

Appendix Two

**Response from Mr Grech's Legal Representative to
extracts from the draft report**

WILLIAMS LOVE & NICOL

LAWYERS

24 November 2009

Partner
John Wilson

ALSO BY EMAIL: rosemary.laing@aph.gov.au

Our reference
JSW: 10090704

Dr Rosemary Laing
Secretary
Committee of Privileges
Australian Senate
Parliament House
CANBERRA ACT 2600

CONFIDENTIAL

Dear Dr Laing

**SENATE COMMITTEE OF PRIVILEGES INQUIRY INTO MATTERS ARISING
OUT OF THE HEARINGS OF THE ECONOMICS LEGISLATION COMMITTEE
ON 19 JUNE 2009**

I respond to the document enclosed with your letter to me of 17 November 2009 as follows.

The first matter referred for the committee's consideration was:

Whether there was any false or misleading evidence given, particularly by reference to a document that was later admitted to be false.

The following two findings stated at paragraph 6.9 of the draft report are not relevant to or required by the express terms of reference.

First, that 'Mr Godwin Grech provided false information to his Treasury colleagues on several documented occasions'.

What 'information', 'false' or otherwise, Mr Grech may have provided to his Treasury colleagues was, as a matter of fact, 'given' by him on occasions other than *at* the hearing of the Economics Legislation Committee hearing on 19 June 2009.

It was, therefore, not 'evidence given' by him on that occasion.

Secondly, whether it is a fact that '[T]here are discrepancies between the accounts of events given by Mr Grech and all other persons from whom the committee [i.e. the Senate Privileges Committee] received submissions' is, again, irrelevant to the matter before the committee: i.e. whether 'any false or misleading evidence [was] given at' the hearing of the Economics Legislation Committee hearing on 19 June 2009.

Those findings should be deleted.

Turning now to the finding that, '[T]here is evidence that the Economics Legislation Committee was misled by references to a document later admitted to be false'.

Again, the referred matter is 'was any false or misleading evidence given'.

That begs the question: what evidence relevant to 'a document later admitted to be false' was 'given'?

Here the committee is conflating the document that Mr Grech recalled, in his evidence of 19 June 2009, as being received by him 'from the PMO' with the document created by him that the committee describes as being 'admitted to be false'.

In relation to the former document, the only express evidence that Mr Grech gave on 19 June 2009 is as stated at page E38 of Hansard:

My recollection may well be totally false or faulty, but my recollection—and it is a big qualification—but my recollection is that there was a short email from the PMO to me which very simply alerted me to the case of John Grant, but I do not have the email.

That answer was given in response to the following question from Senator Abetz (underline added):

But has Mr Grech seen a document of the nature that I previously described – yes or no?

That was the question that Mr Grech's answer was responding to.

Mr Grech evidence as to whether he had 'seen a document of the nature that [Senator Abetz had] previously described':

- Was expressly said to have been based on 'recollection'.
- Contains an express admission – or, to use his term, a 'big qualification' - that the 'recollection may well be totally false or faulty' (underline added).
- Contains an express acknowledgement that Mr Grech did not 'have the email'.

In other words, the Committee was not, and cannot have been, misled by anything: on Mr Grech's evidence what it had before it was the *possibility* that he had received 'a short email from to PMO that very simple alerted [Mr Grech] to the case of John Grant', with the 'big qualification' that his 'recollection may well be totally false or faulty' – in other words, there may have been no such email – and that he did not 'have the email'.

On any reasonable, objective analysis, that evidence simply stated plain matters of fact that were not false.

Contrary to the committee's present finding, there can be no question of that evidence being what it presently terms 'objectively false or misleading': no reasonable person could have been misled by that evidence.

And it cannot be the case that the committee, or any one or more members of it, were, subjectively, 'misled by references to an email later revealed to have been fabricated by Mr Grech'.

Again, the draft findings conflate two discrete documents. That leads the committee to come to the erroneous conclusion that Mr Grech's evidence in relation to the former document was false because the latter document was, to use the committee's word, 'fabricated'. Again, Mr Grech's references to an email on 19 June 2009 were to a 'short email' that he recalled – rightly or wrongly, and with a 'big qualification' – receiving 'from the PMO', not the later 'fabricated' document.

I now turn to the findings under the heading 'Other false or misleading evidence'.

The finding that 'Mr Godwin Grech gave a misleading impression to the Economics Legislation Committee about the amount of work involved in his advocacy on behalf of Mr John Grant' is unfair.

The relevant passage in Hansard needs to be extracted in full, rather than cherry picked:

Senator JOYCE—I have just one question. Mr Grech, how many other dealers did you give the level of attention and the level of advocacy that you gave to Mr Grant? Would you, if we asked for it, be able to table the emails and the replies and the correspondence to prove that case?

Mr Grech—In answer to your question, Senator, I will not deny the fact that the case of Mr Grant was—

Senator JOYCE—Special?

Mr Grech—It was labour-intensive.

Senator JOYCE—It was very labour-intensive, I suggest?

Mr Grech—It was labour-intensive.

Senator JOYCE—Far more than—

Mr Martine—Senator, if one looks through the two cases and two emails here, both of them are referred by the Treasurer's office, and both of them with a request to make contact with the car dealer. As Mr Grech indicated in earlier evidence, there was already a meeting that he had scheduled with Ford Credit on the Monday, well before the email came through from the Treasurer's office on the John Grant situation on the Friday. Mr Grech took the opportunity to put John Grant in contact with Ford Credit on the Monday. They had discussions among themselves, John Grant and Ford Credit. At some point subsequent to that, Ford Credit obviously knocked back John Grant's application.

Senator JOYCE—On this case of Mr Grant, when you say it was labour-intensive, Mr Grech, how do spell labour in that?

CHAIR—Senator Joyce, really that is most unfair.

Senator JOYCE—It is quite obvious that it is game, set and match.

CHAIR—Do you have any more questions?

Senator JOYCE—*Absolutely. Would you say that Mr Grant's case was twice as detailed, or three times as detailed—*

Mr Grech—*Senator, can I be—*

Senator JOYCE—*In the amount of correspondence and time you spent on it? What proportion and amount of time did you spend on it? Was it far in excess, just in excess? You must know. You do have a clear understanding. What is it?*

Mr Grech—*Their needs were different. With respect to the Kay Hull representation, it was simply a case of giving the car dealer a phone call, touching base with him, and informing him. He wanted to know basically how OzCar works, what his options were, where he could go to try to get help. The 'Kay Hull dealer', I will put it that way, I had a couple of phone calls with him. But, in all it was a five or ten minute chat, some of which frankly was spent talking about the particular town in which he lived. With respect to Mr Grant, it was not the amount of work per se. It was different. He wanted to know how OzCar works. He wanted to know what his funding options were and he made it clear that any assistance forthcoming in trying to organise an alternative floor plan, given that GE were basically putting him under the pump with respect to his Kia dealership back in Ipswich, would be appreciated.*

Senator JOYCE—*I have two last questions. If I asked you, as before, to table the documentation for the member for Riverina's case, for Mr Billson's case, would it be in any way comparable to the amount of correspondence that has gone into Mr Grant's case?*

Mr Grech—*If we are just judging the cases by the amount—*

Senator JOYCE—*Do you have another case where there would be—*

CHAIR—*Senator Joyce, Mr Grech is trying to answer your question.*

Mr Martine—*Senator, you have in front of you the extent of the documentation. To the extent that the email chain here with respect to John Grant is longer than the email chain with respect to the car dealer in Ms Hull's electorate, then it is correct to say that there is more documentation.*

Senator JOYCE—*Quite substantially more.*

Mr Martine—*This is the extent of it.*

Senator JOYCE—*That is before the phone calls and the private representations, which we obviously do not see. Mr Delaney said before that you would have made calls to hundreds of dealerships. Mr Grech, did you make calls to hundreds of dealerships?*

Mr Grech—*No, I did not.*

Senator JOYCE—*I did not think you did. Thanks.*

On any fair reading of the evidence, the facts are these:

- Mr Grech makes his 'labour-intensive' statement at the start of Senator Joyce's questioning.
- He is then cut off from answering by the Chair when Senator Joyce seeks to explore with him just what he means by 'labour-intensive'!
- He (Mr Grech) then, when Senator Joyce presses his point, Mr Grech gives the answer that explains what he means by the term that he had initially used:

Their needs were different. With respect to the Kay Hull representation, it was simply a case of giving the car dealer a phone call, touching base with him, and informing him. He wanted to know basically how OzCar works, what his options were, where he could go to try to get help. The 'Kay Hull dealer', I will put it that way, I had a couple of phone calls with him. But, in all it was a five or ten minute chat, some of which frankly was spent talking about the particular town in which he lived. With respect to Mr Grant, it was not the amount of work per se. It was different. He wanted to know how OzCar works. He wanted to know what his funding options were and he made it clear that any assistance forthcoming in trying to organise an alternative floor plan, given that GE were basically putting him under the pump with respect to his Kia dealership back in Ipswich, would be appreciated.

There is nothing 'false or misleading' about that answer; and certainly the committee says nothing in its draft report as to why it might be.

The finding that 'Mr Godwin Grech did not disclose to the committee that he had created a record of the email that he assets he believed existed, is also unfair – for two reasons.

First, again, the relevant passage in Hansard needs to be extracted in full, rather than cherry picked:

Senator ABETZ—Right. Thank you. Now, Mr Martine told us, helpfully, in the opening statement that Treasury have searched and there was no contact between the Prime Minister's office and representations for Ipswich Central Motors.

Mr Martine—That is correct, Senator.

Senator ABETZ—I accept that. Can I ask whether the Prime Minister's office made any representations on behalf of Mr John Grant?

Mr Martine—Senator, I am assuming that is exactly the same question.

Senator ABETZ—Well, it is not. Ipswich Motors is a different legal entity from Mr John Grant.

Mr Martine—Ah, okay. Senator, my apologies if my opening statement was slightly confusing. We have searched for any correspondence from the Prime Minister's office to Treasury relating to either John Grant, by himself, or John Grant/Ipswich Central Motors. To the best of our ability, and we have searched everything we can look for, we have not located any correspondence whatsoever, either emails or physical correspondence.

Senator CAMERON—There you go, there you go.

Senator ABETZ—Can I ask you, then, Mr Grech: are you aware of any direct contact between the Prime Minister's office and people that work for OzCar?

Mr Martine—Senator, there is no paperwork for OzCar.

Senator ABETZ—I am sorry, I am asking Mr Grech.

Mr Martine—I am just trying to clarify that, Senator.

Senator CAMERON—OzCar does not exist.

CHAIR—Mr Martine is able to clarify.

Mr Grech—In the event that there was any correspondence communications between the Prime Minister's office and OzCar, that in effect would mean correspondence communication between the

Prime Minister's office and the Treasury. I am certain that there was no oral communication. In relation to emails and so on and so forth, I am simply not in a position to say anything further to what Mr Martine has said.

Senator ABETZ—*Mr Grech, can you tell us why you are not in a position to tell us anything further because, chances are if there was such an email, you may have sighted it?*

Mr Martine—*Senator, as I indicated, in my opening statement and in response to your question just before, we have thoroughly searched, including Mr Grech has thoroughly searched, all of our available records to see whether we ever received any emails or physical correspondence from the Prime Minister's office with respect to John Grant/Ipswich Motors. As of today, we cannot locate any such correspondence or emails.*

Senator ABETZ—*Mr Martine, that is very helpful. Why could Mr Grech not tell us that he himself had searched and not found any email trail?*

Mr Martine—*I think Mr—*

Senator ABETZ—*I asked Mr Grech that specifically.*

Mr Martine—*Senator, I think Mr Grech was answering that question, and Mr Grech has been involved in this search. As we talked about earlier, part of your FOI request includes correspondence with respect to John Grant between the Prime Minister's office and Treasury. We, including Mr Grech, have searched and we have located no such correspondence.*

Senator CAMERON—*Zero, zilch, nothing there.*

Senator ABETZ—*No oral?*

Senator CAMERON—*Nothing.*

Senator ABETZ—*Can I ask Mr Grech, yet again, whether he, at any stage, sighted a document? I can understand that it may well be that you searched and found nothing. I can understand that and I do not question that. What I want to know is whether Mr Grech may have sighted a document, which is potentially now no longer in existence. Mr Grech, can I ask you: have you seen any contact between the Prime Minister's office and Treasury/OzCar facility?*

Senator CAMERON—*Oh, no. Will you never give this up?*

CHAIR—*Senator Cameron!*

Senator CAMERON—*God!*

CHAIR—*Senator Abetz, I think that question contains a sort of veiled statement.*

Senator ABETZ—*No, it does not, Chair. It is a specific request. I am fully accepting the witnesses' evidence that they searched and could not find the document. I accept that. What I am asking is: has Mr Grech ever seen a document that might now no longer be locatable? Mr Grech, that must be in your personal knowledge.*

Mr Martine—*I think, Senator, we have answered this question.*

Senator ABETZ—*No, you have not, with great respect.*

CHAIR—*Yes. I think, Senator Abetz, that the question has been answered.*

Senator ABETZ—No, Chair. With great respect, that has not been answered, and I ask Mr Grech: has he seen such a document?

CHAIR—The department has answered that question.

Senator ABETZ—No, they have not, Chair.

Senator CAMERON—Yes, they have.

Senator ABETZ—They have said they have found no document.

Senator PRATT—They found no document.

Senator ABETZ—I accept they have found no document. I am making no accusation about that.

Senator CAMERON—You are now just concocting another story.

Senator ABETZ—What I am now asking—

Senator CAMERON—Concocting another story—another straw man!

Senator ABETZ—Chair? You are interrupting.

CHAIR—Senator Cameron!

Senator CAMERON—I mean, that is the problem with you guys.

CHAIR—Senator Cameron!

Senator CAMERON—You try to bully them like Malcolm Turnbull bullies other people.

CHAIR—Senator Cameron, that is enough.

Senator CAMERON—If you are going to continue down that track—

CHAIR—Senator Cameron, order! Please!

Senator CAMERON—They should not be bullied by you guys.

CHAIR—We are trying to have an orderly discussion, although I admit it is not so much on the Car Dealership Financing Guarantee Appropriation Bill.

Senator CAMERON—They have got form, these people.

Senator PRATT—Yes, not so much on the bill.

CHAIR—I have let it be fairly wide ranging.

Senator ABETZ—Thanks, Chair.

CHAIR—In deference to the particular interests of the opposition.

Senator ABETZ—Thanks for that.

CHAIR—But it seems to be pushing it a bit far to ask three or four questions on something that is not relevant to the bill when we do have more questions to ask.

Senator PRATT—Yes, and that is just so much speculation.

Senator ABETZ—Chair, with great respect can I simply ask the question? I do not know why there is

sensitivity.

CHAIR—*There is no sensitivity here.*

Senator ABETZ—*All right. I withdraw that.*

CHAIR—*But we are wasting time.*

Senator ABETZ—*Can Mr Grech simply answer my question: has he seen a document that might be described as a communication between the Prime Minister's office and Treasury in relation to John Grant? He either has, or he has not. Mr Grech, your answer, please.*

CHAIR—*That is simply another way of asking the same question.*

Senator ABETZ—*No, it is not.*

CHAIR—*The department already has stated it has not.*

Senator ABETZ—*Chair, it is possible that good, honest people undertook a search and found no document. I accept that. But it may also be that a document once did exist, and that is what I am asking Mr Grech. It is a very simple answer. He has either seen such a document, or he has not seen a document—yes, or no. I do not understand the concern.*

Senator CAMERON—*It is pure speculation. He should not be forced to answer speculation.*

Senator ABETZ—*Of course it is speculation and we can have it answered here today.*

CHAIR—*Senator Cameron!*

Senator CAMERON—*It is a fishing expedition because they have hit the wall. They cannot go on because it is a fishing expedition. That is all it is.*

CHAIR—*Senator Cameron, we are trying to move on. I would ask people to come back to the bill that we are discussing, if at all possible, rather than continuing on with a question that has already been answered.*

Senator ABETZ—*Madam Chair, I think anybody listening in, any objective observer with great respect, would accept there is a difference between finding a document and actually previously having sighted a document.*

CHAIR—*Well, Senator—*

Senator ABETZ—*Which can now no longer be found.*

CHAIR—*Mr Martine—*

Senator PRATT—*Let us move on.*

Senator ABETZ—*Senator, if I may, I have not asked whether you have seen such a document. I am asking whether Mr Grech has seen such a document, and it must be within Mr Grech's personal knowledge whether he has or he has not.*

Mr Martine—*Senator, as part of our search, we have searched all of our available records to determine whether such a document exists, or in fact ever existed, and we have not been able to locate any such document.*

Senator ABETZ—*And I can understand that and accept that at face value, Mr Martine. There is a different question here.*

CHAIR—Well—

Senator ABETZ—Has Mr Grech ever sighted such a document that might fit in that description, and the answer is yes or no.

CHAIR—We have now had that question several times, and we have now had the answer several times.

Senator ABETZ—No, we have not, Chair.

Senator PRATT—This is not helping—

CHAIR—Senator Abetz, if you have no further questions—

Senator ABETZ—I do have a question.

CHAIR—Further questions.

Senator ABETZ—And the sensitivity in relation to this is gob smacking, quite frankly.

CHAIR—No, Senator Abetz, we are just a bit bored. That is the problem. We are just a bit bored.

Senator PRATT—Point of order.

Senator ABETZ—Chair, may I suggest that we relieve your boredom allowing Mr Martine or Mr Grech to answer the question, yes or no.

Senator FIFIELD—Chair, there is a point of order.

CHAIR—I could go to other senators too.

Senator CAMERON—Do not get to the bullying stage. We know your boss is a bully. Do not start that here. I am not copping it. Right?

CHAIR—Senator Cameron, do you have questions? If Senator Abetz has no further questions, we will move on.

Senator ABETZ—No, I am sorry, Chair.

Senator CAMERON—I have questions.

Senator FIFIELD—We have been moving on before the chair for some time.

Senator ABETZ—All right, Chair. Allow me to move on.

Senator CAMERON—Do not be familiar.

Senator ABETZ—A person, a journalist in fact, has suggested to me—

Senator CAMERON—Do not stare at me.

Senator ABETZ—That there may be—

CHAIR—Senator Cameron!

Senator CAMERON—Do not try to stare at me, or bully me, either. Okay?

Senator ABETZ—That there may be—

CHAIR—Senator Cameron!

Senator CAMERON—It does not work.

CHAIR—Senator Abetz is asking a question.

Senator ABETZ—That there may have been a communication from the Prime Minister's office.

Senator FIFIELD—Extraordinary.

CHAIR—I think this might be—

Senator ABETZ—Allow me. It was along these lines and I want to know whether it is familiar to Mr Grech: 'The Prime Minister has asked if the car dealer financing vehicle is available to assist a Queensland dealership, John Grant Motors, who seems to have trouble getting finance. If you could follow up on this as soon as possible, that would be very useful.' This is what has been suggested to me by somebody, and there is of course the suggestion in today's media that such a document exists.

Senator CAMERON—A suggestion! A suggestion!

Senator ABETZ—Mr Grech, do those words sound familiar to you? Were they part of a document that emanated from the Prime Minister's office?

CHAIR—Mr Martine, would you like to respond?

Mr Martine—Senator, as I—

Senator ABETZ—Why ask Mr Martine when it is not within his personal knowledge?

CHAIR—Because he has answered this many times before, and he probably has it off pat by now.

Senator ABETZ—It is in the personal knowledge of Mr Grech.

Mr Martine—Senator, as I indicated, we, including Mr Grech, have searched all of our available records to see whether any such correspondence, whether it is an email or a physical document, exists that has been sent from the Prime Minister's office to the Treasury with respect to John Grant, and we have not been able to locate any such document.

Senator ABETZ—That is fine, but that is not answering my question, Mr Martine, and you know it. I am asking—and I accept that at face value, no question: has Mr Grech sighted a document as I have just read out? The answer is quick, yes or no, and we can move on, Chair. We can move on.

CHAIR—Yes.

Senator ABETZ—Just allow Mr Grech to answer.

CHAIR—No.

Senator ABETZ—Mr Grech?

CHAIR—Senator Abetz, I indicated to you previously that the committee did want to move on.

Senator CAMERON—They have got nothing.

Senator ABETZ—I have other questions, in that case.

CHAIR—Well, would you please ask them because we have been stuck for about five minutes on the same question and we have had the same answer.

Senator ABETZ—All right. Representations were made to you by Ms Hull, a Ms Kay Hull. That is correct?

Mr Grech—That is right.

Senator ABETZ—And by a Mr Billson, a Mr Bruce Billson?

Mr Grech—Yes.

Senator ABETZ—And what about a Mr Charlton, Andrew Charlton?

Mr Martine—Senator, as I—

Senator ABETZ—Oh, intervention!

Mr Martine—Senator, as I have just indicated, and Mr Grech indicated this as well, there were no phone calls from the Prime Minister's office. As I have indicated, we have had no correspondence. We have been able to locate no correspondence whatsoever in relation to—

Senator ABETZ—Why can I not ask Mr Grech that question, which resides personally in Mr Grech's knowledge?

Senator CAMERON—Because you are making it up. You are making it up. That is what you are doing.

CHAIR—Senator Cameron!

Senator CAMERON—You have got no evidence and you are making it up. That is what you are doing.

CHAIR—Senator Cameron! Senator Abetz, I have said that I will move on to another senator, and I am. Senator Cameron?

Senator ABETZ—No, Chair. At least hear me out.

Senator CAMERON—Sure.

Senator ABETZ—Chair, point of order.

CHAIR—No, Senator Abetz.

Senator EGGLESTON—He has taken a point of order.

Senator ABETZ—Chair, this is a crucial issue. It has been raised—

CHAIR—No, that is not a point of order, Senator Abetz.

Senator ABETZ—I cannot even state a point of order. The Labor senators will not allow it.

Senator FIFIELD—Point of order. Chair, you cannot rule on a point of order before you have permitted a senator to state what their point of order is. You cannot anticipate what a senator is going to say before they say it.

CHAIR—Well—

Senator PRATT—She was told that it was about that issue.

Senator FIFIELD—Chair, you are required to listen to a senator's point of order before ruling on it.

CHAIR—Senator Fifield, if you will let me finish, I will allow Senator Abetz one more time to ask his question.

Senator ABETZ—Thank you.

CHAIR—And then can we have an undertaking to move on?

Senator ABETZ—Yes. Chair, I would be delighted. And, Mr Martine, could I have your undertaking that Mr Grech will be allowed to answer this?

CHAIR—No. Please, Senator Abetz, just ask your question.

Senator ABETZ—Will I be given—

CHAIR—Senator Abetz, will you ask your question?

Senator ABETZ—Yes, and my question is: will Mr Martine allow Mr Grech to answer this question?

Mr Martine—Senator, it will depend, obviously, on what your question is as to who the most appropriate official at the table would be to answer the question.

Senator ABETZ—All right. The most appropriate official to answer this question: Mr Grech, to your personal knowledge, have you personally sighted any correspondence—email, note, memorandum or any type of documentation emanating from the Prime Minister's office to Treasury—concerning Mr John Grant and the OzCar facility?

Mr Grech—You referred to some journalist before, so I do not like the connotation, what that means—press articles and so on—because frankly I was very distressed this morning when I woke up and read that article. With your indulgence, if I may—and I know time is flitting away from us; I will answer your question; I will get to it—but I am a public servant, and I am basically in a situation in which no public servant should find him or herself in. I have worked very hard over a long time to build up trust within the department and within my relationships—

CHAIR—Sorry, Mr Grech—

Mr Grech—No, I want to continue. My bottom line is that when articles like the one from Mr Lewis appear in the morning papers and when the circle for a lot of these things is relatively small, I do not know who has talked to whom. I do not know who Ford Credit had talked to. I do not know who Capital Finance or whatever other third party has spoken to. I know that when I go to a meeting and I sit down with three or four or five strangers and try to have a professional discussion, I work on the assumption that what I put on the table is not going to end up on the front pages of the tabloids the next day. But my point is that, you know, it was very hard this morning going into work and looking my colleagues in the eye when I know that their instinctive response would have been to point the finger at someone like me, given that frankly there are not that many people working on this stuff within government. That is just a general point. In terms of your specific question, believe me, I appreciate the sensitivity of it and its import, and it was certainly my belief—and noting that it was only me in Treasury with all this OzCar turbulence and who had been putting together the cabinet papers, dealing with the banks and the other financiers—it all came down on my shoulders. But it was my understanding that the initial contact I had with respect to John Grant was from the Prime Minister's office. As David has said, we have, and our IT people have, undertaken in the last 24 hours as diligent a search as possible to trace, locate through our backups and emails, which may or may not have existed, and we just cannot find it. But, and I do not hide from this, it was certainly my understanding that the original representation with respect to Mr Grant came from the Prime

Minister's office. But what did I do with that representation? I did nothing with it because the Treasurer's office got onto me, and you have seen the email exchanges that emanated from that intervention. That is all I can say.

Senator ABETZ—*So did you see a document? To the best of your recollection, have you seen a document that reflects what you have just told us?*

Mr Grech—*I am—*

Mr Martine—*Senator, as I have said—*

Senator ABETZ—*The only person who knows whether he has seen it or not, Mr Martine, would be Mr Grech. Mr Grech?*

Mr Martine—*Senator, as Mr Grech has outlined, and as I indicated in my earlier answer, we have searched for any documents. As I have said, nothing exists.*

Senator ABETZ—*That is fine. I accept that. But has Mr Grech seen a document of the nature that I previously described—yes, or no?*

Mr Grech—*My recollection may well be totally false or faulty, but my recollection—and it is a big qualification—but my recollection is that there was a short email from the PMO to me which very simply alerted me to the case of John Grant, but I do not have the email.*

Senator ABETZ—*Yes. Was it similar to the terms that I have suggested?*

Mr Martine—*Senator—*

Senator ABETZ—*Mr Grech is the only one who may have seen this document, and I am asking him about the similarity of it, Mr Martine.*

Mr Martine—*Senator, can I just add that, as Mr Grech indicated, he cannot be certain.*

Senator ABETZ—*I accept that. That is why I said 'similar to'.*

Mr Martine—*We have searched. We have made inquiries with a range of parties. I am personally satisfied that no document exists.*

CHAIR—*I think—*

Senator ABETZ—*And I agree with that, but the question is 'similar to' the document that Mr Grech believes he may have seen. Was it similar to the wording that I read out previously?*

CHAIR—*I think what we are now—*

Senator ABETZ—*The answer is yes or no. It is very easy.*

CHAIR—*Senator, what we are now getting into is a hypothetical.*

Senator ABETZ—*No, it is not. It is a definite—*

CHAIR—*No, Senator Abetz—*

Senator ABETZ—*Chair, on a point of order. The witness has indicated clearly he has a recollection of seeing a document, so that is not hypothetical. I am now asking him his recollection of the content of that document. That is not hypothetical either. Therefore I should be allowed to ask the witness whether that which I read out bears a similarity to that document which he has a recollection of previously seeing.*

CHAIR—I am sorry, Senator Abetz, but Mr Grech said quite clearly that his memory may be faulty.

Senator ABETZ—That is right.

CHAIR—Let me finish. When clearly he has said that he is very stressed by this whole episode, to drill down on that and ask him for a better recollection of a faulty recollection is, to me, hypothetical.

Senator ABETZ—It is not. But, look, Chair, fair enough. I will move on.

Senator PRATT—I have a point of order, Chair.

CHAIR—You have a very short time, Senator Abetz, because there are others.

Senator ABETZ—Do you have a recollection that that document emanated from one Andrew Charlton?

Mr Martine—Senator, as Mr Grech indicated, he—

Senator ABETZ—Mr Martine, it is not in your knowledge. It must be in Mr Grech's knowledge.

CHAIR—Senator Abetz—

Senator PRATT—Point of order, Chair.

Mr Martine—It is a fine point.

CHAIR—Senator Pratt has a point of order.

Senator PRATT—Standing order 194 talks about the relevance of the debate to the bill before us. I fail to see how the nature of Mr Grech's recollection can possibly fall within relevance to the inquiry.

Senator ABETZ—On the point of order, Chair: we are finding out how the OzCar—

CHAIR—I do not really need any help.

Senator ABETZ—Thank you.

CHAIR—I have complained before about the relevance, but I have said that we will continue. But I should say that Mr Martine has every right to make some statement before, or if, he passes on to another officer. Mr Martine?

Mr Martine—Thank you, Madam Chair. The point I was trying to make, Senator, was that Mr Grech has indicated that he is unsure—

Senator ABETZ—Of?

Mr Martine—He is unsure about any correspondence from the Prime Minister's office. As I have indicated a number of times we, including Mr Grech himself, have conducted thorough searches and we have not located any correspondence or emails.

Senator ABETZ—Yes, we know all that, but it may be—

CHAIR—Senator Abetz, you can go on, but I am just pointing that you have now had another half an hour and there are other Senators with questions, so a couple more.

Senator ABETZ—I appreciate that, but usually these facilities are for the opposition to ask questions. However, I will continue.

CHAIR—Well, they are for members of the economics committee to ask questions.

Senator ABETZ—Of which I am a full voting member for this one, thank you, Chair. Can I ask Mr Grech whether the name Andrew Charlton rings a bell in relation to the documents you believe you may have seen?

Senator CAMERON—It rings a bell everywhere because we know what your boss did to him.

Senator FIFIELD—Chair, please direct Senator Cameron—

Senator CAMERON—We know exactly how Malcolm Turnbull turned on an officer of the PMO.

Senator FIFIELD—Chair!

Senator CAMERON—We know what he is like. He is a bully. The bully from Bellevue Hill, that is what he is.

CHAIR—Senator Cameron!

Senator FIFIELD—Chair, will you please take control of the committee.

CHAIR—Well, I am—

Senator ABETZ—Can I just ask about the name Andrew Charlton. And Mr Martine, I love the interference you are running, but at the end of the day this is not within your personal knowledge. It is within Mr Grech's, and I would invite Mr Grech to respond on whether—his memory may be a bit hazy, but there might be elements of that communication that are clear—it may have emanated from a Mr Andrew Charlton.

Mr Martine—Senator, the only point I wish to make is that we all are aware that Mr Charlton is a member of the Prime Minister's office. That is the first point, and secondly—

Senator ABETZ—He has made some allegations today.

Mr Martine—Secondly, as Mr Grech indicated, he is unsure of any correspondence. Once again, I will come back to my earlier answer, which is we have searched for documents and we cannot locate any.

Senator ABETZ—We know that, but can I ask Mr Grech now—and thank you for that introduction—as to the specifics—

CHAIR—This is your last question, Senator Abetz.

Senator ABETZ—As to the specifics, Mr Grech, can you tell us whether it was from Andrew Charlton, to the best of your knowledge, information, belief, recollection?

Mr Martine—Senator, and as I have just answered—

Senator ABETZ—Oh!

Mr Martine—As I have just answered—

Senator ABETZ—Can Mr Grech answer one question—

CHAIR—Senator Abetz!

Senator ABETZ—Without your interference?

Mr Martine—I am just trying to add a point of clarification.

CHAIR—Mr Grech has answered a lot of questions. We are about to move on. Mr Martine, have you finished your answer?

Mr Martine—Yes, I have.

CHAIR—Senator Cameron?

Senator ABETZ—Mr Grech—

Senator FIFIELD—Point of order.

Senator ABETZ—No, Mr Grech

Senator CAMERON—You have had more than a fair go.

Senator FIFIELD—Chair!

Senator ABETZ—Point of order, Chair. Mr Martine cannot intervene and then allow you to throw the call when Mr Grech has not been given the opportunity to answer the specifics of the question.

CHAIR—No. The Department of Treasury are here at the table and were given the opportunity to answer the question.

Senator ABETZ—No. Chair—

Senator FIFIELD—On that point of order, Chair.

Senator ABETZ—This is outrageous.

Senator FIFIELD—Part of the purpose of these committees and these hearings is for the parliament to receive information in the public interest, for the parliament to uncover evidence, to uncover the truth in the public interest. Chair, you are not permitting that to happen.

CHAIR—Well, I reject that proposition.

Senator FIFIELD—You are denying witnesses—

CHAIR—I reject that completely.

Senator FIFIELD—You are denying senators the opportunity to ask legitimate questions.

CHAIR—Senator Fifield, you have made your point of order. We have had two hours—

Senator ABETZ—And interference.

CHAIR—We have had two hours here of questions. There has been no interference. Senator Abetz, you have had an hour.

Senator ABETZ—On behalf of the Coalition, that is right, out of the two-hour hearing. And now we are at the crunch point as to whether or not there have been representations from the Prime Minister's office, namely one Andrew Charlton to Godwin Grech. We are being closed down. Mr Martine is running interference; others are as well. Clearly it is within Mr Grech's personal knowledge whether or not there was such a communication. I would invite the committee and Mr Martine to allow Mr Grech to answer unimpeded. Mr Grech, what is your answer?

CHAIR—*I would ask the Department of Treasury if they wish to answer that question, which has now been asked a number of times.*

Senator FIFIELD—*Point of order, Chair.*

CHAIR—*Department of Treasury?*

Senator ABETZ—*Point of order, Chair.*

CHAIR—*Department of Treasury?*

Senator ABETZ—*No, point of order, Chair.*

CHAIR—*So you do not want an answer?*

Senator ABETZ—*There is a fundamental proposition here. It is not whether the department wishes to answer the question. They are here on oath, and any answers which in fact may be provided—*

CHAIR—*Senator Abetz, I was merely referring to the fact that Senator Cameron already had started a question.*

Senator ABETZ—*No, it is not a wish; they have to.*

CHAIR—*But I am saying.*

Senator ABETZ—*They are required. It is not whether they wish to.*

Senator EGGLESTON—*Address the question that is before the Chair.*

CHAIR—*No. Senator Abetz, will you just let me finish. I had already gone to Senator Cameron.*

Senator ABETZ—*No, you had not.*

CHAIR—*It was Senator Cameron who was questioning.*

Senator ABETZ—*You interrupted.*

Senator EGGLESTON—*Yes, you did.*

CHAIR—*Senator Eggleston, now—*

Senator EGGLESTON—*No, you will not let them answer.*

Senator CAMERON—*I am prepared to go ahead.*

Senator EGGLESTON—*Address the question that is before the Chair.*

CHAIR—*I am trying to let them answer, Senator Eggleston. I am trying. We have four minutes to go.*

Senator EGGLESTON—*Senator Cameron is not the person asking the question. It is Senator Abetz, and Senator Abetz's question has not been answered.*

Senator ABETZ—*That is right, and it needs to be answered. Mr Grech, tell us—yes, or no?*

CHAIR—*No.*

Senator CAMERON—*You are not chairing this.*

CHAIR—*Senator Abetz!*

Senator FIFIELD—*Neither are you, Senator Cameron.*

CHAIR—*Can I have order in this committee, please?*

Senator ABETZ—*Andrew Charlton: yes, or no?*

CHAIR—*Senator Abetz! Now, I had already invited the department to make an answer. I do not appreciate being talked over by members of this committee. Now, Department of Treasury?*

Mr Martine—*Senator, the only thing I would wish to add, as I have already mentioned, is that, as Mr Grech has indicated, he is unsure about any correspondence. We have searched. We have not located any email correspondence or physical correspondence from the Prime Minister's office to the Treasury with respect to John Grant.*

Senator ABETZ—*We accept that, but has Mr Grech seen such a document, potentially, and, if so—*

Senator PRATT—*This is a major indiscretion.*

Senator ABETZ—*Did it emanate from one Andrew Charlton? And that must be within the personal knowledge of Mr Grech, and nobody else's. Mr Grech?*

Mr Martine—*Senator, I think we have answered this question.*

Senator ABETZ—*No, you have not because it is not in your knowledge, Mr Martine.*

Senator PRATT—*You know the answer to this.*

Senator ABETZ—*It is solely in the knowledge of Mr Grech—not yours, Mr Grech's. Mr Grech, what is the answer, please?*

Mr Martine—*Senator, as Mr Grech has indicated, he is unsure and he has outlined in his answer he is very unsure.*

Senator ABETZ—*Can Mr Grech speak for himself?*

Senator PRATT—*He has spoken for himself.*

Senator ABETZ—*He is at the table. He is a very competent witness. He has controlled OzCar from day one; he has been intimately involved. Surely Mr Grech has the capacity to answer this question, whether or not the name Andrew Charlton rings a bell in relation to a possible communication from the Prime Minister's office.*

Mr Martine—*Senator, I think we have answered this question.*

Senator ABETZ—*No. Mr Grech has not, and Mr Grech, as Hansard will show, has been capable for two hours of speaking for himself. Mr Grech?*

Mr Martine—*Senator—*

Senator ABETZ—*No, I do not think your name is Mr Grech, sorry. Mr Grech, what is your answer?*

Mr Martine—*Senator, as I have indicated, Mr Grech has outlined in his evidence that he is unsure as to whether—*

Senator ABETZ—*But Mr Grech can make—*

Senator FIFIELD—We are telling you that you are not Mr Grech. Mr Grech can speak for himself.

Mr Martine—I am certainly not Mr Grech.

Senator FIFIELD—You do not know because you were not there.

Senator ABETZ—Or are you Mr Grech's ventriloquist doll?

Senator PRATT—He has answered the question already.

Senator ABETZ—No, you are not Mr Grech's ventriloquist doll so possibly Mr Grech can answer.

CHAIR—No, no. Senator Abetz, now you are being impolite.

Senator ABETZ—I think you are right, and I withdraw that.

CHAIR—Mr Martine has every right, as the senior officer of the Department of Treasury at this table, to take questions.

Senator FIFIELD—As does Mr Grech have a right to take questions.

Senator ABETZ—As has Mr Grech.

CHAIR—And if he wishes to defer it to a junior officer, he may do that.

Senator ABETZ—All right. Can I ask Mr Martine this question: are you, with your seniority to Mr Grech, directing Mr Grech not to answer my question? And if you are not, will you allow him to answer it?

Mr Martine—Senator, I am the senior representative at the table from the Treasury.

Senator ABETZ—We all know that.

Mr Martine—As Mr Grech has indicated, and Mr Grech works for me, he has been heavily involved in the OzCar initiative.

Senator ABETZ—We know that.

Mr Martine—As we all know. As I have indicated and as Mr Grech has indicated, he is unsure about any correspondence from the Prime Minister's office and, as I have indicated, we have undertaken searches. I am satisfied that there is no correspondence.

Senator ABETZ—We all recall that.

Mr Martine—I am not quite sure what else I can answer.

Senator ABETZ—Mr Martine, my question to you was: will you allow Mr Grech to answer?

Senator PRATT—You are bullying. The witness at the table has given an indication.

Senator CAMERON—That is right.

Senator ABETZ—Or will you override him using your seniority, although it is clear Mr Grech is the only one with the personal knowledge to answer this question.

Senator CAMERON—Believe it or not, I support that proposition. Mr Grech should answer.

CHAIR—Well, it is not a matter of your opinion, Senator Cameron.

Senator CAMERON—No. I did ask—

CHAIR—I will ask the Department of Treasury if they want to answer that question. [4.00 pm]

Mr Martine—Senator, I will just go back to my earlier answer. Mr Grech has indicated that he is unsure about any correspondence. I am not sure what else I can say to answer the question.

Senator ABETZ—Yes, but I am asking whether the name Andrew Charlton rings a bell for him in relation to—

Senator CAMERON—It rings a bell, but not for the Prime Minister.

Senator ABETZ—Can I finish?

Senator CAMERON—It rings a bell for the Leader of the Opposition.

CHAIR—Senator Abetz?

Senator ABETZ—I am asking you whether it rings any bell in relation to representations made from the Prime Minister's office to Mr Grech or OzCar in Treasury?

Mr Martine—Senator—

Senator ABETZ—And, Mr Martine, thank you, but the question is to Mr Grech, unless you are telling this committee you are using your seniority, your authority, not to allow this witness to give evidence which can only—and I stress 'only'—be in his personal knowledge and not yours.

Mr Martine—Senator, as I have outlined, Mr Grech has indicated to the committee that he is unsure about any correspondence. Being unsure about any correspondence—

Senator ABETZ—Is Mr Grech unsure about the name? I have moved on to the name.

Mr Martine—Senator, by definition, if one is unsure about correspondence, one is unsure about the source of the correspondence. As Mr Grech has indicated, he is unsure about any correspondence, emails or otherwise from the Prime Minister's office to the Treasury.

CHAIR—Now Senator Abetz, I think you have to agree that we have gone as far as we can with line of questions.

Senator ABETZ—Unfortunately, and can the record please show—and I want Mr Martine to put this on the record—that he is using his seniority to not allow Mr Grech to answer that specific question.

CHAIR—Well, I do not think we need that on the record at all.

Senator PRATT—It is self-evident.

Senator EGGLESTON—It is not on the record.

Senator ABETZ—Then if we do not, then Mr Grech should be invited to answer without interference from Mr Martine. It is either Mr Martine's seniority which comes into play to shut down Mr Grech—

Senator PRATT—It is already there.

Senator ABETZ—Or he is not using that and Mr Grech should be allowed to answer, but he cannot have it both ways.

CHAIR—Senator Abetz, Mr Martine is acting appropriately. I will give Mr Grech one opportunity, before we go to Senator Cameron, to answer that question.

Mr Grech—Thank you, Madam Chair. I have to defer to the seniority of Mr Martine on that issue.

CHAIR—Thank you. Senator Cameron?

I set out the above extract, going as it does for more than 10 pages of Hansard, to demonstrate the unfairness of the finding against Mr Grech. The dialogue in question evidences constant attempts of Senator Abetz to ask questions of Mr Grech, which, in turn, are constantly interrupted by Senator Cameron and/or thwarted by the Chair (in the main, by her insistence that Mr Martine answer questions put to Mr Grech) and are then answered by Mr Martine. And when Mr Grech is, finally, permitted to respond to a question, he directly answers the question put to him. And then when Senator Abetz seeks to explore his answer with him he is, yet again, cut off by Mr Martine answering the question.

The fact of the matter is that Mr Grech was given no real opportunity to disclose what the committee says now was ‘misleading’ of him not to have disclosed in his evidence.

Finally, what is stated under the heading ‘Improper use of a hearing’ is, on my reading based on what is observed at paragraph 4.20 of the draft report. It is unhelpful and wrong to refer to the document in question as a ‘forged document’ or ‘a falsified document’. No finding by a court has been made that the document was ‘forged’. The document in question is no more than what the committee describes it in the sixth dot point of paragraph 6.9 of the extracts of the draft report that I have been given: ‘a record’ that was ‘created’ by Mr Grech ‘of the email that he asserts he believed existed’.

The ‘inquiry itself...on a matter of possible misfeasance’ (to use the committee’s words at paragraph 4.20) was not ‘based...on a falsified document’. Rather, it was ‘based’ on the nature ‘of the email that [Mr Grech] asserts he believed existed’.

In short, the draft report should be substantially amended to accord with the facts.

That said, the committee’s finding that it is unable to arrive at a conclusion that a contempt was committed by Mr Grech is correct.

Yours sincerely

WILLIAMS LOVE & NICOL



John Wilson

Partner

Direct line: (02) 6263 9900

Email: john.wilson@wln.com.au



ACCREDITED SPECIALIST
EMPLOYMENT & INDUSTRIAL LAW