge that Mr Kermode has when it comes to the Taxi Industry both within New South Wales and Nationally.

The Enquiry as we understand it arose out of intense lobbying after a campaign by Fairfax Media who made a number of false claims about the issue of Nexus Plates and Mr Kermode's alleged involvement relating to the sale of the plates and his relationship with Government throughout his years of service to the Industry.

I witnessed first hand the great personal disappointment Mr Kermode felt when the Fairfax Media Group set about to ruin his reputation both within the Industry and personally when they started their latest vendetta against him. As a result of those

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allegations Mr Kermode is currently engaged in litigation for defamation against Fairfax Media. There is little doubt that he will be successful in the defamation proceedings that he has commenced against them however it is my view that the damages awarded will not be sufficient to repair the damage that he suffered as a result of the false articles published.

I suspect however that it may have been of greater disappointment however when he was driving to work listening to the local ABC radio broadcast and Ms Lee Rhiannon was interviewed by an ABC Presenter about matters arising out of the Nexus Plates and other NSW Taxi Industry issues. The comments made by Ms Rhiannon about Mr Kermode's personal involvement were false, misleading and defamatory.

As you can imagine it came as quite a surprise when he received your earlier letter inviting him to make a written submission to the Committee because ironically the Enquiry appears to have been largely established as a result of false and misleading information about Mr Kermode and his involvement in the Taxi Industry.

I have no doubt that your letter was genuine in that it was sent to Mr Kermode because you thought he can provide the Committee with his detailed knowledge of the Industry he has faithfully served for so many years. I am also sure you can now imagine the disappointment he feels when essentially he is being invited to attend an Enquiry in which he will be asked to defend himself against a number of false and defamatory statements that was the catalyst for the Enquiry in the first place.

Of greatest concern however is Ms Rhiannon's role in this matter. One would assume that Members of Parliament receive any number of unsubstantiated information from their constituents on a daily basis and that some of the information should properly be investigated. The problem in this instance however is that Ms Rhiannon, in her role as a Member of Parliament, has received information, accepted it at face value, and then not only defamed Mr Kermode when she repeated the information in a radio interview but has also demanded and been provided a platform, in the form of a Parliamentary Enquiry, to try and prove that her misguided and malicious view is correct.

At no stage did Ms Rhiannon ever make contact with Mr Kermode before she made the defamatory statements make about him. As a lawyer I am astounded that Ms Rhiannon, who to the best of Mr Kermode's knowledge has never met or spoken to her, did not make the comments behind the cloak of parliamentary privilege, especially when she made no attempt to discuss any of the allegations against Mr Kermode.

Accordingly, Mr Kermode has been advised by Counsel that under no circumstances should he attend the Enquiry and provide any information which may prejudice his common law and statutory rights. Regrettably, it is for this reason that he is unable to accept your invitation to appear before the Committee. Your invitation to provide his evidence in camera is noted and also rejected. Whilst we appreciate that you have made the offer in an attempt to protect Mr Kermode's statutory and common law rights – if he were to accept your invitation the perception and no doubt publication by those unfortunate members of the press with no real investigative talent and far too much time on their hands would, in my opinion, be intolerable and simply require our lawyers to amend the defamation proceedings to include further imputations.

I have had the pleasure of working for Mr Kermode for any years and can tell you that I have never seen the level of disappointment and regret that he feels about the entire situation; especially in view of the fact that had Ms Rhiannon simply picked up a telephone or taken the opportunity to write to Mr Kermode to ask him about the

misinformation provided to her, as opposed to blindly making false and defamatory public statements and calling for public enquiries, the matter would have been resolved some time ago. Instead the tax payer and the Government, in lean times, are going to bear the brunt of what must be a very costly exercise.

In any event, he has asked me to convey to you his best wishes for the Enquiry and hopes you have a better understanding of the unfortunate position he has been placed in and why he is unable to accept your invitation.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Sharon Doyle', written in a cursive style.

Sharon Doyle
Company Secretary