From: marionle@ozemail.com.au
Sent: Thursday, 27 October 2005 3:41 AM
To: Legal and Constitutional, Committee (SEN)
Subject: Response to comments made by Senator Fierravanti-Wells on Tuesday, 11 October, 2005 in relation to my role with the Morris Family

The COMMITTEE SECRETARY: Mr OWEN WALSH

SENATE LEGAL & CONSTUTIONAL COMMITTEE

Department of the Senate

Parliament House

CANBERRA ACT 2600

FURTHER SUBMISSION (No. 3) INTO THE ADMINISTRATION & OPERATION OF THE MIGRATION ACT 1958

Response to comments made by Senator Fierravanti-Wells on Tuesday, 11 October, 2005 in relation to my role with the Morris Family

I thank you for the opportunity provided to me to respond to comments made by Senator Fierravanti-Wells on Tuesday, 11 October, 2005 in relation to my role with the Morris Family and their bridging visas granted by the ACT Regional Office of the DIMIA.

At the outset, I should advise that I myself raised the case of the Morris Family in my Submission to this Inquiry (Sbmission No. 211 pp 17-33). I note that I also raised the fact of the Shekel Halimi family who remained, with the full knowledge of the Minister's Office and the DIMIA, without any kind of visas until the minister finally intervened on behalf of the entire remaining "Safe Haven" caseload, granting them Bridging visas with work rights until such time as she considered their cases. I invite the Committee to re-read that section of my submission in the light of the comments of Senator Fierravanti-Wells and her raising of my name in connection with the Morris family when questioning the DIMIA officers on the evening of Tuesday, 11 October, 2005.

I now submit to the Committee the letter I wrote to Minister Vanstone on 8 December 2004 in relation to public statements made about me at that time by the Minister in relation to the Morris family. (ATTACHED) I note that I have not yet received any response to this letter from the Minister although almost a year has passed. I do not expect now to receive a response. In the meantime, the minister has intervened, as I always believed that she would, and the Morris family now have permanent resident visas. As a result of the publicity surrounding the issuing to this family of Bridging visas E which carry a mandatory no work rights condition, the Minister announced she was considering the family's case and they were permitted to work whilst awaiting her final decision. Additionally, there has been an open debate on Bridging visas E which I welcome for the reasons outlined in both my submission and the letter to the Minister. I attach that letter.

In relation to the statistics provided by Mr Rizvi in answer to Senator Fierravanti-Wells immediately prior to the mention of the Morris case and my name, I wish to advise the committee that I am absolutely certain that I am not amongst the 80 Migration Agents with a zero success rate referred to by Mr Rizvi nor do I ever lodge vexacious applications.

QUESTIONS PUT TO ME BY Senator FIERRAVANTI-WELLS

On Friday, 7 October, 2005, the following exchange occurred between Senator Fierravanti-Wells and myself:

Senator FIERRAVANTI-WELLS—I thought you said you had been involved for 30 years.

Is it 20 years or 30 years, just as a point of clarification before I ask my question?

Mrs Le—It probably is 30. I was a teacher as well.

Senator FIERRAVANTI-WELLS—Obviously over those 30 years you would have overseen

the introduction of detention, not by this government but by a previous government. So you

would have had occasion to deal with detention cases over many years under a previous regime.

But you have obviously isolated this government as particularly negative in that respect. Perhaps

you might provide this information subsequently. You have obviously dealt with many cases

over the years, and what I would like to know is how many of your cases were ultimately

deported from Australia? I am not asking for names. I am asking for just a general analysis. I

would also be interested to know, in relation to your experience with detention over the years,

whether the main reason people have been kept in detention longer has been occasioned by

misinformation provided as a direct consequence from the detainees themselves and additionally

delayed by legal proceedings they have instigated, falsely or rightly. I am happy for you to

provide that in writing. I appreciate the comments that you have made in relation to three or four

specific cases, but I would really like you to give us a more global picture of your experience

over the years, perhaps a more analytical and statistical picture rather than what I think was a

much more emotive one given to the committee today.

Mrs Le—Senator, as far as I am aware, not one of my cases has ever been deported.

Senator FIERRAVANTI-WELLS—If you could still provide the information—

Mrs Le—That is the information. I have dealt with 56—

Senator FIERRAVANTI-WELLS—You have obviously had a number of cases over many

years. I have asked you to give some statistical substance to some of the information you have

provided today, and I formally ask you to provide that on notice.

ANSWERS:

Re The NUMBERS OF MY CLIENTS EVER DEPORTED:

I wish to advise the Committee, and Senator Fierravanti-Wells in particular, that to the best of my knowledge, only one of my clients has ever been deported. This was a poor young Chinese man, deranged by his past experiences of torture (including electric shock rods anally inserted in China from whence he fled by boat in 1991), who was admitted to the psychiatric ward in the then named Woden Public Hospital in Canberra. For the record, and the ease of the Department's file access, his name was / is Guan. He was one of the 56 Chinese who arrived at Swift Bay on New Year's Eve, 1991. He was released from unlawful detention in Port Hedland, during the time of Senator Bolkus as Minister for Immigration, by order of Neaves, J of the FCA with others from his boat, the Isabella, (as code-named by the DIMIA). He was, after his deportation, entitled to claim compensation from the Government and this was held in safe keeping for him for a period of time, by the DIMIA, in case he was ever located alive in China. He has, to my knowledge, never been located to claim the money due to him. How was he deported? During one of his periods in the psychiatric ward of Woden Hospital, I went interstate for a few days. Whilst I was away, my client disappeared from Woden Hospital and I learned on my return that he had been sent back to China. I was not as knowledgeable in those days as I am now, and I was therefore not in a position to question how the DIMIA removed him? On what papers? But I did get a report from the hospital staff as to the mental capacity of my client to make a rational decision for himself and that did not reflect well on the DIMIA officers involved at that time (in my opinion). There were 56 people on the Isabella. I represented the majority of them pro bono and all of them, with the exception of Mr Guan, as detailed above, remain in Australia as citizens and permanent residents to this day. I am still in touch with many of

them but nothing has been heard from Mr Guan since the day I last saw him in Woden Hospital. There was a time limit on the length of time his compansation money was to be held for him and I think that has long expired but to my knowledge he has never had the opportunity to claim it from the DIMIA.

Perhaps Senator Fierravanti-Wells would imagine that the woman known as the "Chinese Woman" (Ms Z) in A Sanctuary under Review (the Report) was my client when she was deported because, after her deportation, it was I who provided the video evidence which sparked that inquiry in June 2000 (p293 of the Report).

This was not the case – Ms Z was not my client in Australia although I did seek to intervene, just prior to her deportation, on behalf of Ms Z and another woman on the same flight out, given the knowledge we had, that at least two other pregant women deported to China in the weeks just prior to Ms Z's proposed removal, had been forcibly aborted and sterilised. This information was apparently not provided to the then acting Minister, Senator Vanstone, nor was she, it seems, even made aware of the fact that any pregnant woman was on the flight.

I refer the Committee in particular to pp 296 – 299 of the Report and quote a few telling paragraphs:

9.122 "…Ms Z gave birth to one child in Australia and she was more than 8 months pregnant with her second child at the time of her removal from Australia.

9.123: "…Ms Z was removed from Australia on 14 July, 1997 and her second child was aborted at the Peoples hospital of Beihai on 21 July, 1997 … it was more likely that the abortion was forced rather than voluntary…

9.125 " The Committee has confirmed with DIMA that the Acting Minister was not advised of any pregnancies amongst the passengers to be removed from Australia under "Operation Ox". The central office of DIMA did not consider that this had been in error.

9.126 "The Committee concludes that the Acting Minister should have been told about Ms Z's condition during the briefing that was provided two days before Ms Z's removal. The Committee does not agree with the DIMA officer responsible for the briefings that, as it was assumed a careful process had already been undergone to see who was available for removal, it was only necessary to provide the Acting Minister with information about the processes and the legal basis on which the return took place.

9.127 "The Committee was told that, as Senator Vanstone had not been involved in such an exercise before, she sought a briefing about the processes and the legal basis on which the return was to take place. The Minister was not briefed that any returnee on that flight was pregnant, let alone in the very late stages of pregnancy, as was Ms Z…"

9.132 "…The Minister should have been briefed and it would have been in the public interest for the Minister to have intervened to make a decision."

COMMENT:

Ms Z was represented by legal advisers, LAWA, who were funded to represent Ms Z up to the RRT process. The committee noted the limited resources available to the organisation for application assistance (p299).

Later, it seems that only oral requests were made for Ministerial intervention under s417 of the Migration Act. Certainly when I heard that at least two pregnant women were on the list to be removed as part of operation Ox, I telephoned the DIMA and the then Minister's office (Mr Ruddock) – he was absent and I was told that I did not have the necessary written authority to make representations on behalf of Ms Z.

Not until May, 1999 was there any opportunity to put this young woman's tragic case to the Senate and thereafter to the Australian people. The Prime Minister himself labelled what happened to Ms Z's child as "murder" and so it was.

I am not sure why the Senator asked me for figures relating to the deportation of any of my clients but I hope this has been of assistance to her and to the Committee.

WHY SO LONG DETAINED?

The Senator also asked me: I would also be interested to know, in relation to your experience with detention over the years, whether the main reason people have been kept in detention longer has been occasioned by misinformation provided as a direct consequence from the detainees themselves and additionally delayed by legal proceedings they have instigated, falsely or rightly. I am happy for you to provide that in writing.

ANSWER:

I am afraid that I do not have any detailed statistics in relation to the information requested by the Senator. This might be something the DIMIA could provide to the Committee. I would note however, that the recent case loads have been detained for long periods of time partly because of the processing policies adopted by the Government after the fall of the Taliban regime in Afghanistan and the fall of Saddam Hussein in Iraq and because in many cases the processing officers wrongly decided issues of nationality. All of the Afghans released recently from Baxter IDC and Nauru told the truth from the date of their first interviews, namely that they were Afghani, but they were frequently accused or "dobbed" as being Pakistani. Recent verification of their nationality (after around four long years in detention) has seen them released. Some of these (on-

shore only) detainees rightly challenged the flawed factual decsions about them and their claims in the Courts and failed because the legislation does not permit a merits review of Immigration decisions – appeals are narrowly limited by the Migration Act to matters of law. Minister Vanstone has acted to allow many of these people to reapply under s48B of the Migration Act and in other cases has exercised her discretion under s417 of the Migration Act to grant gravely disadvantaged applicants permanent visas. On Nauru we recently saw another thirteen men (eight of them Afghans, five Iraquis) granted refugee status, with four more yet to be considered by Australia and eight granted at least temporary transit visas on humanitarian grounds.

It is all too easy to blame the victim of poor processing – the new Secretary is rightly seeking to address the shortfalls through, as I understand it, training and education sessions within the DIMIA – too many people have spent four years and more in detention because of shortsighted policy decisions by Government (stopping processing because it was assumed that Afghanistan and Iraq would suddenly become safe after the intervention of the West – clearly not the case as we now sadly acknowledge); unsubstantiated “dob-ins” on files which have been prejudicial to the applicants mostly without their knowledge; and ignorance on the part of case officers interviewing applicants – poorly educated and inadequately trained interviewers cannot make informed, intelligent decisions in a vacuum of factual, up-to –date country information and history.

As DIMIA Officers and the Government itself became better informed and aware, then people were re-processed and their claims were recognised as genuine in the majority of cases. But at what cost? The Committee has had evidence as to the psychological, mental, emotional and physical breakdown of people in long term detention and, sadly, this could have been avoided.

SUBMITTED BY

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URGENT

WITHOUT PREJUDICE

Dear Senator Vanstone

RE: YOUR PUBLIC COMMENTS RELATING TO ME AND MY DEALINGS WITH THE MORRIS FAMILY:

I have received legal advice in relation to some of the statements you have made both inside and out of Parliament relating to me and my work as an "*experienced migration agent*" (your words) in relation to the Morris family and their application for permanent residency in Australia.

I have suffered distress and personal damage from your comments, imputations and allegations that the predicament in which the Morris family currently finds itself is somehow attributable to me.

The purpose of this letter is to seek an apology from you before Parliament rises this week for the Christmas break.

To assist you to understand and accept the degree of damage done to my reputation, I am enclosing, for your information, copies of the relevant correspondence addressed to my office from both the MRT (24 September, 2004) and the DIMIA (28 October, 2004).

These letters, with their file notes, are virtually self-explanatory but I will point out a few salient facts for your consideration:

1. The MRT Statement of Decision (dated 24 September, 2004) was received in my office three days later on 27 September 2004. A copy was also sent by the MRT to the applicants. In this letter the MRT advises that judicial review may be available to the applicants and that they should seek advice from "*a registered migration agent, a solicitor, a legal service, or a relevant community organisation*" with the rider that they have 28 days from the date of decision to lodge such a review. They are further advised in that same letter that if they are intending to seek a review of the Tribunal's decision or consider that they have another basis for remaining in Australia then they should "*contact the Department within 28 calendar days of the notification of this decision, to enquire about maintaining your lawful status in Australia*".

2. On 14 October, 2004, i.e. 21 days after the MRT decision and well within the 28 day deadline, an application / submission was sent to your office at Parliament House signed by me as the migration agent acting for the family. Accompanying my letter were many other letters detailing the contribution of Rophin and his parents to the local and extended community. These letters were asking you to exercise your discretion under s351 of the Migration Act to allow the family to stay permanently in Australia.

3. On 29 October, 2004, a response dated 28 October, 2004 from Todd Jacob, Director, Ministerial and Executive Services, DIMIA was received in this office acknowledging that my letter to you had been referred to him for reply and advising that *"As a thorough examination of the case and supporting documentation is necessary, intervention cases do take longer to finalise than regular correspondence. You will be advised of the outcome of Mr Morris and family's request in due course."*

4. It is clear therefore that not only had an appeal within the 28 days been lodged (to you as Minister) but that the DIMIA had also been informed and the information logged on the computer.

5. I did not "*fail to put in a request for a bridging visa*" (your allegation *Hansard* 6/12/04 Question time) – I was never asked to do so and in any event only the applicants can do this and, the case of BVE's, only after the expiry of their visa or the finalisation of their application/ Tribunal / Court appeals – bridging visas kick in automatically where valid applications for further visas are made and/or appeals are lodged. I did all that was necessary on my part in that I ensured that a valid submission was put to you before the expiry of the 28 day period post the MRT decision. I advised the Morris family to read the correspondence carefully and left it at that. Please note that there was never any suggestion from me, or from my office, then or now, that the Morris family was facing immediate deportation. They clearly were / are not, as they have a valid application for your intervention.

6. As you have noted (*Hansard* 6/12/04 Question time), the ACT DIMIA compliance officers visited the Morris family and issued them with bridging visas last week, at the same time advising Mr & Mrs Morris that they would no longer be able to work or perform any voluntary services until such time as you had considered / decided their case favourably. The family was also advised that the DIMIA officers were unable to give them any time frame except that it could be a long time so the DIMIA officers issued the family members each with three month bridging visas renewable after that period if no decision had been made on their application by you as Minister. When Mr Morris rang me immediately the DIMIA Officers left, he expressed serious concern about the policy which now meant that neither he nor his wife could employ themselves in any meaningful way either voluntarily or for remuneration for, it seemed, months to come. Although shocked and grieved by the policy, Mr Morris expressed no complaints against the four officers who had treated him and his family with respect and quiet dignity. It was a fact that the officers visited them at the YWAM premises when they had retired to bed but there was no threat of immediate deportation

held over the family although they were questioned about their ability to support themselves in the unforeseeable future.

7. **Mr Morris was under the impression that he had been "stripped" of his visa and I became aware that he had not had a BVE evidenced in his passport to that date. Nor of course had his wife and their son. It is clear however that they had a submission to you for your consideration and that the DIMIA were aware of that when they dropped by to check the family's circumstances. This is clearly also your understanding as shown in your response to Senator Greig's supplementary question (*Hansard,* 6/12/04 Question Time) where you state categorically that [the issue of] "*the bridging visas is unrelated to the no decision from the decision maker. It is quite unrelated. The bridging visa simply is what allows you to stay lawfully until all your matters are concluded and that is why the immigration department visited the family. Instead of asking them all to come in, they went out and gave them rolled gold service.*" It is apparent from this answer, Minister, that the issue of the bridging visa is a matter between the DIMIA and the clients – there is no suggestion in your answer at that point, nor in the actions of the DIMIA officers on the night in question, that I should have been involved. There was no aggression on the part of the officers – they went out to perform their duties and inform the family that the period for consideration of its application was going to be an extended one (information to which I was/am not privy) and that therefore the DIMIA needed to regularise the family's status by issuing them each with bridging visas to cover at least the first three months.**

8. **When I lodged the submission for the Morris family with your office and it was then passed to your Department, the family were within the allowed 28 days. I did not apply for a bridging visa for the family at that time – I did not have to do so. They were not, and arguably have never been, unlawful. Once I had lodged the submission, it could have been that you made an immediate decision on the application within the 28 days – the time frame is not open to me to know. That is a matter for your Department and you. Given the merits of this case, and its largely uncomplicated nature, I was ever hopeful that your Department would recommend you consider exercising your discretion and the matter would be resolved quickly. The election period was also no doubt a contributory and complicating factor for your Department. In any event, once your Department realised that there was not going to be a quick decision on the family's application, DIMIA Compliance moved to regularise the family's status.**

9. **ABC AM programme broadcast Friday 3 December, 2004, 08:04:00 contained the following paragraph:**

***"A spokesman for her [the Minister's] department though did confirm that the Morris family had been visited by "compliance officers" this week because <u>their temporary visas expired last month while their case was being reviewed</u>* (emphasis mine)."[1]**

[1] ABC Online: AM - Family Face Deportation because of disability – Friday, 3 December, 2004 08:04:00

This paragraph is, I submit, fundamentally correct and is completely at odds with conflicting statements made by you which attempt to attribute the blame for the family's current situation to some apparent lack of action on my part. Compare for example the statement attributed above on AM to your "spokesman" and your own words in a doorstop interview later on the same day in Melbourne at 1.50pm:

"… the failure of a migration agent to ask for a bridging visa and the consequent efforts by Immigration to give these people a bridging visa in their home with one-on-one service…"[2]

"… their visas have run out. Their migration agent didn't apply for a bridging visa to cover them while they put in further appeals including a Ministerial intervention. They do have a ministerial intervention on foot and there's no question of them being deported until that matter's dealt with **(emphasis mine)."** [3]

And later in the interview, when questioned as to what would happen to the Morris family if you rejected a visa for them, your response was quite revealing as to where the application / intervention/ file was on that day and again was in direct opposition to the facts of the matters as stated by your "spokesman" and cited on AM (above). Let's compare your spokesman's explanation with yours:

AM: "A spokesman for her [the Minister's] department though did confirm that the Morris family had been visited by "compliance officers" this week because their temporary visas expired last month while their case was being reviewed **(emphasis mine)."**

DOORSTOP – Senator Vanstone:

"I'm not going to discuss an intervention that I haven't yet got, …This file is not even on my desk; it's not in my office. And the reason the immigration officers visited this family is to give them a bridging visa because their migration agent didn't apply for one.

I don't think that these contradictory explanations need to be explained to anyone who is able to read and closely analyse what is being said by both your spokesman and yourself. Clearly an application was lodged, on time, and while it was being considered – ie whilst it was with your Department, having been transferred there from your office in Parliament House, their temporary visas expired (in fact more correctly their bridging visas and/or the 28 day period – they did not at this stage hold temporary visas) "*while their case was being reviewed*" – NOT "*because their migration agent didn't apply for* [bridging visas]". It is quite clear that I lodged the application within the required time – frame and that, almost two months later, it was "*not even on* [your] *desk; it's not in* [your] *office*".
In answer to the next question: "*Doesn't that sound like a "Yes, Minister" answer,* your response is:

[2] Media Monitors Transcript p4, para1
[3] Ibid, p4, para 3

"People can draw whatever conclusions they like. I would have thought someone who was interested in immigration issues would be interested in asking why there was a family in this circumstance, having the services of a migration agent and not in fact ending up with a bridging visa…"

The imputation here is very strong and very clear. As their migration agent I am somehow to blame for *"why there is a family in this circumstance."*

<u>And what is *"this circumstance"?*</u>

Clearly – no decision has been made on the family's application that was sent by me to you – it is not, in fact, on your desk; it's not in your office; and whose fault is that?

The clear imputation, from what you have said, is that it is my fault that the family is *"in this circumstance.*

Another aspect of the *"circumstance"* is that the bridging visas issued to them by the visiting Departmental compliance officers do not allow them to work.

In the Doorstop interview you had this to say:

"It's true that people on this particular bridging visa don't have work rights…the request hasn't yet come to me. But this family were on visas that ran out…We give you a bridging visa so that you don't have to leave straightaway, so that you can use your full appeal rights but when you're on that bridging visa generally speaking you don't have work rights."

QUESTION: ***Now you know about the Rophin Morris case, are you going to try and help his family?***

VANSTONE: ***"As I say, a Ministerial intervention request has been put in, it hasn't come to me yet, as I understand it it's still down in the Department, and I'll do with this intervention request what I do with every one of them that comes to me and that is I'll give it serious consideration."***

Minister, my point is that, as you term it, this *circumstance*, in which the family find themselves, is, in my considered opinion and experience, <u>the result of bad law</u> and <u>bad policy</u>. <u>It can not in any way be attributed to me.</u> It needs to be looked at in the light of cases like the Morris family to see how it can be improved and/or modified. And the public has a right to know how law and policy affects our community and to contribute if they wish, to the debate. I do not resile from bringing this family's plight to your attention. They need your assistance urgently and the media was the most effective way of achieving that end. As you have admitted, my submissions and the hundreds of letters and signatures, have not, after almost two months even reached your desk though they did briefly pass through your Parliament House office. In the meantime, a beautiful family is at risk of severe stress and turmoil and several community groups have lost two valued workers and friends.

10. The facts as you, or your spokesman, have stated them are:

- **An application is with your Department – it is in the Department, it has not even reached your desk. This is an application I lodged, in the allocated time, through your Parliament House office.**

- **This is a valid application and you expect that sometime in the future it will arrive on your desk and you will consider it.**

- **In the meantime, the family members have been issued by your Department with bridging visas which do not allow them to work but allows them to use their *"full appeal rights"* (your words)**

- **The issue of the bridging visa is *"… unrelated to the no decision from the decision maker. It is quite unrelated …"*[4]**

11. In case you are not aware, Minister, application forms for Bridging Visa E's are held only by DIMIA Compliance officers and are not available either on the net or from the DIMIA – for obvious reasons. I do not therefore have a supply available to me to hand out to my clients – the reason being that these applications are required to be processed by an authorised DIMIA officer after an intensive interview with him/her.

Bridging Visa E's (BVEs) can only be applied for by the applicant for a visa once his/her former visa has expired and there are very stringent conditions attached to such visas which are determined by the authorised DIMIA officer who issues the visa.

I will only be involved, generally, when a person presents to me who is unlawful and I accompany him/her to the Regional Office to regularise his/her status – this means either that he/she is issued with a bridging visa by your department or is taken into detention. The ACT Regional Office can confirm that I have on many occasions brought people in to regularise their status.

Most visa applications carry with them automatic bridging visas which kick in during the processing of the application and are valid until all legal avenues of appeals to the Tribunals and Courts have been finalised.

The anomaly is that an appeal to you carries with it the punitive condition which is mandatory – no work rights.

Moreover the applicant who uses his/her "full appeal rights" and asks for your intervention is denied access to Medicare and is generally not able to access any assistance from Government funded welfare groups such as the Red Cross, St Vincent de Paul, etc.

[4] Hansard: op.cit. response to Senator Greig's supplementary question, 6/12/04

This "*situation*" arises when the Bridging Visa E is issued and is both policy and law.

12. My public advocacy for the family has been dismissed by you as a media or publicity "stunt" and the imputation is that I am using the family's "situation" to cover my own failures and/or to embarrass you. Neither scenario is true.

Comments made by you which have been construed adversely to me have appeared in at least the following newspapers: The CANBERRA TIMES; the SYDNEY MORNING HERALD; and the AGE.

You have never at any time acknowledged that I am the Migration Agent who lodged the application for your intervention, lawfully, within the appointed time frame with your office and therefore with your Department.

Moreover, you have not mentioned that I have continued to submit, through my office, updates in relation to the application without knowing when you will consider the application or even when the Departmental sanitised version, much depleted, will arrive on your desk nor have you mentioned that I have sought discussion through your office with you and your staff in relation to this and other like cases of concern as recently as this week.

I am aware that it is very unlikely, in the normal course of events, you would even see the many heart-felt letters submitted by diverse and genuine people who have taken the time and energy to appeal to you on behalf of Rophin and his parents.

You may not even be told the numbers of letters received. Instead you will get a summary and will be guided as to the way you should or should not exercise your discretion depending on the assessment of the case officer(s) charged with managing the material submitted in support of the application.

In this case, the anticipated "cost to the community" of Rophin's autism will play a major role by virtue of the legislation governing such applications.

Of course if you once accept and acknowledge that the application is being considered by you, then Mr & Mrs Morris may be able to make applications for Bridging visas with work rights – neither I nor the Morris family will know when that occurs unless the department, or your office, notifies us.

13. I have done nothing more than to call attention to the barriers faced by many families with a disabled member; the apparent divergence often between rhetoric and reality; and the difficulties imposed on people like the Morris family who seek, as you so correctly expressed it, to use their full appeal rights.

In fact, for Rophin and his family, the only way in which they can hope to be given permanent residency is to appeal to you because the system otherwise does not allow them any consideration beyond rejection on the basis of the diagnosis of Rophin's autism. This system is convoluted, stressful in the extreme and of no ultimate benefit to the taxpayer.

I do not think it is acceptable to deny to this family, or any other, the right to work whilst they await a decision which may take years.

The reality is that, unfortunately you have used the issue of bridging visas to scapegoat me and avoid confrontation with the real problems facing this family, viz:

- **The rejection of the family because of Rophin's disability**
- **The fact that the submission and file have not even reached your desk after two months and that your office / department is unable to gauge the possible timeframe except to admit *"There's no particular time frame for these cases. Why is this case any different?"*[5]**
- **The problem of no work rights in an open-ended time frame whilst people, like the Morris' are proceeding with a legitimate application for your intervention**
- **The problem of no feed-back during the process which allows migration agents to give meaningful updates to their clients**

14. In the Senate inquiry last year, I made the following comments:

"One of the biggest problems is that the department [does] not always send on submissions that are put to them, and we as the practitioners or the people bringing the submissions do not know when the Department has passed on our submissions and when they have not, so we never know whether the Minister is receiving them …

***The whole situation is really messy. I would not like to say that it is working well; it is not working well. It is messy, time consuming and stressful. Those of us who are doing it do not know what the outcome is – as I said, the submission heads off into the abyss."*[6]**

I stand by those comments and believe that the case of Rophin Morris and his family is a graphic example of the problems faced by all those people associated with Ministerial interventions, including the Minister.

CONCLUSION:

I consider that my professional reputation has been called into account and seriously damaged by your comments and the imputations they carry. I would like to think we can resolve this by a public apology from you before Parliament rises for the Christmas break. If not, then I will be forced to consider other options.

I regret that our working relationship has suffered in a way I never believed possible. I hope we can resolve the issues with frankness and honesty and

[5] Conversation with Minister's office 7/12/04, 2.00pm

[6] **The Senate Report from the Senate Select Committee on Ministerial Discretion in Migration Matters, March 2004, p63**

continue to work together cooperatively to achieve better outcomes for the people of Australia, particularly the marginalised, the dispossessed and the voiceless.

I look forward to your response.

Yours sincerely

Marion Le, OAM
8/12/2004