

**IN THE CIVIL AND ADMINISTRATIVE TRIBUNAL
Administrative and Equal Opportunity Division**

File Number: 1510239

**Tom Lonsdale
Applicant**

AND

**The University of Sydney
Respondent**

APPLICANT'S SUBMISSION: Appeal Hearing 10 November 2015

1.) I seek leave to appeal the Registrar's refusal to permit the issue of summonses lodged by me

- 10 August 2015 in respect to documents sought from Dr Michael Spence, Vice-Chancellor Sydney University, Professor Roseanne Taylor, Dean of Veterinary Faculty and Dr Hugh White, Director of Centre for Veterinary Education at Sydney University, and Hill's junk pet food company and Royal Canin junk pet-food company.
- 14 August 2015 in respect to documents sought from Information Commissioner
- 3 September 2015 in respect to attendance by Chancellor of Sydney University, Professor Roseanne Taylor, Dean of Veterinary Faculty and Dr Hugh White, Director of Centre for Veterinary Education at Sydney University, and Hill's junk pet food company.

These refusals bespeak a predetermined view at odds with the documented facts before the Tribunal and the various pieces of legislation and give rise to a perception of bias.

2.) I seek leave to appeal 14 September 2015 decision of Senior Member McAteer in his failure to deal with the Registrar's refusals of 10 August 2015 and 14 August 2015. The perception of the Registrar's bias is thereby compounded by Mr McAteer's disregard for procedural fairness.

3.) I seek leave to appeal 14 September 2015 decision of Senior Member McAteer in all its elements. In his decision my 3 September 2015 applications were misrepresented as being summonses for documents when in fact they were summonses for attendance. Having misrepresented the purpose of the summonses, the application was improperly labelled a 'fishing expedition' and the Registrar's decision was upheld.

Mr McAteer misdirected himself; purported to deal with the subject before him and made a ruling suitable to himself and the Registrar but at complete odds with procedural fairness. The original apprehension of bias was thereby compounded.

4.) The Registrar and the Senior Member both use the terms 'not relevant' to justify their various decisions when in fact the matters under consideration are entirely relevant in the context of the preamble to *The Government Information (Public Access) Act 2009* (GIPA Act) as published at the Information and Privacy Commission website.

The guiding principle of the GIPA Act is public interest. It is generally presumed that all government agencies will disclose or release information, unless there is an overriding public interest against doing so. Under the GIPA Act it is compulsory for agencies to provide information about their structure, functions and policies, and agencies are encouraged to proactively and informally release as much other information as possible.

5.) There is no doubt that the University of Sydney has commercial arrangements with the junk pet-food makers Hill's, a division of Colgate-Palmolive, and Royal Canin a division of Mars Inc. These arrangements should be tested by reference to the documents and to cross-examination of the witnesses to assess the truth of the University's submissions before the Tribunal.

6.) There is no doubt that at all levels of education from preschool to universities, *general* educational principles, structure, function and policies and *general* scientific principles structure, function and policies are an 'open book' available for all to discuss.

7.) There is no doubt that at Sydney University the veterinary students are immersed in junk pet-food inspired bogus 'educational' notions and bogus 'scientific' principles. On any measure this is controversial and I say it is highly corrupt. Whether controversial or corrupt, it nevertheless should be tested in open tribunal by reference to the documents and to cross examination of the witnesses.

8.) There is no doubt that Sydney University and its employees and the junk pet-food companies Hill's and Royal Canin maintain a closed book on their educational and scientific structure, function and policies leading to the total immersion of veterinary students in junk pet-food dogma. As per 4.) above under the 'GIPA Act it is compulsory for agencies to provide information about their structure, functions and policies'. The Tribunal needs to uphold the spirit and the letter of the law.

9.) The University relies on input from Hill's and Royal Canin in its attempted justification for refusal to disclose its secret and damaging commercial arrangements. These attempted justifications need to be tested by cross examination.

10.) The University claims legal professional privilege as a basis for refusing to disclose its arrangements. These claims should be tested by cross examination of the University employees responsible for striking the deals and by cross examination of the junk pet-food

company representatives. It is anathema to suggest that education and science regarding cat and dog diets can be hogtied by spurious notions of legal professional privilege.

11.) The University attempts to make use of several clauses of the table in section 14 of the GIPA Act that are subject to a 'weighting' provision. I suggest that those defences are a distraction and a sham designed to mislead the Tribunal and should be accorded *no* weight.

12.) I suggest that the real reasons the University wishes to keep its junk pet-food bogus 'educational' and 'scientific' arrangements secret is more to do with the fact the University is engaged in illegal activities, some of which carry criminal penalties. The Registrar and Mr McAteer should be concerned about the possibility of major illegal activity being covered up. They should not be airily dispensing predetermined decisions: 'not relevant'.

13.) I suggest that it is only by gaining access to the documents sought 10 and 14 August and by cross examining the witnesses summonsed in the 3 September summonses that the Tribunal can be properly informed of the gravity of the issues and thus accord the proper weight to the evidence thereby adduced.

14.) In all previous appearances at NCAT Hearings there appears to be a presumption on the part of NCAT that what the University and its junk pet-food partners says is deemed to be true. I suggest that the Tribunal needs to keep an open mind and be exposed to the reality of gross malfeasance on the part of the University as will likely be revealed by way of disclosure of documents and cross-examination of witnesses.

15.) At all levels of education the principles, arrangements and practice must demonstrate clear benefit to the public interest. The public, I suggest, rests in the belief that there is uncontroversial transparency and accountability ensuring that the public interest remains paramount. Alas in respect to the junk pet-food inculcation of veterinary students, the very opposite is the case. A blanket ban exists on any discovery of the principles and arrangements informing the conduct of the University. The Tribunal should not be drawn into the University zone of influence and thus rubber stamp a mighty government backed fraud.

16.) The University and junk pet-food makers need to justify that their secret arrangements provide a clear educational and scientific benefit to students, pet owners, consumers and the wider society. By issuing the summonses and cross-examining the witnesses the Tribunal will be able to judge if secret arrangements provide a clear benefit to the public interest or whether they are inimical to the public interest.

17.) To further make the point, the original 29 September 2014 I (GIPA) Enquiry: *Pet food company involvement with University of Sydney* and subsequent internal review, external review and now NCAT Hearings are not about some vague abstraction, they are about the primacy of the public interest as fostered by free flow of government information. NCAT is required to facilitate not obstruct the free flow.

18.) The University and the junk pet-food companies attempt to equate their narrow/corrupt interests with the public interest. By examining the core of their activities;

by gaining access to the documents sought and by cross-examining the witnesses the Tribunal will be able to form a more accurate assessment.

19.) I believe that procedural fairness and natural justice demands that I be accorded the opportunity to issue the summonses sought.

20.) I believe that the Tribunal has a legal and moral obligation to, at all times, serve the public interest by encouraging the full, fair and transparent evaluation of the issues as can be achieved by serving the summonses.

21.) I believe that the sought for documents and the attendance by witnesses have relevancy and considerable probative value in particular in respect to *The Government Information (Public Access) Act (GIPA) 12 (2) (a) (b) (c) and (e)*.

22.) I believe that the sought for documents and the attendance by witnesses have relevancy and considerable probative value in particular in respect to *Administrative Decisions (Judicial Review) Act 1977 (ADR) 4, 5 (1) (2), 6 (1) (2)*.

23.) I rely on my 14 August 2015 Submission and Affidavit. Both documents are in the possession of the Tribunal.

24.) The 14 August Annexures numbered L1 to L22 are important by way of providing context and detail. However, in 11 September 2015 Applicant's Annexures: Summary and Relevance (in possession of the Tribunal) I agreed that L5 and L8 may be excised from the list.

25.) I rely on the document Applicant's Submissions for Directions Hearing 2 September 2015 in the possession of the Tribunal.

26.) I rely on the document Applicant's Annexures: Summary and Relevance dated 11 September 2015 and in the possession of the Tribunal.

27.) I rely on 11 September 2015 article published in *The Conversation* by Dr Richard Malik of Sydney University entitled *The convenience food industry making our pets fat*. This article was received into evidence and marked Exhibit A2 on 17 September 2015.

28.) I rely on the fact that Senior Member Mr McAteer has made orders and reached decisions without, by his own admission, ever reading my Submissions, Affidavit and annexures or viewing the videos and is thus oblivious to the range and scope of the issues as they pertain to the University's withholding of Government information under the terms of *GIPA Act* and *ADR Act*.

29.) I rely on the fact that Senior Member Mr McAteer appears to be unaware of basic veterinary conventions and conduct and thus suffers from a limited understanding thereby affecting his ability to adjudicate. Throughout he has addressed me as Mr Lonsdale when in fact it's the convention in Australia that veterinarians are accorded the courtesy title Dr.

At the 17 September hearing when I introduced Dr Brian Lam and Dr Iris Ma, my two young employees, with a view to them giving evidence, Mr McAteer assumed that they were 'academics'.

At one stage in the 17 September 2015 hearing Mr McAteer evinced surprise that veterinarians might be concerned with the diet of animals — this despite the entire proceedings being designed to serve the public interest in respect to disclosure of secret deals between the foremost veterinary school in New South Wales and its junk pet-food collaborators in respect to the diet of animals.

30.) I rely on 29 July 2015 Heesom Legal letter in response to requests for voluntary disclosure of documents by Dr Spence, Professor Taylor and Dr White that would help the Tribunal make a proper and informed assessment. (Annexed)

31.) I rely on 31 July 2015 letter from Hill's junk pet-food company refusing to provide basic information regarding their activities in the veterinary schools and which information, I submit, is essential for the Tribunal's adjudication process. (Annexed)

32.) I rely on my 2 August 2015 letter to The Information Commissioner and the Commissioner's 7 August 2015 clumsy misrepresentation of my position. (Annexed)

I believe that the misrepresentation is a serious breach of accepted administrative conduct and reveals a deplorable bias against my *GIPA* Application now before the Tribunal.

33.) From the time of the first Planning meeting 23 June 2015 I have asked NCAT staff on several occasions for video screens to be available for the Hearing set down for 17 September 2015. Each time I was assured that screens would be available. Despite the repeated assurances, there were no screens available on 17 September and from the course of the Hearing, it was abundantly clear that Senior Member McAteer had no wish to honour the undertakings or to permit screening of my video evidence.

34.) In my opinion the foregoing indicate that NCAT has failed to see the complexity and magnitude of the issues; has failed to allocate sufficient time and resources for proper determination of the issues and has shown bias in the conduct and rulings. I believe that Senior Member Mr McAteer has effectively disqualified himself from the case.

35.) I respectfully request that the Appeal Panel quash all decisions of the Tribunal up to this date and that proper resources and time be provided for full and fair adjudication of the issues. Appointment of a three member panel would seem to be a prudent first step.

36.) I respectfully request that the Registrar's 10 August, 14 August and 3 September 2015 decisions be quashed and that those summonses should be served in a timely manner.

Tom Lonsdale
Applicant
12 October 2015