

ATO file note

From: Meredith Beattie [REDACTED]
To: [REDACTED]
Date: Wed, 26 Feb 2020 17:58:44 +1100

File note

Thursday (12.30pm)

Meeting with Luke Sayers, following his meeting with Jeremy Hirschorn

The meeting lasted for about an hour and 45 minutes. He said that Jeremy was aggravated and the tone was not as friendly and warm as last time. Basically said first off that he wanted to talk and put Luke on notice re responding and co-operating with the ATO. Said the response and over claiming of LPP amounted to breaches of false and misleading statute. Likely PwC will get a position paper in the next 3 to 4 weeks.

In relation to LPP, [REDACTED] and PwC giving reasons is seriously brought into question - there was mention of there being an offence and that penalty units would apply - reference to how PwC has responded to notices. He said there was a specific case - he could not say the name of it but in the next two weeks there will be action - he said that LPP claims had been made - mentioned declaratory relief against the firm and against the client. Said one client was taking a scorched earth approach but did not mention the client's name.

He said it was not in the public domain but it was frustrating for the ATO. He said the ATO had been assured many times by PwC that the clients were looking at documents - that the documents were with the clients and not with the firm. He said that he never thought he would say this but he actually believes [REDACTED] more that PwC. He said [REDACTED] is telling the ATO that it didn't respond to notices because it didn't have the documents. He said that [REDACTED] was also saying it could not make the timeline in relation to the notice because [REDACTED] were not making themselves available. He said that PwC were hindering the process. He said that the firm got into bed with [REDACTED] and that now they were throwing the firm under bus and he thought it was justifiably so that this was what they were doing. He asked if there were other clients to whom we had not given documents for their review.

He said that Luke should know that [REDACTED] and [REDACTED] acting for [REDACTED] believe that PwC and [REDACTED] (acting for PwC) are incompetent and breaching ethical standards - having fights over documents that are clearly not privileged - refer to an instance of [REDACTED] having only 3 hours on the code. Also in a number of emails he said it was apparent that the culture in the tax business is terrible. [REDACTED]

Jeremy asked how long this was going on for - and made reference to the fact it was coming (?). He said that first the firm blames clients, then blames the law firm and now the ATO is blaming PwC. He said there would be cross examination of partners in the stand - he referred to whistle blower protections - said he was not threatening but foreshadowed formal interviews of partners and staff. He asked Luke why the firm could not just give the ATO the truth. He told Luke he should go and meet with the CEO of [REDACTED] and [REDACTED]. He said that as a final point he understood the firm was facing a TSP election process - he said that while Tom Seymour was not personally involved in the work there were hard decisions that had to be made. He said it was probably unfair to say this but if [REDACTED] were to secure the TSP position he would be able to make those decisions without conflict.

Luke then raised some of the points that he had wanted to discuss:

(a) On LPP framework - Hirschhorn said they could not do anything that would infringe the making of LPP claims. He said that meant they could not use the protocol. [REDACTED]

(b) RE AGS - he said the process was clearly not at an end.

(c) In relation to the firm's new processes - the ATO knows about them but has not audited them. He said the fact is that the firm had in place appropriate protocols and they did not follow them. He said that [REDACTED] was in there for risk and did not defend the firm.

(d) ON the MAAL - Luke mentioned that [REDACTED] was leaving. In relation to the MAAL they said that no decision had been made yet but due to technical litigation complexity v what they might do it was unlikely they would pursue action re MAAL (but he described that as more like a 'kinda get out of jail free card').

(e) On the other notices - he said the notices had a long way to play out. He said that in some cases we were lucky on timing (limitation period) but it had a long way to play out. He could not comment on [REDACTED] or [REDACTED].

Meredith Beattie

General Counsel

Direct: [REDACTED]

Mobile: [REDACTED]

Email: [REDACTED]

PricewaterhouseCoopers

One International Towers, Watermans Quay, Barangaroo NSW 2000

<http://www.pwc.com.au>

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