

## Chapter 2

### Chronology of relevant events

**2.1** In this chapter, the committee sets out the chain of relevant events as it has been able to establish it through submissions and through material on the public record.

**2.2** When the OzCar scheme was announced in December 2008, Mr Grech was given responsibility for coordinating the implementation of the scheme under the supervision of Mr David Martine and Mr Jim Murphy.<sup>1</sup> This work is described in the report of the Auditor-General, *Representations to the Department of the Treasury in Relation to Motor Dealer Financing Assistance* (Report No. 1 2009–10).

#### February–May 2009

**2.3** On 18 February 2009, Mr Grech sent a list of possible questions to be asked at Senate estimates about the OzCar scheme, and another matter, to a member of Mr Turnbull's staff.<sup>2</sup> Additional estimates hearings were to be held in the week beginning 23 February, having been rescheduled from earlier in the month. According to his response to the Auditor-General, Mr Grech had been hospitalised on 1 February and had almost three weeks off work.<sup>3</sup> He returned to work on 16 February.<sup>4</sup> It was on 19 February that Mr Grech alleges he received an email from the Prime Minister's office regarding Ipswich car dealer John Grant.

**2.4** In an email to a prominent former staffer to the Howard Government late in May, Mr Grech sought to be made known to Senator Abetz as a political sympathiser.<sup>5</sup> Shortly afterwards, Mr Grech made contact with Senator Abetz's office

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1 Treasury submission, dated 12 August 2009, paragraphs 15 and 16.

2 AFP submission, dated 11 September 2009, attachment, email from Mr Grech to Paul Lindwall.

3 Australian National Audit Office, *Representations to the Department of the Treasury in Relation to Motor Dealer Financing Assistance*, Report No. 1 2009–10, p. 98.

4 Treasury submission, dated 24 September 2009, paragraph 65.

5 AFP submission, dated 11 September 2009, attachment, email from Mr Grech to Arthur Sinodinos, dated 25 May 2009; Treasury submission, dated 18 August 2009, attachment, email exchange between Mr Grech and Arthur Sinodinos, dated 25 May 2009. Mr Sinodinos subsequently told the AFP that he did not recall making contact with Senator Abetz in response to the email. AFP correspondence, dated 12 November 2009, attaching a copy of Mr Sinodinos's witness statement and attachments.

and emailed a list of questions for Senate estimates on the OzCar scheme to a member of Senator Abetz's staff.<sup>6</sup>

## June 2009

### *Senate Estimates hearings and their aftermath*

**2.5** The Economics Legislation Committee held Budget estimates hearings in the week commencing 1 June 2009 and Mr Grech gave evidence on the OzCar scheme on 4 June. Senator Abetz asked a series of questions, some of which bore a resemblance to the draft questions emailed by Mr Grech to Senator Abetz's office.<sup>7</sup> Mr Grech indicated that there had been representations from the Prime Minister's office and the Treasurer's office in relation to particular dealers. The provision of details was taken on notice.

**2.6** After the estimates hearing and apparently at their request, Mr Grech met with the Treasurer's Chief of Staff, Mr Chris Barrett, and other members of the Treasurer's staff who queried his evidence about representations made by the offices of the Treasurer and the Prime Minister. Mr Grech volunteered that he had received an email from Dr Andrew Charlton, Prime Minister's office, regarding John Grant on or around 19 February. According to Mr Grech, Mr Barrett said he would check with the Prime Minister's office and get back to Mr Grech, but did not get back to him.<sup>8</sup> Mr Barrett informed the committee that he specifically asked Mr Grech on this occasion whether he might not have mistaken this approach with another from Dr Charlton in relation to a different dealer, thereby providing Mr Grech with time and opportunity to clarify the situation. Mr Barrett also informed the committee that Mr Grech had offered to 'delete – or lie about the existence of – an email regarding John Grant', but was counselled by Mr Barrett and his colleagues not to do so.<sup>9</sup>

**2.7** Subsequently, Mr Grech searched for the email from Dr Charlton but could not find it and claimed that he thought either he or the Information Technology (IT)

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6 Senator Abetz, submission dated 26 August 2009, attachment, OzCar: Possible questions; Treasury submission, dated 18 August 2009, attachment, OzCar: Possible questions.

7 Economics Legislation Committee, *Committee Hansard*, 4 June 2009, pp. E34–43, 54; Treasury submission, dated 12 August 2009, paragraphs 17, 18 and 198; Treasury submission, dated 18 August 2009, attachment, email from Mr Grech to Brad Stansfield, dated 31 May 2009, attaching possible questions for estimates; AFP submission, dated 11 September 2009, attachment, email from Mr Grech to Brad Stansfield, dated 31 May 2009, attaching possible questions for estimates.

8 Australian National Audit Office, *Representations to the Department of the Treasury in Relation to Motor Dealer Financing Assistance*, Report No. 1 2009–10, p. 95; statement by Mr Grech published in *The Australian*, 4/8/2009; Treasury submission, dated 12 August 2009, paragraph 51.

9 Submission from Mr Chris Barrett, dated 27 October 2009. Mr Barrett advised the committee that he included this information in his statement to the AFP. The AFP subsequently provided a copy of the statement to the committee.

area of the Treasury Department had deleted it. In his statement published in *The Australian* on 4 August 2009, Mr Grech described what happened next:

It is at this point that I made an error of judgement. Rather than preparing a note for file recording the discussion I had with Barrett, including setting out what I thought the Charlton e mail contained, I decided to create a record of exchange as an e mail that set out what I recollected the original e mail contained.

Although the e mail was not an 'original', I thought that it would help having a record in the form that it appeared if or when the original could be located.

Although the exact words of the e mail record of exchange may not have been spot on after 4 months, I was confident that the sentiment of the exchange was accurate – a position that I still believe today.<sup>10</sup>

**2.8** On 5 June 2009, Mr Grech sent the recreated email from his Treasury email account to his personal email account.<sup>11</sup> Later that day, he emailed Mr Turnbull from his personal email account and suggested that the OzCar bill be referred to a Senate committee for inquiry as a way of bringing his evidence to light. Mr Grech stressed the importance of himself being the only Treasury witness at the inquiry. He also suggested a meeting with Mr Turnbull 'and perhaps Abetz (no staffers) – to show you the various e mails I have. This may help you decide how strong you may want to push'.<sup>12</sup>

**2.9** Following the estimates hearing, Senator Abetz lodged a Freedom of Information request with the Treasury Department for copies of any documents regarding John Grant involving the Treasury Department and any of a number of other bodies including the offices of the Prime Minister, Treasurer and Assistant Treasurer, and the Department of the Prime Minister and Cabinet. The request was received on 10 June and searches conducted primarily by Mr Grech located no email regarding John Grant from the Prime Minister's office.<sup>13</sup>

### ***The Sydney meeting — 12 June 2009***

**2.10** Over the next few days Mr Grech and Mr Turnbull communicated by email and phone and a meeting was arranged in Sydney on 12 June 2009. Mr Grech had

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10 Also see Treasury submission, dated 12 August 2009, paragraph 51; Treasury submission, dated 24 September 2009, paragraph 31.

11 Treasury submission, dated 18 August 2009, attachment, the false email as created and as emailed to Mr Grech's private email account; AFP submission, dated 10 August 2009, and attachment, the false email as created and as emailed to Mr Grech's private email account.

12 Senator Abetz, submission dated 26 August 2009, attachment. The email is reproduced in full in chapter 4.

13 Treasury submission, dated 12 August 2009, paragraphs 20 and 21; Treasury submission, dated 24 September 2009, paragraph 39.

asked for the meeting to be 'very private. We must not meet in PH'.<sup>14</sup> The meeting took place on the afternoon of Friday 12 June in the office of Mrs Turnbull in Sydney. As well as Mr Grech and Mr Turnbull, Senator Abetz and his Chief of Staff, Mr Stansfield, were also present. Mr Grech gave an account of the OzCar situation and representations made on behalf of Mr Grant. He showed those present a copy of the alleged email from Dr Charlton and notes of its content were taken. Mr Grech was insistent that no copies be taken and he took back the circulated copy. He later stressed that he never authorised the publication, quotation or distribution of the email which was subsequently revealed to have been fabricated.<sup>15</sup> Mr Grech also provided Mr Turnbull with a list of possible questions to be asked of the Prime Minister and Treasurer.<sup>16</sup>

**2.11** On the Sunday following the Sydney meeting, Mr Grech again emailed Mr Turnbull suggesting further strategies for the Senate committee inquiry into the OzCar bill. For example, he suggested that Ford Credit be called as a witness before Treasury and noted that if Treasury were scheduled to appear on Friday afternoon it would likely diminish press coverage. It is not clear whether he thought the latter was desirable or not. Mr Grech also promised to supply questions as a guide for Senator Abetz to ask of Ford Credit.<sup>17</sup>

### ***Contact with the journalist, Steve Lewis***

**2.12** On Monday 15 June, Mr Grech received a call from the managing director of Ford Credit who was concerned because a senior journalist had been asking questions about John Grant. Mr Grech later called Mr Turnbull from his home. He asserts that it 'was agreed that it would be a good idea if I spoke to the journalist off the record and on an in confidence basis setting out the story as I understood it'.<sup>18</sup>

**2.13** According to a joint press release issued by Mr Turnbull and Senator Abetz on 4 August 2009, Mr Grech did indeed phone Mr Turnbull but it was stated that it was Mr Grech who suggested that he speak to the journalist himself. He requested the journalist's telephone number and Mr Turnbull subsequently provided it.<sup>19</sup>

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14 AFP submission, dated 11 September 2009, attachment, email from Mr Grech to Mr Turnbull, dated 6 June 2009.

15 Statement by Mr Grech, published in *The Australian*, 4 August 2009. Also see paragraph 2.68.

16 Senator Abetz, submission dated 26 August 2009, attachment, OzCar: Possible questions; Treasury submission, dated 18 August 2009, attachment, OzCar: Possible questions; AFP submission, dated 11 September 2009, attachment, OzCar: Possible questions; statement by Mr Grech published in *The Australian*, 4 August 2009.

17 AFP submission, dated 11 September 2009, attachment, email from Mr Grech to Mr Turnbull, dated 14 June 2009.

18 Statement by Mr Grech published in *The Australian*, 4/8/2009.

19 Senator Abetz, submission dated 26 August 2009, attachment, Joint press release; Treasury submission, dated 31 August, attachment, copy of SMS message from Mr Turnbull to Mr Grech.

**2.14** On 16 June, Mr Grech phoned journalist Steve Lewis and spoke for 45 minutes on the OzCar scheme and his allegations of political interference. Mr Grech read out to Mr Lewis the contents of the alleged email from Dr Charlton.<sup>20</sup> Later that evening, Mr Grech sent Mr Turnbull an email describing his conversation with Steve Lewis and suggesting that he provide Mr Lewis with some material for publication on Friday before the hearing that would put the focus on unanswered questions about the relationship between the Prime Minister, the Treasurer and John Grant, in Mr Grech's words, 'playing it up a little'.<sup>21</sup> (The bill had been referred earlier that day by the Senate to the Economics Legislation Committee for inquiry — see below.)

**2.15** Mr Turnbull emailed Mr Grech agreeing with his approach to provide Mr Lewis with material and Mr Grech subsequently emailed Mr Lewis setting out a suggested 'teaser' for the coming Friday, including 'key questions' about the OzCar scheme. Mr Grech gave Steve Lewis permission to use his name in any article (as having refused to comment) but insisted that it not stray beyond the 'teaser' and, in particular, 'what I raised with you the other day remains strictly background, off the record and not for publication'.<sup>22</sup> Mr Grech later forwarded to Mr Turnbull a copy of what he had sent to Mr Lewis.<sup>23</sup>

**2.16** Mr Grech made several calls to Mr Lewis over the period 16–18 June 2009.<sup>24</sup> The committee has been provided with no evidence that, in any of these calls, Mr Grech relaxed his instructions about reference to the email subsequently revealed to have been fabricated.

**2.17** The annual Federal Parliamentary Press Gallery midwinter ball was held on the evening of 17 June in the Great Hall of Parliament House. Following extensive media coverage of an incident at the ball involving a conversation between Mr Turnbull and Dr Charlton in which the possibility was raised that there was documentary proof that the Prime Minister had misled Parliament in respect of John Grant, Mr Grech sent an email to the Treasurer's Chief of Staff, Mr Chris Barrett, and senior officers in Treasury regarding calls he had been receiving from Mr Lewis who

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20 Steve Lewis, 'Snitch the source of his own demise', *Daily Telegraph*, 5/8/2009, p.9; statement by Mr Grech published in *The Australian*, 4/8/2009; Treasury submission, dated 12 August 2009, paragraph 51; Treasury submission, dated 18 August 2009, and attachment, list of numbers called from Mr Grech's office and mobile phones and Blackberry.

21 AFP submission, dated 11 September 2009, attachment, email from Mr Grech to Mr Turnbull, dated 16 June 2009.

22 AFP submission, dated 11 September 2009, attachment, email from Mr Turnbull to Mr Grech, dated 17 June 2009; Steve Lewis, 'Snitch the source of his own demise', *Daily Telegraph*, 5/8/2009, p.9; Treasury submission, dated 18 August 2009, attachment, copy of the 'teaser' document.

23 AFP submission, dated 11 September 2009, attachment, email from Mr Grech to Mr Turnbull, dated 17 June 2009.

24 Treasury submission, dated 31 August 2009, attachment, list of numbers called from Mr Grech's office and mobile phones and Blackberry.

was seeking information about any instructions Mr Grech had received from the Treasurer's office regarding John Grant. Mr Grech said that he told Mr Lewis that he would respond to the Senate committee, not the press. He was subsequently advised by his supervisor, Mr Martine, that it was normal practice to refer media calls on sensitive issues to the Treasurer's office.<sup>25</sup>

**2.18** On Friday, 19 June 2009, front page articles by Steve Lewis appeared in the *Courier Mail* and the *Daily Telegraph* describing allegations that the Prime Minister had misled Parliament over assistance provided to John Grant.<sup>26</sup> Mr Grech sent an email to his departmental secretary, Dr Henry, his senior officers, Messrs Martine and Murphy, Mr Barrett and others explaining his contact with Steve Lewis. He indicated that he had denied to Lewis the existence of any communication between the Prime Minister's office and Treasury regarding John Grant. He also referred erroneously to that day's hearings on two occasions as 'estimates'.<sup>27</sup>

### ***OzCar bill referred to Senate Economics Legislation Committee for inquiry***

**2.19** On Monday, 15 June 2009, the first sitting day after the Sydney meeting, Senator Abetz gave notice of a motion to refer the Car Dealership Financing Guarantee Appropriation Bill 2009 to the Economics Legislation Committee for inquiry and report by 23 June and 'in undertaking its inquiry, the committee hear evidence from relevant bodies and individuals, including the Department of Treasury, about the operation and management of the proposed OzCar scheme'.<sup>28</sup> The motion was agreed to without debate the following day.<sup>29</sup>

**2.20** With a reporting date on the Tuesday of the following sitting week, the last sitting week before the winter adjournment, the committee scheduled a hearing for Friday, 19 June. Witnesses from the Motor Trades Association of Australia, Ford Credit and the Department of the Treasury were invited to appear.<sup>30</sup>

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25 Treasury submission, dated 12 August 2009, paragraphs 23 and 24; Treasury correspondence, dated 7 October 2009, attachment, email from Mr Grech to various Treasury officers, dated 18 June 2009.

26 Steve Lewis, 'Now the wheels fall off — Rudd forced to defend aid for car dealer mate / Utegate: Heat on PM over help for car dealer mate', *Courier Mail*, 19 June 2009 and 'Car deal: PM in spin — Tailgate: New claims Rudd misled MPs over mate', *Daily Telegraph*, 19 June 2009.

27 Treasury submission, dated 12 August 2009, paragraphs 25 and 110; Treasury submission, dated 18 August 2009, attachment, email from Mr Grech to various Treasury officers, dated 19 June 2009.

28 *Journals of the Senate*, 15 June 2009, p.1993.

29 *Journals of the Senate*, 16 June 2009, p.2047.

30 Report of the Economics Legislation Committee, *Car Dealership Financing Guarantee Appropriation Bill 2009*.

**2.21** In his email to Mr Turnbull on 5 June 2009 suggesting the inquiry, Mr Grech advised that it was 'important that any inquiry involve only me from Treasury'.<sup>31</sup> No reason was given for this claim, and Mr Grech was to be disappointed in his aspiration. As he subsequently told Mr Turnbull when informing him about the material he had sent to Steve Lewis, 'Swan's office told me tonight that whilst they want me to appear on Friday – I must be accompanied by my bosses (probably David Martine and/or Jim Murphy). Chris Barrett has instructed that I say nothing or very little' (*emphasis in original*).<sup>32</sup> Mr Grech then suggested strategies to deal with the presence of his supervisors. This email was dated 17 June 2009 and Mr Barrett informed the committee that he had no contact with Mr Grech on the evening of 17 June 2009.<sup>33</sup>

**2.22** On the evening of 18 June 2009, Mr Murphy, Mr Martine and Mr Grech met to discuss Treasury's appearance before the Economics Legislation Committee the following day. Also that evening, Mr Grech called Mr Barrett who he said had not got back to him after the post-estimates hearing meeting on 4 June. According to Mr Grech, Mr Barrett suggested that Mr Grech had confused John Grant with someone else in referring to an email from Dr Charlton.<sup>34</sup> Mr Barrett's advice to the committee was that this conversation had occurred on 4 June 2009 after the estimates hearing. Of the conversation on 18 June, Mr Barrett said:

He told me he was certain he had received an email from Andrew Charlton of the Prime Minister's office, but that if he was pushed at the Senate Committee for a "yes" or "no" answer, he would lie. Assuming by this that Mr Grech would deny the existence of the email, I said in response: "my view is you have to tell the truth and let the cards fall where they may".<sup>35</sup>

**2.23** On the morning of the hearing, Mr Grech also alleges that he received a message to call Mr Murphy in Sydney urgently. Mr Grech alleges that Mr Murphy said 'if you are asked any questions in the Senate this afternoon about John Grant and the Prime Minister or the PMO you should simply say that you've confused the Grant call with some other case' and 'It is very important that you do not make any

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31 Senator Abetz, submission dated 26 August 2009, attachment, email from Mr Grech to Mr Turnbull, dated 5 June 2009.

32 AFP submission, dated 11 September 2009, attachment, email from Mr Grech to Mr Turnbull, dated 17 June 2009.

33 Submission from Mr Chris Barrett, dated 27 October 2009.

34 Australian National Audit Office, *Representations to the Department of the Treasury in Relation to Motor Dealer Financing Assistance*, Report No. 1 2009–10, p. 95; statement by Mr Grech published in *The Australian*, 4/8/2009.

35 Submission from Mr Chris Barrett, dated 27 October 2009. Mr Barrett made a note of this conversation, included an account of it in his statement to the AFP and provided them with a copy of the note. The committee has been provided with a copy of the statement and note.

trouble'.<sup>36</sup> This version of events is disputed by Mr Murphy who stated that the phone call on the morning of the hearing did not deal in any substantive way with the question of Mr Grech's evidence to the committee.<sup>37</sup>

### *Initial searches for the email*

**2.24** Searches for the alleged email from Dr Charlton to Mr Grech ostensibly began when Treasury received Senator Abetz's Freedom of Information request on 10 June (see above, paragraph 2.9). These searches were carried out primarily by Mr Grech. No such email was found.

**2.25** Extensive reporting of an incident at the Press Gallery ball between Mr Turnbull and Dr Charlton suggested that such an email may indeed exist. On the evening following the ball, and after discussion between Treasury and the Treasurer's office, searches were conducted of Treasury email logs for any email from Dr Charlton to Mr Grech concerning John Grant. None was found.<sup>38</sup>

**2.26** It was subsequently stated by the Prime Minister that 'exhaustive searches' had been conducted of Dr Charlton's computer and email systems and no such email had been found. In any case, Dr Charlton denied having sent such an email.<sup>39</sup>

**2.27** Early on the morning of the hearing, Mr Martine requested Treasury IT to broaden its searches to look for any emails sent by Dr Charlton to Mr Grech up to the end of March 2009.

**2.28** Later that morning, various Treasury staff met to consider the results of the IT searches. IT staff revealed that there had been a problem with the back-up email log on 20 February which meant that there may be a gap in Treasury's records. Subsequent analysis, however, concluded that the lack of external email logs on what turned out to be a weekend did not compromise the integrity of the data in relation to emails sent and received during this period.<sup>40</sup>

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36 Australian National Audit Office, *Representations to the Department of the Treasury in Relation to Motor Dealer Financing Assistance*, Report No. 1 2009–10, pp. 96–97, and see note 99 which cites Mr Murphy's testimony to ANAO refuting this; Treasury submission, dated 31 August 2009, p.3.

37 Treasury submission, dated 24 September 2009, paragraphs 53–60.

38 Treasury submission, dated 12 August 2009, paragraphs 22 and 109; Australian National Audit Office, *Representations to the Department of the Treasury in Relation to Motor Dealer Financing Assistance*, Report No. 1 2009–10, p. 96.

39 Press conference by the Prime Minister, 19 June 2009, transcript at [www.pm.gov.au/node/5097](http://www.pm.gov.au/node/5097).

40 Treasury submission, dated 12 August 2009, paragraphs 22 and 111, and footnote 11; Australian National Audit Office, *Representations to the Department of the Treasury in Relation to Motor Dealer Financing Assistance*, Report No. 1 2009–10, p. 96; statement by Mr Grech published in *The Australian*, 4 August 2009.



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### *The committee hearing*

**2.29** The Economics Legislation Committee held its hearing on the Car Dealership Financing Guarantee Appropriation Bill 2009 on the afternoon of Friday, 19 June 2009. The Hansard record of the hearing, which is included in the volumes of documents presented with this report, speaks for itself, but some excerpts of the hearing are set out in the following paragraphs. Witnesses from Ford Credit and the Motor Trades Association of Australia gave evidence, followed by officers of the Department of the Treasury, Mr David Martine and Mr Godwin Grech. Two hours had been set aside by the committee to hear Treasury's evidence. Mr Martine commenced with an opening statement that alluded to media reports suggesting the existence of correspondence between the Prime Minister's office and Treasury regarding John Grant. Mr Martine informed the committee that available records had been searched 'to the best of our ability' but the correspondence had not been found. Mr Martine also referred to representations that had been made in respect of Mr Grant by the Treasurer's office and noted that this correspondence had been tabled earlier in the hearing.<sup>41</sup>

**2.30** The hearing became quite heated as the subject of the alleged email was explored. Mr Martine reiterated on many occasions the outcome of the search for the alleged correspondence. He answered many questions on Mr Grech's behalf in relation to the alleged correspondence, which Senator Abetz insisted that Mr Grech answer. There were heated exchanges between committee members and the chair, and Mr Grech appeared to become increasingly distressed when questioned about the alleged correspondence. At one point, despite the chair's intervention to protect him, Mr Grech insisted on explaining his position to the committee, conveying his distress at seeing the articles published by Steve Lewis that morning and the natural assumption his colleagues would make that he was the source. His statement that he was in a position that no public servant should find him or her self in was subsequently broadcast repeatedly on news and current affairs programs and aroused concern in many quarters for his welfare.<sup>42</sup>

**2.31** During the hearing, Mr Grech indicated that he believed he had seen an email from the Prime Minister's office regarding John Grant but qualified this with a statement that his 'recollection may well be totally false or faulty'.<sup>43</sup> He also answered questions from Senator Cameron about his contact with the journalist, Steve Lewis, and asserted that contact had been initiated by Mr Lewis.

**2.32** Additional television cameras were present in the hearing room from the commencement of the hearing and appear to have increased in number during Mr Grech's evidence, joined by still cameras, all operating very close to the committee

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41 Economics Legislation Committee, *Committee Hansard*, 19 June 2009, p. E16.

42 Economics Legislation Committee, *Committee Hansard*, 19 June 2009, p. E37.

43 Economics Legislation Committee, *Committee Hansard*, 19 June 2009, p. E38.

and witness tables.<sup>44</sup> After the hearing had been adjourned, the cameras moved in on Mr Grech and Mr Martine and continued to film. The final frames of the official coverage of the hearing show the chair noticing this behaviour and beginning to speak to the camera operators. Subsequent footage shown on news and current affairs programs indicates that the chair's intervention was ignored, as cameras crowded Mr Grech and Mr Martine and followed them out of the hearing room, into a lift, down corridors and out through the ministerial entrance of Parliament House. Footage in the lift shows a strong light being shone on Mr Grech's face.

### *After the hearing — the events of Friday evening*

**2.33** After the hearing, Mr Grech and Mr Martine returned to work. In light of his ordeal before the committee and his pursuit by the media, Treasury officers checked on Mr Grech's welfare and arranged contact with a counsellor through the department's employee assistance program. Senior Treasury officers, including the Secretary, Dr Henry, offered comfort and support to Mr Grech. In particular, Mr Martine checked on Mr Grech through the evening and remained in contact with him by email and phone over the weekend, offering practical support in view of the media presence at Mr Grech's home.<sup>45</sup>

**2.34** Meanwhile, in the Department of the Prime Minister and Cabinet, the Secretary, Mr Terry Moran, aware of Mr Grech's evidence that afternoon that he believed he had seen a short email from the Prime Minister's office regarding John Grant, asked his IT staff to undertake a thorough search of the email records of the department and the Prime Minister's office. The results were known by around 6.45 pm. They indicated no evidence of an email from Dr Charlton to Mr Grech in the period 16 to 22 February that met Mr Grech's description of the alleged email. Mr Moran was confident of the search results because of relatively recent changes to the department's IT system and informed the Prime Minister accordingly.<sup>46</sup>

**2.35** Mr Moran suggested to the Prime Minister that the Auditor-General should investigate and report on the matter.

**2.36** Evening news and current affairs programs carried extensive reports of Mr Grech's evidence and the gravity of its implications for the Prime Minister and Treasurer.

**2.37** Around 7.30 pm, the Prime Minister held a press conference and announced that no email matching the description given by Mr Grech had been found. He referred to allegations made that evening by Steve Lewis who claimed to be in

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44 The DVD of the Economics Legislation Committee hearing on 19 June 2009 indicates up to eight television and still camera operators present. There were also sound technicians carrying microphones on booms. See plates 2 – 4.

45 Treasury submission, dated 12 August 2009, paragraphs 29–35.

46 Mr Terry Moran, submission dated 16 September 2009.

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possession of an email from Dr Charlton to Mr Grech (referred to as 'the public servant') but stated that extensive searches by his office and the Departments of the Prime Minister and Cabinet, and Treasury, had found no such email. Dr Charlton had also denied sending any such email. In answering a journalist's question, the Prime Minister concluded that the email was false. The Prime Minister also announced that he had decided to refer the matter to the Auditor-General because questions of integrity had been raised.<sup>47</sup>

**2.38** Earlier that evening, Steve Lewis had advised the Prime Minister's press secretary by email that he was proposing to publish details of the alleged email from Dr Charlton to Mr Grech in the next day's *Daily Telegraph*. He later asked questions about it at the press conference where the Prime Minister expressed the view that the email must be false.<sup>48</sup>

### ***Saturday 20 June 2009***

**2.39** Details of the email were duly published on Saturday 20 June and there was extensive media reporting of Mr Grech's evidence and its implications.

**2.40** Overnight, Mr Moran had reflected on the results of the various searches for the email and the denials of the Prime Minister and Dr Charlton of any knowledge of such a communication. It occurred to him that the email had been fabricated and that Mr Grech may have been one of the victims of that fabrication. Further, if that were the case, an inquiry by the Auditor-General may not be 'the appropriate method of inquiry into the matter'.<sup>49</sup>

**2.41** Between 10 and 11 am Mr Moran phoned Mr Roger Wilkins, Secretary, Attorney-General's Department, and raised his concern that the email was fabricated. He asked Mr Wilkins to examine whether, if that were the case, any offence might have been committed and, if so, to take the appropriate action.<sup>50</sup>

**2.42** Mr Wilkins then had a conversation with the Attorney-General who agreed that it would be desirable to obtain preliminary legal advice on possible criminal offences that may have been committed if the email were found to be a fabrication. Around 11 am, he asked a senior officer of the department, Mr Geoff McDonald, to prepare preliminary legal advice which was provided to Mr Wilkins around midday.<sup>51</sup>

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47 Press conference by the Prime Minister, 19 June 2009, transcript at [www.pm.gov.au/node/5097](http://www.pm.gov.au/node/5097).

48 Steve Lewis, 'Utgate timing off and muffler shot', *Daily Telegraph*, 4 July 2009, p.13; Press conference by the Prime Minister, 19 June 2009, transcript at [www.pm.gov.au/node/5097](http://www.pm.gov.au/node/5097).

49 Mr Terry Moran, submission dated 16 September 2009.

50 Mr Terry Moran, submission dated 16 September 2009; Mr Roger Wilkins, submission dated 28 August 2009, paragraph 5(c) and attached chronology.

51 Mr Roger Wilkins, submission dated 28 August 2009, paragraphs 5(d) and (e) and attached chronology.

**2.43** Between 12.30 and 12.45 pm Mr Wilkins, Mr McDonald and another departmental officer, Ms Sarah Chidgey, discussed the process for referring matters to the AFP. Between 1 and 2 pm, Ms Chidgey drafted a letter of referral and cleared it with Mr McDonald and then with Mr Wilkins. During this time, Mr Wilkins spoke again to the Attorney-General advising him that referral of the matter to the AFP was the 'best course of action'. He also spoke to the then AFP Commissioner, Mr Mick Keelty, who indicated that the AFP would investigate.<sup>52</sup>

**2.44** Ms Chidgey finalised and despatched the letter of referral by email after she had ascertained the appropriate person in the AFP to send it to. The letter was received by Commander Justine Saunders at 2.19 pm. Commander Saunders subsequently contacted Ms Chidgey who provided what further information she had about the allegations.<sup>53</sup>

**2.45** The Prime Minister held a press conference during the afternoon at which he reiterated actions taken to search for the alleged email, and concluded that it was false. He announced that the Secretary of the Attorney-General's Department had referred the matter to the AFP.<sup>54</sup>

**2.46** Meanwhile, on that Saturday morning, Dr Henry was also concerned about the provenance of the alleged email and the source of the material published by Steve Lewis. He spoke to Mr Chris Barrett and Mr Jim Chalmers from the Treasurer's office and Mr Martine and Mr Di Giorgio of his department. At approximately 1.40 pm he phoned Ms Deirdre Gerathy (General Manager, Corporate Services Group) and asked her to arrange a search of Mr Grech's emails for any sent to Steve Lewis in the preceding week.<sup>55</sup>

**2.47** Ms Gerathy arranged for Treasury IT to search Mr Grech's email account and to give her access to check his inbox and sent items. This check revealed items of concern which Ms Gerathy then discussed with Dr Henry. These items raised the possibility of wrongdoing by Mr Grech and it was agreed that the matter would be discussed with Treasury's internal lawyer on the following Monday.<sup>56</sup>

**2.48** Mr Martine, unaware of these developments, including the material discovered on Mr Grech's computer, but having discussed the situation with Ms

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52 Mr Roger Wilkins, submission dated 28 August 2009, chronology; AFP submission, dated 10 August 2009, paragraph 8 and attached timeline.

53 Mr Roger Wilkins, submission dated 28 August 2009, chronology; AFP submission, dated 10 August 2009, paragraph 9 and attached timeline.

54 Press conference by the Prime Minister, 20 June 2009, transcript at [www.pm.gov.au/media/interview/2009/interview\\_1085.cfm](http://www.pm.gov.au/media/interview/2009/interview_1085.cfm).

55 Treasury submission dated 12 August 2009, paragraphs 37 and 38.

56 Treasury submission dated 12 August 2009, paragraphs 39 and 40.

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Gerathy, spoke to Mr Grech on Sunday afternoon and conveyed the advice that it would be best for Mr Grech to take the following week off.<sup>57</sup>

**2.49** Around 7 pm that evening, Dr Henry learned of the Prime Minister's announcement of the AFP inquiry. He thereupon phoned Commissioner Keelty to request that the AFP investigation also include emails in Treasury's IT system. Dr Henry then informed Ms Gerathy of his request to the AFP. Ms Gerathy was subsequently contacted by the AFP. She outlined what searches had been done, described the suspicious emails that had been found and arranged to meet AFP officers at the Treasury building the following morning.<sup>58</sup>

***The AFP inquiry — search warrant obtained and executed***

**2.50** Between 10 am and 12 noon on Sunday 21 June 2009, AFP officers attended the Treasury building in Parkes and were given the results of preliminary searches of Mr Grech's email account. After the AFP officers and Ms Gerathy left the building, Treasury IT officers continued working on the recovered deleted files and found the false email whereupon AFP officers returned to Treasury and were given hard copies.<sup>59</sup> Access to Mr Grech's Treasury IT account was stopped.<sup>60</sup>

**2.51** That evening, Commander Saunders obtained from Ms Chidgey a copy of Mr McDonald's advice on possible criminal offences and Commissioner Keelty phoned Dr Henry to inform him that the AFP had sufficient material to support an application for a warrant to search Mr Grech's home.<sup>61</sup>

**2.52** The AFP prepared an application for a warrant to search Mr Grech's home based on advice from Treasury IT that the false email had been sent from Mr Grech's Treasury account to his personal account. However, the information supplied to obtain the warrant also included reference to Mr Grech's committee evidence. A warrant was issued at 9.30 pm by a magistrate.<sup>62</sup>

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57 Treasury submission dated 12 August 2009, paragraphs 35 and 115.

58 Treasury submission dated 12 August 2009, paragraphs 41 to 43; AFP submission, dated 10 August 2009, paragraph 17 and attached timeline.

59 Treasury submission dated 12 August 2009, paragraphs 44, 46 and 47; AFP submission, dated 10 August 2009, paragraphs 18 and 19 and attached timeline.

60 Treasury submission dated 12 August 2009, paragraph 48. Access to his Treasury-issued Blackberry was stopped the following day and unescorted access to the Treasury building was also limited.

61 Mr Roger Wilkins, submission dated 28 August 2009, chronology; AFP submission, dated 10 August 2009, paragraph 22 and attached timeline; Treasury submission dated 12 August 2009, paragraph 49.

62 AFP submission, dated 10 August 2009, paragraphs 23–27, attached timeline and other attachments, including the warrant application.

**2.53** On Monday 22 June 2009, *The Australian* and *Daily Telegraph* published intrusive articles about Mr Grech's health and medical history, the appearance of his home and the opinions of his neighbours.

**2.54** At 8 am, AFP officers arrived at Mr Grech's home to execute the warrant but were unable to raise him. After consulting Treasury officers about Mr Grech's possible whereabouts and wellbeing, and arrangements for welfare assistance, the AFP officers gained access to Mr Grech's home. Mr Grech was present and the AFP officers searched his computer and, at his request, interviewed him. Before departing, the AFP officers activated Mr Grech's welfare support arrangements, liaised with Treasury's employee assistance provider and contacted the ACT Mental Health Assessment and Treatment Team (MHCATT). Officers of MHCATT arrived at Mr Grech's home and informed the AFP that their further assistance would not be required. AFP officers left the premises, having earlier removed certain items.<sup>63</sup>

**2.55** After the execution of the warrant, the AFP issued a media release stating, in the following terms, that the email had been fabricated:

Having regard to the public interest in this matter, the AFP can confirm in relation to the investigation of matters referred to it by the Attorney-General's Department on Saturday 20 June 2009, that a preliminary forensic investigation of computers located at a premises in Calwell and at the offices of the Department of the Treasury has been undertaken.

Preliminary results of those forensic examinations indicate that the e-mail referred to at the centre of this investigation has been created by a person or persons other than the purported author of the e-mail.

A 42-year-old Calwell man has been interviewed by the AFP in relation to this matter and it will be alleged that the interview is consistent with preliminary forensic advice.

As the investigation is continuing, the AFP does not intend to make any further comment at this stage.<sup>64</sup>

**2.56** Later that afternoon, the AFP assisted MHCATT officers to gain access to Mr Grech's home again for the purpose of ensuring his wellbeing.<sup>65</sup>

**2.57** A second search warrant was executed by the AFP on 22 July 2009 and further items seized.<sup>66</sup>

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63 AFP submission, dated 10 August 2009, paragraphs 29–34, attached timeline and record of interview with Mr Grech; Mr John Wilson, submission on behalf of Mr Godwin Grech, dated 28 August 2009.

64 AFP submission, dated 10 August 2009, paragraphs 46–48 and attached timeline; Commissioner Keelty provided an explanation for this unusual action at a press conference on 30 June 2009 (AFP submission, paragraph 49).

65 AFP submission, dated 10 August 2009, attached timeline.

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***Response of the Department of the Treasury***

**2.58** According to Treasury's submissions, Mr Grech's wellbeing was also a focus of Treasury officers on Monday 22 June 2009. Treasury's General Manager, Human Resources, Ms Henderson, met with Dr Henry to discuss Mr Grech's leave arrangements, his access to the department's employee assistance provider and to arrange an update from the AFP regarding Mr Grech's welfare. Ms Henderson had subsequent discussions with Mr Martine, Ms Gerathy and the Deputy Public Service Commissioner, Ms McGregor, who had raised concerns with Dr Henry about Mr Grech's wellbeing. Updates were subsequently received from the AFP.<sup>67</sup>

**2.59** Later in the afternoon, a senior Treasury officer, Mr David Parker, contacted MHCATT to inform them about other serious matters concerning Mr Grech that were yet to be revealed in public. These were the matters that would subsequently become the subject of a code of conduct inquiry. Ms McGregor contacted Mr Grech and passed on to Treasury officers the information that he was considering admitting himself to hospital.<sup>68</sup>

**2.60** That evening, according to Dr Henry, Mr Grech phoned Dr Henry and told him what had happened after the estimates hearing on 4 June and how he had decided to 'reproduce' the email he claimed to have received from Dr Charlton. He also told Dr Henry that he had read out the email to Steve Lewis on the phone on 16 June.<sup>69</sup> Mr Grech's account of his recreation of the email is in his statement to *The Australian* on 4 August 2009, set out in paragraph 2.7.

**2.61** Mr Grech was subsequently admitted to a mental health facility later that evening.<sup>70</sup>

**2.62** Treasury officers continued to engage in various consultations and inquiries regarding Mr Grech's welfare and wellbeing.<sup>71</sup>

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66 AFP submission, dated 10 August 2009, paragraphs 81–85 and attachment, letter from AFP, dated 24 July 2009, informing the committee of the second search warrant; Mr John Wilson, submission on behalf of Mr Godwin Grech, dated 28 August 2009.

67 Treasury submission dated 12 August 2009, paragraphs 52, 53 and 55; AFP submission, dated 10 August 2009, attached timeline.

68 Treasury submission dated 12 August 2009, paragraphs 54 and 56.

69 Treasury submission dated 12 August 2009, paragraph 51; Treasury submission, dated 24 September 2009, paragraph 15.1.

70 Treasury submission dated 12 August 2009, paragraph 57; AFP submission, dated 10 August 2009, attached timeline.

71 Treasury submission dated 12 August 2009, paragraphs 58–61 and 116; AFP submission, dated 10 August 2009, paragraph 39

## July–August 2009

### *Code of conduct inquiry by the Department of the Treasury*

**2.63** In view of the material found on Mr Grech's computer, Treasury considered taking action against Mr Grech for breaching the Australian Public Service Code of Conduct. As part of its consideration, Treasury sought legal advice on the scope of parliamentary privilege to ensure that any action it took against Mr Grech did not trespass on the privileges of the Senate.<sup>72</sup> The material found on Mr Grech's computer included numerous communications with people connected to the Liberal Party,<sup>73</sup> and documents which showed Mr Grech to be behaving in a politically partisan fashion against the Government and in support of the Opposition.

**2.64** On 17 July 2009, Treasury's Acting Secretary, Dr Gruen, wrote to Mr Grech's lawyers indicating that he intended to consider suspending Mr Grech on the basis that he may have breached the code of conduct. Dr Gruen provided particulars of the alleged breaches and copies of the material Dr Gruen was intending to consider. Before despatching this letter, Treasury officers contacted MHCATT to inform them of the impending correspondence.<sup>74</sup>

**2.65** Dr Gruen wrote again to Mr Grech's lawyers on 22 July 2009 indicating that he intended to delay considering suspending Mr Grech in view of a further personal leave application from Mr Grech and his continued hospitalisation.<sup>75</sup> This decision was reversed, however, following the events of 4 August 2009 (described below). Dr Gruen then indicated he intended to proceed with the suspension of Mr Grech and Dr Ian Watt was appointed to determine whether Mr Grech had breached the code of conduct.<sup>76</sup> Dr Gruen signed an instrument of suspension, suspending Mr Grech from duties without remuneration, on 21 August 2009.<sup>77</sup>

### *4 August 2009 — three significant publications*

**2.66** The Auditor-General's report on *Representations to the Department of the Treasury in Relation to Motor Dealer Financing Assistance* was published on 4 August by presentation to the Senate out of sitting. The report contained a 35 page response by Mr Grech to the matters covered.

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72 Treasury submission dated 12 August 2009, paragraph 63.

73 For a list of these emails, see Treasury submission, dated 24 September, paragraph 21.

74 Treasury submission dated 12 August 2009, paragraphs 63 and 64; Mr John Wilson, submission on behalf of Mr Godwin Grech, dated 28 August 2009. The Auditor-General's draft report was also forwarded to Mr Grech on this date.

75 Treasury submission dated 12 August 2009, paragraph 65; Mr John Wilson, submission on behalf of Mr Godwin Grech, dated 28 August 2009.

76 Treasury submission dated 12 August 2009, paragraphs 66 and 67; Mr John Wilson, submission on behalf of Mr Godwin Grech, dated 28 August 2009.

77 Mr John Wilson, submission on behalf of Mr Godwin Grech, dated 28 August 2009.



**2.67** The publication of the report had been anticipated by the publication of a statement by Mr Grech in *The Australian* that morning, together with an interview giving his version of events and the reasons for his actions. In his statement, Mr Grech made much of the claim that he had not authorised anyone to publish details of the fake email and that it had been published without his permission or agreement.

**2.68** It was these two publications that prompted Dr Gruen to reconsider his decision to delay considering Mr Grech's suspension.

**2.69** The third publication was a joint media release by Mr Turnbull and Senator Abetz at a press conference at which copies of three documents provided by Mr Grech were distributed (2 lists of questions and Mr Grech's email to Mr Turnbull of 5 June).<sup>78</sup> In their joint press release, Mr Turnbull and Senator Abetz gave an account of their dealings with Mr Grech and stressed that it was Mr Grech who initiated the contact. They stated that they had accepted and acted in good faith on the information he provided. The statement disputed Mr Grech's reasons for acting as he did and drew attention to Opposition statements supporting the passage of the bill, made before Mr Grech's approach to Senator Abetz's office. They also disputed Mr Grech's accusation against the Opposition including the suggestion that Mr Grech was pressured to make statements concerning Mr Grant.

### ***11 August 2009 — an apology***

**2.70** At the first meeting of the Senate after the publication of the Auditor-General's report, Senator Abetz made the following statement:

A lot has been said and written about my involvement in what has now become known as the OzCar affair. I have already publicly apologised, but I wanted to take this very first opportunity in the Senate to repeat that apology and in addition apologise for any perceived reflection on the Senate. I also want to briefly deal with the three assertions made against me: that I pressured a witness; that I misled a Senate hearing; and that I scripted a witness's evidence. All three assertions are wrong.

First, as the joint statement I made with the Leader of the Opposition on 4 August makes clear, the witness volunteered his information. When the witness approached us we listened because he was a person with direct knowledge of the matters in question.

The second assertion is that I misled the Senate on 19 June by suggesting that a journalist had told me about the now known to be fake email and its contents. The simple fact is that a journalist did tell me this. He said he had been contacted by the witness, who had shared his information including the contents of the email. The journalist then shared that information with me. As the joint statement made clear, the witness had previously shown me the email. Both statements are true; they are not mutually exclusive.

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78 Senator Abetz, submission dated 26 August 2009, attachment, Joint press release. Transcript of press conference at [www.liberal.org.au/news.php?Id=3511](http://www.liberal.org.au/news.php?Id=3511).

Having received information from two separate sources it is quite appropriate to rely solely or partially on just one of those sources without exposing the other.

He denied allegations that he had pressured a witness, misled a Senate committee hearing or scripted a witness's evidence.<sup>79</sup>

**7 October 2009**

**2.71** It was reported that Mr Grech had left the public service.<sup>80</sup>

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79 *Senate Debates*, 11/8/2009, p.4420.

80 For example, Paul Maley, 'Email fraudster Grech parts company with Treasury', *The Australian*, 7 October 2009, p. 1.