

Appendix 5

Report on a matter of parliamentary privilege

1.1 As noted in the first chapter of this report, a matter of parliamentary privilege arose during this inquiry.

1.2 Senate Parliamentary Privilege resolution 1(18) provides that:

Where a committee has any reason to believe that any person has been improperly influenced in respect of evidence which may be given before the committee, or has been subjected to or threatened with any penalty or injury in respect of any evidence given, the committee shall take all reasonable steps to ascertain the facts of the matter. Where the committee considers that the facts disclose that a person may have been improperly influenced or subjected to or threatened with penalty or injury in respect of evidence which may be or has been given before the committee, the committee shall report the facts and its conclusions to the Senate.

1.3 A submitter to the inquiry drew the committee's attention to a letter dated 18 August 2009 that she had received from the Chair of an Association of which she is a Director. The letter indicated that, as a Director, in making the submission the submitter had breached her duties under the Board's Charter, the Director's Code of Conduct and possibly the *Corporations Act 2001*. The letter further indicated that, at its September meeting, the Board would discuss measures to be imposed on the submitter as a result of these breaches.

1.4 On 24 August 2009 (and without making reference to the 18 August letter), the submitter sought confirmation from the committee secretariat that her submission had been received as a personal submission, not a submission on behalf of an organisation. The secretariat provided this confirmation on the same date.

1.5 In subsequent email correspondence between the submitter and the association of which she is a Director, it was explicitly stated that the conduct concerns related solely to the submission, not to other actions taken (or not taken) by the submitter in her role as a Director. Clarification that the submission was a personal submission did not dissuade the Association from its plans to take action against the Director.

1.6 This body of correspondence was brought to the attention of the committee on 10 September 2009.

1.7 The correspondence received by the committee provided clear evidence that the person who had made the submission was being threatened with a 'penalty or injury' as a direct result of making that submission.

1.8 The committee met to consider this matter on 14 September 2009 and, as a matter of urgency, directed the committee secretary to write to the person who wrote

the letter that threatened the submitter, to warn them that the letter may constitute a contempt of Parliament and a criminal offence. This letter was sent on 14 September 2009.

1.9 On 15 September 2009, the committee received a response advising that the original letter of 18 August 2009 had been unreservedly withdrawn. The response confirmed that no action would be taken against the submitter as a consequence of her submission, either at the September Board meeting or at any later date.

1.10 The committee considers this to have been a serious incident. However, the committee has concluded that the purpose of the parliamentary privilege resolutions, which is to protect witnesses, has now been fulfilled. As such, the committee does not consider that any further action in relation to this matter is warranted.

1.11 For the completeness of the record, the committee has attached copies of correspondence received and sent in relation to this matter in the following pages.

Mr Bernie Ripoll MP

Chairman