

*"All that is needed for evil to prosper is for people of good will to do nothing"*—Edmund Burke



# *The*

# *Whistle*

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Newsletter of Whistleblowers Australia



**Beware of rogue surgeons!**

### Whistleblower doctors “punished by mafia code”

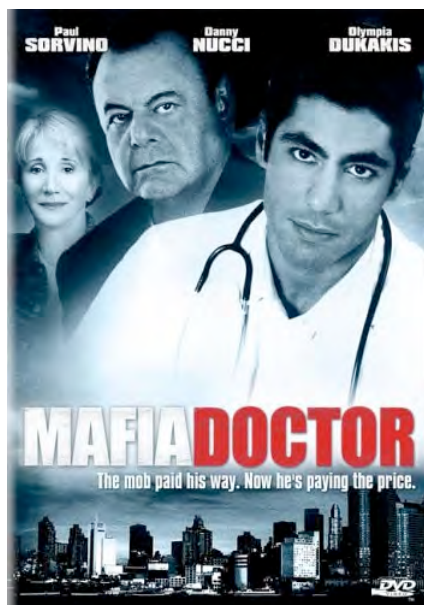
Doctors are scared of speaking out when patients are put at risk because they fear ruining their careers, the head of the new hospitals regulator has said.

Matthew Holehouse

*The Telegraph*, 23 October 2013

NOT one senior medic raised concerns about failings of care during the Mid Staffordshire scandal, David Prior, the chairman of the Care Quality Commission, said.

MPs yesterday claimed the medical profession is ruled by a “mafia code” that means whistleblowers are “finished” by their colleagues.



“One of the things I’ve learnt over the past six months is to be a whistleblower you’ve got to be very, very brave. I’ve spoken to a couple of surgeons who are alpha male types whose careers have been severely limited because they expressed concerns about what was going on in their hospitals,” Mr Prior told the Commons Health Select Committee yesterday.

“The most chilling phrase, after the Francis Report into Mid Staffs, was a very distinguished clinician saying ‘Where were the doctors?’”

“Where were the doctors? For years this dreadful care went on and no

doctor put his head above the parapet. Why is that? In part, the answer is they are frightened. Even if you an alpha male surgeon you are frightened.

The surgeons, who he did not name, had concerns between two and four years ago and have since retired, Mr Prior said.

David Tredinnick MP said “a mafia code, an omerta” rules the medical profession. “If you do anything against the status quo of the organisation you are finished. That is something that has to be broken,” he said.

Mr Prior replied: “It is. We are tribal people. Clinicians have their tribes. Hospitals have their tribes. The CQC has its tribe. We tend to be defensive about our tribe, but we have to break those rules down.”

Former staff at Mid Staffordshire hospital trust, where up to 1,200 patients are thought to have died unnecessarily due to poor care, claimed it was blighted by a culture of fear. One staff nurse told the Francis Inquiry she had been physically threatened.

The inspectorate relies on a “continuous flow of information” from doctors because it visits some hospitals just once every two years, Mr Prior said. The CQC is working on mechanisms for doctors to alert the regulator to trigger an inspection.

Charlotte Leslie MP suggested the CQC should monitor whether whistleblowers were losing out when trying to apply for new jobs in the health service.

“There are victims of the practice of whistleblowing who are still out of a job who are watching people they perceive as responsible for the problems they alerted happily in a job,” she said.

Care home residents could be told in writing in “plain English” where their home is failing under a shake-up of the inspections system, Mr Prior told MPs.

Mr Prior was appointed to the CQC in January, and has said his predecessors were “totally dysfunctional” and covered up failings that led to the deaths of mothers and babies in the Furness General Hospital.

### Inquiry into ASIC too little too late for victims, whistleblowers

Adele Ferguson

*The Age*, 22 October 2013, p. 21

THE corporate regulator has canvassed 10 policy reform proposals as part of a 200-page submission into a Senate inquiry that will scrutinise its performance, powers and structure and the perception that it is a toothless and lazy tiger.



How ASIC is perceived

The bipartisan Senate inquiry was announced in July after a series of news articles in Fairfax Media revealed serious misconduct and a cover-up by Commonwealth Bank’s financial planning arm and the failure of the Australian Securities and Investments Commission (ASIC) to act promptly.

The latest submission, which is yet to be lodged, will look at the various tools available to the regulator for enforcement and guidance as well as ways to improve its performance.

This includes making a number of policy reform suggestions including calling for a mandatory national exam for all advisers, beefing up its policy on whistleblowers and looking at its policy on the definition of an official investigation and what it can and can’t discuss due to legislative restrictions.

It will also look at how it chooses its cases. It has opted not to discuss alternative funding models such as hiving off its corporate registries business or replacing its funding with a

levy on various industries, similar to the \$14 million a year it raises from stockbrokers.

Submissions officially closed on Monday but a number of people and organisations, including ASIC, have requested an extension. Senator Doug Cameron is also expected to write to the big end of town requesting various organisations, including accounting body CPA Australia and the Australian Securities Exchange (ASX), to be part of the inquiry.

There are currently more than 100 submissions, but most are from mums and dads who have been fleeced by a financial institution and felt that the regulator was missing in action.

Interestingly, there is a glaring absence of submissions from the banks, lobby groups or associations, despite repeated criticism over the years about the quality of the regulator. It raises questions why they have decided to steer clear of commenting on ASIC or how it might become more effective.

One of the more interesting submissions came from Anne Lampe, a former journalist and former employee of ASIC's media unit, who criticised the regulator for "springing into action" when the number of complaints by investors reached "tsunami" levels. "When small investors lost money ASIC seemed incapable of action or didn't think it necessary. However, if a corporation or big fish reported a trading irregularity, back-sides came off their seats quickly. I will have more to say about that later."

She said negotiating enforceable undertakings instead of taking legal action was the preferred course of action. "These undertakings were discussed and fought over, over months, by armies of lawyers in secret behind closed doors and few details ever emerged about how the damage to investors was done, how many investors were affected, or even whether the undertaking was adhered to. In some cases the companies involved undertook to write letters to affected clients asking them to come in and discuss their concerns. Whether these letters were sent, how they were worded, whether they were replied to or what compensation was offered stayed secret."

In the case of the CBA financial planning scandal, which resulted in the banning of seven planners who controlled hundreds of millions of dollars of clients' money, ASIC extracted a two-year enforceable undertaking in October 2011.

This was despite being tipped off in late 2008 by a group of CBA insiders who wrote to ASIC warning them what was going on, including that files were being "cleaned up" and the whistleblowers detailed three locations where the files could be found and provided a list of the major players inside CBA.

It was also despite knowledge by CBA of some of the goings on inside the financial planning arm at the time. The executives at CBA were never punished. Indeed, some continue to work at CBA or are now working in senior roles at a stockbroking firm in Sydney, or other banks and wealth management operations.

ASIC has completed its submission but wants to withhold it until it has had a chance to see all submissions so that it can respond — if necessary.

ASIC made an initial submission to the inquiry in early August, admitting it had made mistakes in its handling of the CBA scandal and that it should have acted faster.

The expose into CBA revealed that a group of CBA insiders including Jeff Morris first contacted the regulator in October 2008 with detailed information about the goings on at the bank's financial planning arm. It took ASIC 16 months to launch an official investigation into the bank.

It is understood that it has had five people working full-time on its submission to the inquiry, which promises to put the blowtorch on ASIC in relation to its performance as a corporate regulator and protector of ordinary Australians.

Senate hearings will call up senior regulatory and banking executives, past and present, as well as scrutinise the regulator's structure, culture and powers. It will also track down some of the banned planners, including Don Nguyen who has failed to respond to questions and phone messages.

But for some victims and the whistleblowers it is too little too late.

## Sun may be setting on another empire

Michael West

*Sydney Morning Herald*

12–13 October 2013, Business p. 2

A WHISTLEBLOWER in the US has won a \$US14 million reward for providing tips to the Securities and Exchanges Commission.

The information led to enforcement action by regulators and the recovery of funds for investors who had suffered losses in the scam.

The commission has set up a new agency, Office of the Whistleblower, to catch white-collar crims.

It eliminates a resounding double standard, and one which persists in Australia. If you do in a terrorist or a bank robber here, a reward might be on the cards, but not if you do in a fraudster.

The official advice is that if you are a whistleblower you may not be protected by the law but you do pay. You pay because the official advice is: get a lawyer.

If, from sheer civic duty, you take the other option and leak to the press as a secret source — à la the Leighton Holdings imbroglio — the press pay. It is they who have to defend the defamation threats — à la Leighton Holdings.

### Suing your shareholders

Beneath these big fish in the market swarm the plankton. And down in these understudied depths there has been a rise in the incidence of companies suing their own shareholders to muzzle dissent.

Hopefully, events in recent days should help to put paid to the noxious practice.

Over the past year we have chronicled the travails of shareholders in Empire Oil & Gas, who not only lost their savings in the shares but were also sued by Empire directors for making critical comments on the internet.

An email from an Empire employee to a shareholder says: "The cost for lawyers is not a company cost. The board of directors take this as a personal cost, that is, they pay their own legal representation."

The latest Empire annual report, however, states: “The company incurred legal costs under an indemnity provided to directors in a defamation action against certain shareholders of the company and other parties.”

So chief executive Craig Marshall and his co-directors Bevan Warris and Neil Joyce are indemnified by Empire. Effectively, shareholders who sought to toss them — and said why on chat site HotCopper — are funding a legal action against themselves. One is Susanne Devereux, a 68-year-old retired nurse from Queensland, who, having lost her savings, is now being dragged through the West Australian courts.



You can't sue yourself ... but you can pay for a legal action against yourself

But there is more, much more.

Apart from the \$673,000 in legal costs for the year, there is a note to the accounts which shows “other income ... legal settlement fees” of \$22,000.

Not only is Empire suing Devereux, another shareholder, Darren Watson, and activist Eddie Smith — who had the temerity to try to roll the board — it also issued “concerns notices” to a slew of others.

The letters from Perth lawyer Martin Bennett demanded shareholders who had posted allegedly defamatory material on HotCopper apologise, remove “offending posts” from the internet, and pay Bennett’s legal bills. But the piece de resistance was the demand to “make an appropriate offer to compensate for the damages caused to date, [saying that] in Western Australia since 1984 the award for nominal damages is \$5000 per publication.”

Some paid up, hence the \$22,000 in “settlement” proceeds. One, a policeman from Victoria, Peter Griffiths,

confirmed he had paid because he feared being dragged through the courts.

For his part, Smith has returned fire with two suits: one against Marshall’s daughter, Brooke, who does PR, and another against Marshall’s son, Kane, who runs Key Petroleum, counterparty in a related party transaction with Empire.



Watch out who you sue — it might be you!

Amid the morass of lawsuits, which would never have transpired had Empire not bullied its shareholders in the first place, has come a corporate interloper.

Brisbane-based oil and gas group ERM has amassed a 10 per cent stake and requisitioned a meeting. Empire directors face another battle for survival.

Interestingly, three days after the requisition lobbed at Empire headquarters, the annual report emerged. Marshall has accepted a new five-year employment contract which looks to be worth a couple of million.

What is not evident, however, is the termination deal. What does Marshall get if ERM rolls the board at the impending meeting?

### **Empire Oil & Gas sues directors to recover legal costs**

*RWE Australian Business News*  
20 December 2013

Empire Oil & Gas has initiated legal proceedings against former directors Mr Craig Marshall and Mr Neil Joyce and current director Mr Bevan Warris in relation to the payment by Empire of certain legal costs incurred by the men while they were directors of Empire.

In a writ filed in the Supreme Court of Western Australia, Empire is claiming \$441,632 from Mr Marshall, Mr Joyce and Mr Warris.

The claim arises from the payment by Empire of legal fees incurred by the three defendants in relation to the personal defamation actions they took while they were directors of Empire.

Empire alleges in the writ that Mr Marshall, Mr Joyce and Mr Warris contravened several sections of the Corporations Act and breached their fiduciary duties to the company in relation to these payments.

The three men sued certain Empire shareholders for defamation in relation to posts made on internet discussion sites, including HotCopper.

Mr Marshall and Mr Joyce have since resigned from the Empire board as part of the Settlement with ERM Power on November 22.

Dr Warris remains an Empire director. [He resigned effective 20 December 2013.]



Emotions have run hot at Empire Oil & Gas

### **Year of spills and thrills**

*The West Australian*  
28 December 2013

... the Bull’s favourite tale of the year was the implosion of Craig Marshall’s Empire Oil & Gas.

What should’ve been a year of celebration for Empire on the back of the completion (albeit late and over budget) of the Red Gully gas-condensate plant near Gingin became an

*annus horribilis* for founder and managing director Marshall.

Under intense scrutiny from well-resourced 10 per cent shareholder ERM Power, Marshall's disclosure practices crumbled. Error-strewn audited financial accounts and remuneration reports and ridiculous statements by Marshall and his board as part of a fight against ERM proved as fatal as an iceberg to the Titanic.

A month ago, Marshall was booted out of his professional life's work. By last week the now ERM-controlled Empire board had sued Marshall, Bevan Warris and Neil Joyce to recoup \$441,000 in legal fees paid by the company for the now ex-directors' defamation actions.

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## Obama's whistling a whole new tune

Paul McGeough

*Sydney Morning Herald*, 13 October 2013

SO HOW'S the legacy looking, Barack? Obamacare — up and running and set to survive; the war in Iraq — US troops extracted, but fighting continues; Afghanistan — trying to get out, too, but the country's still a cot case. Anything "uplifting"?

What about all the campaign palaver on protecting whistleblowers? Remember the warm fuzzies about the need to have people with the courage to reveal secrets? Well, that became a war, too — on leaks. The verdict doesn't read well: "Most aggressive since Nixon," says a report for the Committee for the Protection of Journalists and authored by no less an establishment figure than Leonard Downie, formerly an executive editor at *The Washington Post*.

Instead of the openness promised by candidate Obama, suspected leakers are prosecuted under the draconian 1917 Espionage Act and paranoia is the order of the day, with government workers under orders to spy on each other. David Sanger, chief Washington correspondent for *The New York Times*, rates this White House for Downie as "the most closed, control-freak administration" he's covered. It's worth remembering the sky didn't fall in when US Army intelligence analyst

Bradley Manning leaked a torrent of classified material in 2010. Despite the administration's "lives are at risk" hollering, it is unable to cite a single instance of an intelligence source being attacked as a result of the leaks.

Same with Edward Snowden, whose more considered, but spectacularly selective leaks on Washington's domestic and international eavesdropping prompted, finally, the national security debate Americans had ducked in the aftermath of the September 11 terrorist attacks.

Snowden, lying low in Moscow, was mentioned twice in dispatches this week. Four US whistleblowers, including former CIA officer Ray McGovern, dropped in to present Snowden with an annual award presented by a group of retired CIA officers, to those of the intelligence community "who exhibit integrity in intelligence." This coincided with a remarkable footnote to the Snowden story, reported by *The New York Times* — four years before he went nuclear in the scope of his leaks, the CIA sent Snowden home from Germany because it suspected he was trying to break into classified computer files for which he had no authority.

The CIA was worried about a "distinct change in [Snowden's] behaviour and work habits," but that was a secret it kept to itself, revealing none of it to the National Security Agency or contractors who were likely to employ Snowden and, the CIA might have reckoned, be hugely compromised by him.

There's a couple of things running here: one, the idiots keeping the secrets are not up to the job; two, and more importantly, let's look at what happens when a whistleblower does the right thing.

Commentator William D. Cohan was struck by all the spinning and self-justification of last month's fifth anniversary of the Lehman Brothers collapse and the use of trillions of taxpayers' dollars to bail out the banks.

Instead of singing hosannas to Washington for "saving" us, Cohan wondered instead about the fate of Richard M. Bowen III, a former Citigroup executive, who years before the crisis discovered that Citigroup and others on Wall Street had been spending tens of billions on risky

home mortgages, repackaging and then selling them as sound investments.



Richard M. Bowen III

Bowen blew the whistle internally, writing to senior Citigroup executives in November 2007, warning of "breakdowns of internal controls," which he later explained, had put the company "in extreme risk with regard to losses." He was told his warning was being taken seriously and then? Pretty well nothing.

But when his responsibilities were reduced, he read it as punishment for his warning email, so he complained to the Occupational Safety and Health Administration, accusing the bank of punishing him. Later he went to the Securities and Exchange Commission. There he was told his allegations would be pursued, but ... nothing.

Bowen was fired in January 2009. But lucky Citigroup scored a \$45 billion government bailout along with public guarantees on nearly \$300 billion of securities.

When Congress appointed a commission of inquiry in 2009, Bowen figured here was another chance to tell his story. Uh, uh — an excruciating process of sanitising preceded his appearance at the commission, of what he could and could not say, who he could and could not name.

"It was devastating," he told Cohan. "It truly was. From my standpoint, the corruption extends to the highest levels of government ... Every principle that I grew up with [was] completely violated."

### **“Compulsory” medical assessments: a personal account**

Selena Whitbury (a pseudonym)

WOULD you see a psychiatrist at the “suggestion” of your boss on the promise that everything will be resolved thereafter? Would you trust this person who is promising to save your career and your job because you made the “mistake” of whistleblowing? This is a story to make you think twice before agreeing.

You walk in the door of the office of a psychiatrist to be asked to sign a document saying you acknowledge that this is a work-related visit.

You are half an hour late as you could not find the place.

You speak to this psychiatrist who asks questions about your workplace, your medical history, your family history, your alcohol and drug consumption, your sexual orientation and your personal relationships. The meeting is suddenly stopped and you are escorted down to a private pathology department where you are asked to urinate in a jar and your blood is taken. You have nothing to hide — you are innocent. Why would you not do this? You are tired — you have not had much sleep for days due to the fear and intimidation at work, due to being sent doing relief work everywhere and due to the comments being said to you. You return to the psychiatrist and continue the “interview.”

You are confused, as this is not like speaking to your regular doctor — your trusted GP.

You are asked who is your local GP and you give the information. You are then asked to return tomorrow to complete a questionnaire.

You return in the morning to be confronted with over 100 multiple-choice questions. You leave feeling dazed and “out of it.” This is not what you were told it was about. Who else do you go to for help?

Your friends tell you to resign. However, you need to pay your bills, and you have done nothing wrong.

A union official initially told you to trust management. Now, because you suffered retaliation, they have changed their mind and say you should not trust management. Would you trust them when they did not assist you to stop this?

You have no money for a lawyer and no lawyer seems to understand the relevant law.

What about your complaint about unsafe practice, bullying and intimidation? It is forgotten as you are in the process of being deemed mentally unstable!

You go home and throw up in the kitchen sink. You realise that your only ally is your local GP. You sit and you cry.

A few weeks later you are sent to the boss’s office and given an envelope. You go back to work and open the envelope. Is it a payslip? Is it a letter asking you to make an appointment about what is happening? No! It is a formal workplace medical assessment that could mean you have to medically retire and have your professional certification taken away.

You sit and start sobbing because you ask yourself, “Why are they doing this to me?” You are then sent home.



#### **Beware of hired gun psychiatrists**

Wait for it ... being upset and crying after reading a medical assessment about yourself — an assessment you were not even aware was being carried out — is considered a sign of instability.

You are then stood down, need a medical clearance and forced onto a rehabilitation program. The purpose of the rehabilitation program is to ensure you are aware that you should resign and that dobbing is not tolerated.

For years after this medical assessment was undertaken, you find this history follows you. It does not matter

that you were concerned about unsafe practice.

You need to be strong to survive and continue to work. And beware of work-based medical assessments!

Do you feel fucked over yet? Because you must have been, several times!

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### **Bruce Hamilton**

a letter from Bill Toomer

12 November 2013

I’ve just received news that Bruce Hamilton, one of original founding members of Whistleblowers Australia, has died from a sudden heart attack in Newcastle.

Although his choice was that of a low profile, during later years Bruce was something of a Keith Potter (albeit behind the scenes) in unrelenting effort to help the whistleblowers’ cause.

He had personal access to certain parliamentarians and other people of acknowledged influence and there is no doubt this contributed to some positive awareness of whistleblowers.

Like Keith, the correspondence from Bruce was of high quality and similarly of rather prolific and sustained effort. Some of the contributions of Bruce have been published over the years in newspapers and elsewhere.

I would like to acknowledge Bruce’s valuable efforts.

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## WBA conference

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WBA's annual conference was held at the Uniting Centre, North Parramatta, Sydney on 23 November 2013. There were seven speakers. Cynthia Kardell introduced each of them; her remarks are reproduced here. Some of the speakers provided a written text of their talks. For others, you can read Brian Martin's notes on the spoken presentation.

### Agenda, as advertised

9.00–9.15

Welcome, Cynthia Kardell, president, Whistleblowers Australia

9.15–9.55

Brendan Thomson, former federal police officer

Topic: AFP riot squad cuts, in lead-up to Christmas Island riot

9.55–10.35

Peter Fox, Detective Chief Inspector, NSW Police

Topic: NSW police cover-up and child sex abuse in the Catholic Church

10.35–11.05 MORNING TEA

11.05–11.45

Brian Hood, former company secretary of Reserve Bank subsidiary

Topic: Reserve Bank subsidiaries paid bribes for business

11.45–12.25

Jo Barber, former CIB detective and medical board investigator

Topic: Queensland Medical Board allowed dodgy doctors to work

12.25–1.45 LUNCH

1.45–2.25

David Vaux, molecular biologist and Deputy Director of the Walter and Eliza Hall Institute in Melbourne

Topic: Researchers behaving badly

2.25–3.05

Ying Morgan, former scientist, University of New South Wales, Sydney

Topic: University cover-up of skin cancer research fraud

3.05–3.35 AFTERNOON TEA

3.35–4.15

George Masri, Senior Assistant Ombudsman, Commonwealth Ombudsman

Topic: New federal whistleblower protection laws

4.15–5.00

Cynthia Kardell, president, Whistleblowers Australia  
Launch of Brian Martin's book  
*Whistleblowing: A Practical Guide*

Cynthia opened the conference by reflecting on significant events, in relation to whistleblowing, in the past year. Ed Snowden's revelations about surveillance have led to continued discussions about government operations, thus showing the significance of whistleblowing.

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### The AFP and Christmas Island

Brendan Thomson

#### Introduction by Cynthia Kardell

In March 2011 Christmas Island detention centre exploded in flames, as detained asylum seekers ran riot. The rebellion was the culmination of months of growing tension caused by a surge in boat arrivals, overcrowding, and a sense of desperation among detainees over delays in processing their claims, all issues that continue to dog the Government's asylum seeker policy today.

The disaster occurred not long after a controversial decision by the Australian Federal Police to withdraw its specialist riot staff from Christmas Island.

Now it seems the AFP made that decision deliberately, partly to expose the security failings of the Immigration Department and the detention centre operator, SERCO.

A police whistleblower, Brendan Thomson, went public to accuse the AFP of letting politics get in the way of policing, and of giving misleading evidence to a parliamentary inquiry on the incident. Brendan is here today to tell his story, so please welcome Brendan Thomson.

Brendan spoke to a prepared text, because of legal risks.

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### Speaking out in the NSW police

Peter Fox

#### Introduction by Cynthia Kardell

Detective Chief Inspector Peter Fox is an accomplished and experienced investigator and police officer. He has led investigations into significant murders and other serious crime which have taken him to China and other parts of Asia. A number of these investigations were featured on television programmes like "Forensic Investigators" and "Gangs of Oz." Author John Sutor-Linton based his 2006 true crime novel *Murder at Anna Bay* on his investigation into the brutal bashing murder of Judith Brown in 2002.

Peter has provided presentations at Sydney universities and forensic science faculties and given presentations on investigation and interviewing techniques to various courses at the Goulburn Police Academy.



Peter Fox

Photo: Jonathan Carroll

In 2007, after 28 continuous years at the coal-face of criminal investigation, he was promoted to Detective Chief Inspector and later, took up the position of Crime Manager at Port Stephens in late 2008, leading to the events of the day.

He developed a name, for never shying away from the really tough investigations, involving police ac-

cused of departmental and criminal offences, including criminally charging some with sexual and assault related offences. Inevitably, police culture being what it is, he has come in for more than his fair share of criticism and some ostracism because of it. So it was no surprise that when he stepped up to the plate in 2012 to speak out about an alleged police cover-up of sex abuse within the Catholic Church, he was hammered. When Prime Minister Julia Gillard announced a sweeping royal commission of inquiry into institutional responses to abuse, Fox felt vindicated and satisfied that the thousands of voices of abuse victims would finally be heard.

**Peter Fox's talk:  
notes by Brian Martin**

Peter said he would speak only a bit about matters in the Catholic Church, because some are still ongoing. He said that when he spoke out, he knew it was a major issue and would have major implications.

Peter always wanted to be a cop and wanted to stay in positions where he could make a difference.

Peter was influenced by a statement by James Wood, lead commissioner in the royal commission on corruption in the NSW Police, held in the mid 1990s. Wood referred to the problem that police close ranks against insiders who reveal problems.

Peter had a fairly tough upbringing in Sydney and thought he knew how the world works, but after joining the police he became aware of the high level of corruption throughout Sydney.

After seeing exposure of police corruption through the royal commission, he had hope for change — but the police culture did not shift at all. So when he spoke out about crimes by police, such as sexual harassment and rape, other officers wanted to protect the perpetrator, because they wore the same uniform.

In 2006, Peter applied for a job at professional standards, but was secretly disqualified. Peter threatened to go public about this, and was given another job — without competition. He was given the job keep him quiet. But he wouldn't accept this corrupt practice, and wrote letters to the Independent Commission Against Corruption, the Ombudsman and other

agencies, but they all said it wasn't something they dealt with.

Peter described other cases in which an officer committed a crime (such as assaulting a suspect) and another officer reported the crime — and the officer who committed the crime was not charged or penalised, whereas the whistleblowing officer suffered reprisals.

Because Peter took on internal investigation cases, he was ostracised. For example, when he sat down for lunch, other officers would get up and leave.

Peter kept making complaints to the Ombudsman, and suffered reprisals within the force, with charges made against him that were based on trivial or manufactured events. He received anonymous threatening letters from fellow officers, and his wife also received hate mail. All he was trying to do was to ensure that police officers were subject to the law, just like any other citizen. Peter gave some revealing examples of how he was ostracised by senior officers with whom he had previously spent a great deal of time in professional and amicable circumstances.

At the inquiry into paedophilia in the church — a key case in which Peter played a leading role — he was surprised to find that former officers that he had investigated were present, seemingly carrying out errands for police and stalking Peter and his wife. The ongoing harassment has led Peter to seek to leave the police.

In Victoria, Kevin Carson spoke about paedophilia in the Catholic Church, and was lauded for his actions. Peter asked why the NSW Police had not provided him with the same level of support. One clue is the close liaison between top-level church and police figures.

## Reserve Bank subsidiaries paid bribes for business

Brian Hood

### Introduction by Cynthia Kardell

In 2005 Brian Hood was company secretary of Note Printing Australia, a subsidiary of the Reserve Bank of Australia. He became concerned about their dealings with a Malaysian agent after a 2005 meeting about a \$2.2 million payment to the agent.

The agent assured him that not all of the commissions were being retained by him and were being distributed to a "network," which Mr Hood believed meant bribes.



Brian Hood

Photo: Michael Clayton-Jones

At the time Mr Hood said he "got nowhere." He was not being believed. He was being told to shut up and stop investigating things. He was intimidated and harassed, and in fear of losing his job.

In 2007 Mr Hood had a 90-minute meeting with the Reserve Bank's deputy governor Ric Battellino to discuss his concerns about payments to foreign agents, after which Mr Battellino asked him to put his complaints in writing. He did that, in a five-page memo. The memo led to a special audit and an investigation by law firm Freehills, who concluded no laws were broken and all staff remained in their roles. Battellino later retired.



In 2009 the AFP began its investigation after a referral from the chairman of Securrency, another subsidiary.

In 2011 the AFP charged six people and two companies — Reserve Bank of Australia subsidiaries Securrency International and Note Printing Australia — with bribery of foreign public officials.

The six persons charged in Victoria are former employees of Securrency and Note Printing Australia and held positions as chief executives, chief financial officers, and sales agents acting on behalf of each company.

The AFP said Malaysian authorities had also laid bribery charges against two Malaysians. The court hearing continues to date, although some parts are subject to a suppression order.

#### **Brian Hood's talk: notes by Brian Martin**

Note Printing Australia (NPA) is a subsidiary of the Reserve Bank of Australia, 100% owned. It makes polymer bank notes for Australia and 25 other countries, and prints Australia's passports, and thus requires high security. Brian worked there as chief financial officer and company secretary.

NPA and Securrency and their managers are charged with paying bribes of tens of millions of dollars. This is important because it involves taxpayer monies, it is illegal and immoral, and it has damaged the reputation of the business.

The culture in NPA and Securrency was one of aggressive marketing, in particular to promote polymer currency throughout the world. Meanwhile, agents were paid over-generous commissions simply for introducing the company to decision-making individuals. Agents did not incur costs on behalf of the companies. So why were such million-dollar commissions being paid? In some other countries, the commission payments were being used to pay bribes to obtain business.

Brian reported all sorts of problems to the CEO, who wasn't interested. So Brian also informed an RBA assistant governor and NPA board director.

All of Brian's reports were carried out in accordance with legal requirements, but he did this only by chance, because in his view he was just doing his job.

Brian encountered verbal abuse, harassment and intimidation. He even was advised by a consultant hired by the CEO to leave: "You don't fit in. F off!"

The Australian Securities and Investments Commission (ASIC) did not interview any RBA directors, even after the companies were charged, much less contact Brian. It decided not to investigate. After a *4 Corners* television broadcast on 30 September 2013, exposing the problems, ASIC defiantly stated that it would not be investigating and wouldn't say why it wouldn't be investigating.

None of the senior figures involved in NPA or the Reserve Bank have been questioned or charged.

Brian said the role of culture in an organisation is vitally important. So it's important for workers to judge the culture before speaking out.

#### **Comment from an audience member**

It is vitally important to keep careful notes about who, what, where and when. Police and accountants are trained to do this. When called to testify, the detailed notes are hard to refute. Whistleblowers should consider investing in a digital recorder and using it to record conversations.

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## **Queensland Medical Board allowed dodgy doctors to work**

Jo Barber

#### **Introduction by Cynthia Kardell**

You'll all know of Jo Barber, the former detective and Medical Board Manager of Investigations who also worked for Queensland Health's Ethical Standards Unit. Jo accused the Queensland Medical Board and state government agencies of failing to protect patients against inept doctors, alleging hundreds of cases of medical malpractice and criminal misconduct by doctors were not properly investigated.

Jo has had a hard time of it, but she has been remarkably successful. In May 2013 in an unprecedented move, the entire medical board was axed, to be replaced. A specialist health ombudsman was appointed and a

number of dodgy doctors have been prosecuted.

#### **Jo Barber's talk: notes by Brian Martin combined with text by Jo Barber**

Jo has been a public servant for over 20 years. Her first job was in the police service in Queensland, where she felt she could help people. She joined during a period of significant change just after the Fitzgerald Inquiry in the late 1980s which exposed police corruption. She saw the result of that inquiry driving corrupt officers further underground whilst many honest senior cops left the job disillusioned. The flow-on effect was that junior officers like Jo were forced to take on more senior roles with little or no peer support of training from senior colleagues.



Jo Barber

Photo: Sarah Marshall

She then moved to work in Fraud investigations unit at WorkCover in Queensland. She was there for 10 years rising to manage the Unit there before moving on to a job at the Medical Board in 2007 involving investigating complaints against doctors. It seemed a good time to become involved in this work, two years after the Patel saga, in which a rogue doctor was charged with murder.

Jo closely followed the evidence given at the Patel Commission of inquiry in which Medical Board staff gave evidence which painted the Medical Board's management of doctors registration and investigation as being professional. However as soon as she took up her role there Jo

found the reality was that the Medical Board's complaint Unit was severely under resourced, resourced by a few poorly trained and often unmotivated investigators and that no formal systems of complaint were in place.

There were not even basic written or informal complaint management systems in place, and no proper filing system to track action on complaints. Many complaint files were in disarray, many not having been picked up or opened for years, stored in old filing cabinets or boxes lining the walls.

On her first day, Jo was given 60 cases to deal with, some of them 4, 5 and 6 years old. On a regular basis she was advised not to interview patients subject to some of the complaints and all investigative work was being done by phone or mail which made investigating the cases exceedingly difficult.

She discovered cases of doctors registered in Queensland who had lied about their qualifications, who were paedophiles, and who had been accused of raping their patients. The Medical Board often placed conditions on some of these doctors, for example to have a witness present when a doctor met with a woman or children, but found the Medical Board never monitored these conditions appropriately. This put patients at extreme risk of the doctor reoffending (which occurred in several of these cases whilst she was there).

Jo played a tape recording to the conference audience of a doctor who had reported on another doctor as having sociopathic tendencies, who seemed to have intentionally ended the lives of some patients. The doctor making the report was fully in support of Jo's efforts.

Although the Medical Board had this evidence from this doctor (and other doctors) in 2007 the Medical Board never carried out any audits of deaths of patients being treated by this doctor and failed to collect other vital evidence in this case. It also refused to report the doctor to the police. This doctor is still working in Queensland despite suspicion surrounding numerous deaths he was involved with never having been properly investigated.

Why did the Medical Board ignore these cases? Board members were doctors and apparently worried that if these horrific cases were exposed

publicly it would harm the reputation of the medical profession.

Jo collected evidence in 50 or 60 cases of hair-raising stories. She took some of these to a politician, but nothing happened. So she went to the media a year ago. Rob Messenger (a former Queensland state politician) helped her obtain media coverage.

Immediately after the media coverage her credibility was publicly smeared in a report released to the public by Queensland corruption watchdog, the Crime and Misconduct Commission. It was not until eight months later that two more publicly released reports proved the allegations she was making were all true. In addition to this as soon as she went public she was told she had no job and her pay was stopped. After media exposure of this reprisal, with the Minister for Health put on the spot on radio, she was returned to her post, but her employer is now trying to get her retrenched.

Since going public Jo has received numerous calls from good doctors and nurses in the system who are frustrated at having to work with the inept doctors and stand by whilst patients are continuing to be harmed. She hears cases in which nurses spoke out about dangerous doctors with the only result being the nurse is sacked and cannot obtain a job anywhere in the state whilst the dangerous doctor is allowed to keep his/her job and continue with damaging activities.

It hasn't been an easy road for Jo, but she says she wouldn't change a thing.

**Question** Why not take these cases — rape, unlawful killings — to police yourself?

**Jo** I was a public servant and had signed a confidentiality agreement. I didn't think of doing this for quite a while, believing that the system would work eventually. If I had reported cases to the police against Medical Board wishes I would have lost my job immediately.

**Question** What about the case of a nurse who caused many deaths?

**Jo** Just as paedophiles are drawn to occupations involving children, some psychopaths are drawn to medicine where there are opportunities to kill people and watch people die. How-

ever, other doctors find it hard to believe that there are people like this in the medical profession.

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## Researchers behaving badly

David Vaux

### Introduction by Cynthia Kardell

Professor David Vaux is a molecular biologist and the Deputy Director of the Walter and Eliza Hall Institute in Melbourne, where he does research into programmed cell death and its role in cancer. His interest in issues of responsible conduct in science led to him giving the plenary talk at the 2nd World Conference on Research Integrity in 2010.

David came to my notice when he appeared on "7.30 Report" in connection with Dr Ying Morgan, another speaker today, who blew the whistle on a researcher behaving badly in the faculty of medicine at the University of New South Wales, which you see was a very good fit, because David has two missions: the establishment of an office or ombudsman for research integrity in Australia, and the adoption of double-blind peer review as the standard for journal publications.

As whistleblowers, we can relate to a man with a mission!



David Vaux

### David Vaux's talk: notes by Brian Martin

When companies want to develop a new drug and see some relevant academic paper, they then try to reproduce the findings — but even

with the support of the original researchers, only 11% of results can be reproduced, according to a study of 65 cases, published in the top scientific journal *Nature*.

David described a study of tumours in mice, that was also published in *Nature*, in which the findings were suspiciously precise, the same mouse was apparently presented as different mice, and the tumours had been allowed to grow beyond what is allowed on ethical grounds. After reporting the problems to research institutes and to *Nature*, corrections were published.

This is just one of many examples. David showed diagrams from several cases that involved results that seem to have been photoshopped and where the same image was purported to represent two different things. When authors are contacted about the problems, they may deny any problem — and sometimes say that the primary data is no longer available.

The Office of Research Integrity in the US sometimes doesn't act, apparently because it's too expensive to take on lawyers acting on behalf of researchers. Similar problems of addressing research fraud occur in other countries, for example Italy and Canada.

David keeps writing to authors, universities and journals about problems in papers where data has been manipulated and faked. However, editors are reluctant to retract papers, and are frightened of legal action. Sometimes the journals publish corrections, but the authors of these corrections do not admit to any intentional action, and no action is taken against the scientists involved.

Each body that might take action against fraudulent research — journals, employers and integrity offices — puts responsibility on others, with the result that rogue researchers usually escape serious penalties.

David has performed impressive investigative efforts to find suspicious results. In his talk, he provided many slides showing the ingenious methods used by researchers to manipulate data.

#### **Take-away messages**

- Mechanisms to ensure the integrity of science need to be strengthened.
- Australia needs an office of research integrity.

**Question** Are these researchers obtaining funding from pharmaceutical companies?

**David** No, they receive government support for the research.

**Question** What did researchers do before photoshopping?

**David** Scientists are inventive. In earlier times scientists used other techniques — even using felt pens on the bodies of mice.

**Question** In large labs, the senior scientist may never see the experiment. PhD students and postdoctoral fellows do the research, while the senior scientist puts his name on the paper. So who is to blame?

**David** In a large lab, the leader may set several team members on the same project seeking to confirm the lab leader's hunches. The race to be the first one to please the boss encourages shonky techniques.

**Question** It must require a large amount of work to detect these suspicious results.

**David** It becomes quicker with practice. Because I've given talks about the topic, researchers often send me papers they are suspicious of.

**Question** What percentage of research is untainted?

**David** The article in *Nature* said that only 11% of findings in preclinical cancer studies could be reproduced. There is some fraud, but the much larger problem is incompetence.

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## **University cover-up of skin cancer research fraud**

Ying Morgan

### **Introduction by Cynthia Kardell**

On 12 August this year, the "7.30 Report" revealed that hopes about a new drug that could cure skin cancer have been dashed after human clinical trials have been suspended while claims of research misconduct brought by researcher Dr Ying Morgan are investigated.

The University of New South Wales is investigating allegations that some of the research data behind the trials was manipulated and possibly even false. The scientist who led the research, Professor Levon Khachigian,

has denied the research was flawed or that there was any deliberate misrepresentation.

The Professor explained how the new drug sends the tumour into a death spiral and as a consequence the body's own defence systems clean up the tumour. The drug is a DNA enzyme called DZ13. It targets cancer cells by switching off a master gene, slowing down the growth of tumours. The potential of the drug was hailed by experts in the field. And there were hopes the drug could go well beyond cancer treatment.



Ying Morgan

Dr Ying Morgan said data presented in the lab meeting appeared all too perfect, not real science. In April 2010, she turned to fellow academic, historian and university union representative, Dr Sarah Gregson, who reported the university held a preliminary investigation. Dr Morgan wasn't interviewed and the allegations were rejected. It was wrapped up in two months and the university considered the matter closed.

Despite the university rejecting her allegations, Dr Morgan continued to press a complaint. The university convened an external panel and Dr Morgan was interviewed twice. Again the scientists were exonerated, there were no reasons given for the findings to Dr Morgan and the file was marked strictly confidential.

A further reason for Dr Morgan's distress was that her work revealed DZ13 worked for the first 20 days. After that, it stopped working and the tumours started growing again. She

says her experiment showing a sharp increase after 20 days wasn't used.

But since the independent panel's findings, Dr Morgan has raised what she believes to be further serious irregularities in the research. She believes the same specimen was used in the images of both the treatment and the placebo. And what had been presented as two different images were actually one and the same.

These were the same images that caused David Vaux from the Walter and Eliza Hall Institute to write to the *Journal of Biological Chemistry* to say the images were not genuine and later to the university raising possible research misconduct.

#### **Ying Morgan's talk: notes by Brian Martin**

Ying described some molecular biology research involving what is called DNazyme technology. She worked from 2007 through 2010 as a postdoctoral research fellow at the University of NSW on a skin cancer project involving DNazyme.

She discovered that some of the claims made in the lab were unbelievable; other postdocs also said the results were dodgy. When she obtained results that the lab leader didn't want, he told her to stop the experiment and not report results from more than 20 days after inducing a tumour in the mice. In other words, only "good" results were sought. Furthermore, sometimes data from one experiment were used in reporting on another experiment.

From 2008 onwards, from the time she questioned the data, Prof Khachigian dismissed or deflected her.

Ying's talk provided a first-hand account of what goes on inside a lab in which data manipulation is carried out, leading to publications with the dodgy images of the sort that David Vaux exposed in his talk.

She then described going to various bodies about the problems she knew about, for example the university integrity office, the Cancer Institute and the National Health & Medical Research Council, but was given the run-around: lots of time elapsed but little action was taken, with her credibility attacked by some of the investigators. Her contract was not extended.

Ying's story shows how difficult it is to challenge dodgy research practices.

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## **New federal whistleblower protection laws**

George Masri

#### **Introduction by Cynthia Kardell**

George Masri is the Senior Assistant Ombudsman at the Commonwealth Ombudsman Office in Canberra.

In January 2014 new whistleblower protection laws, which were passed through Senate in the dying hours of the Rudd Government, will come into effect for the Commonwealth public sector. The act gives the Commonwealth Ombudsman's Office a key role in its implementation and operation. George is here today to give us an insight into how that might work.



George Masri

#### **George Masri's talk: notes by Brian Martin**

The new federal whistleblowing law, officially named the Public Interest Disclosure Act 2013, was finally passed after going through more than 150 versions. It takes effect on 15 January 2014.

George described key features of the new law. The idea is to encourage agencies to take a proactive orientation to problems and to prevent reprisals against whistleblowers. The new law applies only to new claims made from 15 January 2014 but can relate to conduct or wrongdoing prior to that date. It goes far beyond previous protections under the Public Service Act in relation to agencies and disclosers covered. The new law is meant to supplement existing protections and agencies.

The new public interest disclosure scheme applies to a wide range of individuals, for example including employees of contractors working for the federal government; furthermore, the Commonwealth Ombudsman and government agencies have the discretion to consider disclosures by individuals not explicitly included in the legislation.

The law covers diverse forms of misconduct, for example maladministration and research fraud. However, it does not cover parliamentarians or judicial decisions.

Taking reprisals against disclosers — for example, discriminatory treatment — is a criminal offence, as is making threats against them.

The scheme is focusing on fostering a change in organisational culture. Agencies are required to appoint authorised officers who can accept complaints; complaints can also be made to supervisors.

George gave quite a bit of detail about what the law covers and doesn't cover. There are lots of complications and possibilities. After two years, the operation of the law will be reviewed and a report produced.

**Question** Under the Fair Work Act, will disclosers have to fund their own cases against their employers?

**George** Not sure

**Question** What resources does the Commonwealth Ombudsman have to change the culture, given the deeply entrenched nature of problems in some agencies?

**George** The Ombudsman's Office has limited funds to cover a wide range of issues. So funding needs consideration, especially as there is uncertainty about the demands on the office under the scheme. There are many new requirements on government departments and agencies that they need to meet.

**Cynthia** What about the problem that the Ombudsman will receive personal grievances and other non-relevant matters mixed in with genuine public interest disclosures?

**George** The Ombudsman can recommend that disclosures be handled in various ways. The possibility of receiving personal grievances needs to be monitored and the Ombudsman can report on this as part of its annual report to Parliament and the Minister.

**John** Politicians need to be brought under control — they are the corrupt ones.  
[applause]

**Allan Kessing** talked about his story [see *The Whistle*, July 2013]. Senator Xenophon has worked indefatigably on Allan's case in support of a pardon, but three federal attorneys-general have rejected these pleas, giving identical responses. The three ministers during this time have been subservient to their departments.

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## Launch of *Whistleblowing: a practical guide*

### Cynthia Kardell

It's my great pleasure to be a part of the launch of this book, *Whistleblowing: A Practical Guide*, which as you know, has been written by our very own Brian Martin.



Brian's book being launched

It is on sale across the globe and is already making its mark. I found a post on the net by a Norwegian whistleblower, who found it to be very useful in charting a more strategic course.

Of course, there's much more to Brian than the Brian we know. He was president of Whistleblowers Australia from 1996 to 1999 and he remains a much valued vice president and international director.

But did you know Brian teaches in social sciences at the University of Wollongong, where he became a professor in 2007? Brian received his

PhD (in theoretical physics) from the University of Sydney in 1976. He subsequently worked at the Australian National University as an applied mathematician before moving to the University of Wollongong in 1986 as a social scientist.

The central theme of Brian's research is the dynamics of power, with special attention to strategies for challenging repression and exploitation — which will really resonate with most of us here, because exploitation and repression are about par for the course for most whistleblowers. Brian has explored power dynamics in theory and through case studies, including nonviolent action, dissent and scientific controversies.

Brian is also the author of about 13 books and over 200 major papers and chapters. Eight copies of one of his earlier books, *Suppression Stories*, are door prizes today.

He is a talented musician, part of a small performance group and as we all know from past conferences he can play a mean clarinet.

At the time Brian joined WBA in 1994, he was a member of Dissent Network Australia, a group bent on making dissent the social norm, which was how I came to know him. In my experience he has been endlessly helpful, resourceful, informative, patient beyond belief and sometimes truly funny.

As you all know he's a pacifist by nature and action and believes in the power of thinking and discourse as the only way of getting enduring change. To my mind, he is a man ahead of his time and he gives me hope that somewhere in the not too distant future his attitudes and thinking will become more our norm.

Can I ask you to come forward Brian, and tell us something of what you have written and hope to achieve with its publication.

### Brian

When I became president of Whistleblowers Australia in 1996, I thought I knew a fair bit about whistleblowing, but soon I learned a lot more, because whistleblowers assumed the person with the title (president) knows more. After a couple of years I found I was repeating the basics when talking to new whistleblowers, so I decided to

write a book to present the standard advice. It was published in 1999 and has been out of print for years.

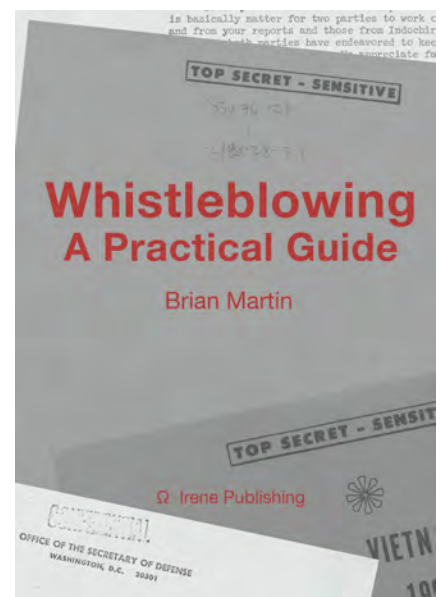
My friend Jørgen Johansen organised for me to give a talk to a small group of whistleblowers and lawyers in Oslo, Norway. After Jørgen saw how useful my book had been to some whistleblowers, he suggested I prepare a new edition for publication by Irene Publishing, a small operation he set up a few years ago. In the new edition, now titled *Whistleblowing: A Practical Guide*, I added new chapters on leaking and low-profile operations as well as thoroughly revising the rest of the text.

One of the features of the first edition was comments, at relevant places in the text, from several experienced whistleblower advisers: Jean Lennane, Isla MacGregor and Lesley Pinson. The new edition has additional insightful comments from two others: our own Robina Cosser and Cynthia Kardell. Thanks Robina and Cynthia for your valuable feedback and support as well as your advice reproduced in the book.

It is fair to say that the book reflects the great wealth of knowledge and experience provided and shared by many members of Whistleblowers Australia. So thank you all.

*Whistleblowing: A Practical Guide* is available as a free download at [www.bmartin.cc/pubs/13wb.html](http://www.bmartin.cc/pubs/13wb.html).

Printed copies can be ordered for about \$40.



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# WBA AGM

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## Whistleblowers Australia Annual General Meeting

24 November 2013

North Parramatta, Sydney NSW

1. Meeting opened at 9.05am

Meeting opened by Cynthia Kardell,  
President

Minutes taken by Jeannie Berger

2. Attendees: Cynthia Kardell, Feliks Perera, Robina Cosser, Geoff Turner, Stacey Higgins, John Murray, Greg McMahon, Karl Pelechowski, Sarolta Boda, Ken Smith, Yve De Brit, Brian Martin, Michael Cole, Jane Longhurst, Gerry Dempsey, Lesley Killen, Cathy Chase, Jeannie Berger, Rosemary Greaves, John McGlone Katrina McLean, Peter Sandilands; two names withheld

3. Apologies: Margaret Banas, David Reid, Toni Hoffman, Lisa Hamilton, Savannah Considine, Ross Sullivan, Margaret Love, David Forster, Graham Schorer, Ray Hoser.

4. Previous Minutes, AGM 2012

Cynthia Kardell referred to copies of the draft minutes, published in the January 2013 edition of *The Whistle*.

Cynthia invited a motion that the minutes be accepted as a true and accurate record of the 2012 AGM.

Proposed: Feliks Perera

Seconded: Robina Cosser

Passed

4(1). Business arising (nil)

5. Election of office bearers

5(1) Position of president

Cynthia Kardell, nominee for position of national president, stood down for Brian Martin to act as chair. Because there were no other nominees, Cynthia was declared elected.

5(2) Other office bearer positions (Cynthia resumed the chair.)

The following, being the only nominees, were declared elected.

Vice President: Brian Martin

Junior Vice President: Robina Cosser

Treasurer: Feliks Perera

Secretary: Jeannie Berger

National Director: Greg McMahon

5(3) Ordinary committee members (6 positions)

Because there were no other nominees, the following were declared elected.

Geoff Turner

Toni Hoffman

Katrina McLean

Margaret Love

Lisa Hamilton

Stacey Higgins

6. Public Officer

Margaret Banas has agreed to remain the public officer. Cynthia asked the meeting to acknowledge and thank Margaret Banas for her continuing support and good work.

7. Treasurer's Report: Feliks Perera

7(1) Feliks tabled a financial statement for 12-month period ending 30 June 2013. A motion was put forward to accept the financial statement.

Moved: Greg McMahon

Seconded: Robina Cosser

Passed.

### *Feliks' report*

Once again, it is my pleasure to present to you the accounts for the financial year ended to 30 June 2013.

This year, the Association has a surplus of \$877.76. The bulk of the income was derived from membership renewals, and also from generous donations from the membership. The fixed deposit investment with the National Australia Bank also contributed a good sum to our income by way of interest earnings. At the end of this financial year, all outstanding debts have been paid, and your Association has no creditors.

The Association has subsidised the annual conference of 2012 to the amount of \$2,414.73. This money was well spent, to encourage the members to attend the annual conference and take part in the deliberations. I trust the Association will continue to do so in the coming years, as the Association's

funds are being spent for the benefit of the members.

Once again, I want to remind the members how important it is to increase our membership, and I trust all of you will make a special effort to bring in at least one new member for 2014. Lastly, I want to thank the membership for their generosity, and their constant support of the work of the Association.

## ANNUAL ACCOUNTS TO YEAR ENDING 30 JUNE 2012

### INCOME

SUBSCRIPTIONS, \$3,050.00

DONATIONS, \$1621.42

INTEREST ON FIXED DEPOSIT, \$1,199.98

INTEREST ON CHQ ACCOUNT, \$0.58

TOTAL, \$5,871.98

### EXPENDITURE

WHISTLE PRODUCTION COSTS, \$2,149.39

SUBSIDY 2012 CONFERENCE, \$2,414.73

WEBSITE FEES, \$120.00

RETURN TO BRANCH, NSW \$250.00

FEES ANNUAL RETURN, \$51.00

PAYPAL CHARGES, \$9.10

TOTAL, \$4,994.22

EXCESS OF INCOME OVER EXPENDITURE  
FOR THE YEAR, \$877.76

### BALANCE SHEET, 30 JUNE 2013

ACCUMULATED FUND BROUGHT FORWARD  
FROM 2012, \$24,926.96

ADD SURPLUS FOR YEAR, \$877.76

TOTAL, \$25,804.72

FIXED DEPOSIT INVESTMENT AT NAB,  
\$20,988.98

BALANCE AT NATIONAL BANK AT 30  
JUNE RECONCILED, \$4,215.74

DEPOSIT 2013 CONFERENCE, \$600.00

TOTAL, \$25,804.72

7(2) Form 12A for submission to the Department of Fair Trading and lodgement fee.

The meeting nominated Margaret Banas to sign Form 12A for submission to the Department of Fair Trading, together with the lodgement fee.

Moved: Stacey Higgins

Seconded: Rosemary Greaves

Passed

## 8. Reports

### **Cynthia Kardell, President**

*Inquiries* have remained constant at about 2-3 every week and that's just me. Robina, Brian, Feliks, Jeannie all take calls in a regular way. I get good feedback and particularly so about Jeannie. So, I want to thank all of the committee for their hard work.

At this time each year I ask myself what's changed? What can I report?

I've seen a steady increase in enquiries from whistleblowers from the private sector; not only from large and small corporations, and businesses, but also from non government organisations, activist organisations and charities.

The activist organisations are the most interesting, because whistleblowers appear to be finding new ways to maximise the effect of their claims by putting them in the hands of funded activist organisations, which already have public voices, rather than going to the investigative bodies like ASIC. For example, the Boomerang Alliance in recent years has gone to the Environment Protection Authority and the government about tyre manufacturer Bridgestone over recycling of old tyres, based on information from whistleblowers. Another example is child abuse, with concerns brought forward by the Victorian United Voices for Children with Disabilities. Activist organisations are contacting us, because they want to know how to keep the whistleblower safe from harm. The beauty of these developments is that the push to correct wrongdoing is more direct, always out in the open, whether in the press or the internet and the whistleblower can remain anonymous.

What is driving private sector whistleblowers to partner with organisations already committed to bringing about the required change? It's the lack of any relevant legislation in the private sector, an awareness that the public sector model is patchy at best, and devastating consequences for whistleblowers who reveal their identity.



Cynthia Kardell

This is just the sort of wider public development that Julian Assange had in mind in setting up WikiLeaks. It's not good enough, as we all know, just to get the information out there. What you have to do is to harness the public's interest, be that by motivating the press or another activist organisation, so that governments feel compelled to do what they wouldn't otherwise have done, had the whistleblower quietly complied with the legislative systems on offer. And we can see why, from the steady stream of evidence being tendered in the Royal Commission into the institutional response to child abuse. Vested interests, cronyism, reputations, red faces and the hip pocket all too often get in the way. It is far easier to bash the whistleblower about the ears.

### **Jeannie Berger, Secretary**

Memberships are steady and have increased this year as opposed to last year. We now have broken into Northern Territory with two new members.

Inquiries are steady too, with more of our committee taking more calls. Once again I encourage all members who assist people to urge them to join.

### **Geoff Turner, Communications**

Geoff continues to maintain and update the WBA website. Geoff and Cynthia share the incoming inquiries.

### **Brian Martin, international matters and *The Whistle***

*The Whistle* is running smoothly. Brian encouraged members to submit stories for publication.

### **Greg McMahon, National Director**

Greg discussed matters concerning child abuse pertaining to the Royal Commission into Child Abuse, and a review into the Crime and Misconduct Commission (CMC), mentioning the cases of Col Dillon and Jim Leggate.

### **Robina Cosser, Schools contact**

Robina discussed her website <http://www.theteachersareblowingtheirwhistles.com/>, highlighting it is now her most popular website. 280,000 pages had been read by November 2012 and 396,000 pages have now been read. Robina also has had about 250 people contact her. Current stories being monitored at the moment include:

- Burpengary SS: the suicide of Deputy Principal Gavin Woods.
- Djarragun College, Cairns: exaggerated enrolment figures and also other workplace bullying complaints.
- Werribee Secondary College, Victoria: several workplace bullying complaints in court.
- MLC Burwood: music teacher Mrs Carey and several other teachers resigned.
- Tracey Marshall, Karatha, WA: problems at school, having breakdown and drove into a cyclone, still missing.

### **Stacey Higgins, WBA Facebook page administrator**

Stacey discussed the increased activity on our page and the increase in followers. Stacey urged members for more feedback on the page. Stacey also encourages the committee and all members to send any material of other business that she can put up on our page.

9. Agenda items and motions  
None put forward.

9(1) 2014 AGM: Sydney

10. AGM closed 1.15pm

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## Whistleblowers Australia contacts

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**Postal address** PO Box U129, Wollongong NSW 2500  
**Website** <http://www.whistleblowers.org.au/>

### New South Wales

**“Caring & sharing” meetings** We listen to your story, provide feedback and possibly guidance for your next few steps. Held by arrangement at 7.00pm on the 2nd and 4th Tuesday nights of each month, Presbyterian Church (Crypt), 7-A Campbell Street, Balmain 2041. Ring beforehand to arrange a meeting.

**Contact** Cynthia Kardell, phone 02 9484 6895, [ckardell@iprimus.com.au](mailto:ckardell@iprimus.com.au)

**Wollongong contact** Brian Martin, phone 02 4221 3763.

**Website** <http://www.bmartin.cc/dissent/>

**Queensland contacts** Feliks Perera, phone 07 5448 8218, [feliksfrommarcoola@gmail.com](mailto:feliksfrommarcoola@gmail.com); Greg McMahon, phone 07 3378 7232, [jarmin@ozemail.com.au](mailto:jarmin@ozemail.com.au)

**Tasmania** Whistleblowers Tasmania contact, Isla MacGregor, phone 03 6239 1054, [opal@intas.net.au](mailto:opal@intas.net.au)

**Schools and teachers contact** Robina Cosser, [robina@theteachersareblowingtheirwhistles.com](mailto:robina@theteachersareblowingtheirwhistles.com)

### Whistle

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Associate editor: Don Eldridge

Thanks to Cynthia Kardell and Patricia Young for proofreading.

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## On reporting research fraud

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I have come across situations in which institutions “lawyered up” in response to allegations [of research fraud], and in some cases actively attempted to block investigations regarding misconduct by their faculty [academics] (including a journal admitting they have been legally threatened if they move forward with actions against a paper). Generally, journals err on the side of caution and are unwilling to put themselves at legal risk, so they simply go along with what an institution says. This is a winning strategy for the institutions because they have a lot to lose — millions of dollars in indirect costs from grants — and don’t have to spend much to scare people away. On the other side of the coin, being a whistleblower entails great personal financial and legal risk. As I found out the hard way, my institution considered my whistleblowing activities to be beyond the remit of my role as a faculty member, and therefore did not offer any legal help. It’s perfectly understandable why they would do this — wanting to insulate themselves from any liability. However, as a result I now have to keep a lawyer on retainer, which costs thousands of dollars out of my own pocket to respond to threats ... all because I stuck my neck out and cried foul (and thus far have been only vindicated in doing so). Is it any wonder why people do this anonymously, when the deck is stacked in this manner? Billions of dollars of vested interests versus a lone whistleblower’s personal bank account. The whistleblowers are seriously out-gunned here and, as with any such conflict, refusing to take sides merely favors the person with the bigger gun.

— Paul Brookes, commenting on Ed Yong, Heidi Ledford and Richard Van Noorden, “Research ethics: 3 ways to blow the whistle,” *Nature*, 27 November 2013

## Whistleblowers Australia membership

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