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Subject: Justice Lucy McCallum - Criminal Investigation - Supreme Court of NSW

Dear Justice McCallum

I hereby request that you answer the below questions in relation to the private communication that you had with Kerry Stokes via his lawyer and fellow applicant Justine Munsie and their barrister Sandy Dawson on 6th of May 2014. You had the communication in the Supreme Court of NSW without my knowledge or consent in the matter Justine Munsie v Shane Dowling.

1. As you are fully aware the private communication that you had with Mr Dawson in court on that day is a breach of the 2014 Barristers Rules 53, 54 and 55.
2. These rules are not new. These rules were rules 57, 58, and 59, respectively, in the Barristers Rule 2007. They reflect what Gibbs CJ described in Re JRL; Ex parte CJL as the “*fundamental principle that a judge must not hear evidence or receive representations from one side behind the back of the other.*” See:
<https://portal.barweb.com.au/uploads/Communications%20with%20the%20Court.pdf>
3. It is also a breach of section 34 of the Crimes Act 1914 “34 - *Judge or magistrate acting oppressively or when interested*” given that you admitted that you knew Justine Munsie and then proceeded with your private communication and handed down a judgement in her favour.

The relevant precedents are many such as:

A judge must not receive private communications from a party or the representatives of a party without the knowledge and consent of the other party (R v Magistrates' Court at Lilydale; Ex parte Ciccone [1973] VR 122; Re JRL; Ex parte CJL (1986) 161 CLR 342).

A judge must also maintain the appearance of impartiality and must not be in a situation where he or she could be suspected of having sought or received private communications from a party or a witness (R v Magistrates' Court at Lilydale; Ex parte Ciccone [1973] VR 122; Haldane and Transexecutive Airlines Pty Ltd v Chegwiddden (1986) 41 SASR 546). See:
<http://www.judicialcollege.vic.edu.au/eManuals/VCPM/index.htm#27538.htm>

And:

1. An existing or previous association between the judge and a party to the proceedings may give rise to an apprehension of bias (Re Polites; Ex parte Hoyts Corporation (1991) 173 CLR 78).
2. If the judge believes that a relationship might give rise to an apprehension of bias, he or she should disclose that relationship in open court and invite the parties to

make submissions on whether the judge is disqualified due to that relationship (S & M Motor Repairs v Caltex Oil (1988) 12 NSWLR 358).

3. It is not necessary for the judge to disclose a personal relationship if he or she is satisfied, without any need for submissions from the parties, that it is inappropriate for him or her to sit on the case. It is only necessary to disclose the relationship if the judge is not prepared to excuse him or herself from the case on his or her own motion. See:

<http://www.judicialcollege.vic.edu.au/eManuals/VCPM/index.htm#27536.htm>

Given that you had private communication with Kerry Stokes, Justine Munsie and barrister Sandy Dawson I am sure you will be happy to respond to my questions.

1. How many times have you been instructed by Justine Munsie when you were a barrister?
2. When was the first time you met with Justine Munsie?
3. How many times have you met with or spoken to Justine Munsie?
4. When was the last you spoke to or communicated with Justine Munsie?
5. Do you regard Justine Munsie as a friend?
6. Given that you knew it was clearly a breach of the barristers rules and many common law precedents to have a hearing with barrister Sandy Dawson, why did you do it? What was the benefit to you?
7. Why did you hear the matter given you had a personal interest in the matter?
8. Why did you hand a down a favourable judgement for the applicants during the course of the private communication when it was clearly a breach of the law?
9. Why did you hear the applicants notice of motion in my absence?
10. At the beginning of the transcript (See attachment) it says *“(Her Honour declared that she had been briefed as a barrister in the past by Ms Munsie. No objection to her Honour dealing with the matter. Her Honour requested that the defendant be advised.)”* Clearly there was never going to be an objection given I was not there, so why did you not stop the proceedings then?
11. You said *“Her Honour requested that the defendant be advised”*. They did not advise me and in fact would not even tell me your name when I requested (many times) the judges name who heard the matter. What action will you be taking against the applicants for breaching your instructions? If you plan on taking no action then why not?
12. You say on page 2 of the transcript: *HER HONOUR: It's not a question of convenience, I don't know that it's proper for me to hear it, is it? We could wait and see if there is an objection.*
DAWSON: Perhaps if the matter were to come back for directions tomorrow and Mr Dowling could indicate.
Why did you ask Sandy Dawson the question: *“I don't know that it's proper for me to hear it, is it?”*. Why did you think it was not proper for you to hear it? Why did you wait until that point to say that? Is that an admission Sandy Dawson was the one running the court that day which he clearly was? Why did you not wait as Sandy Dawson suggested?
13. You say on page 3 of the transcript: *“HER HONOUR: At the moment I am not persuaded that there is such urgency to warrant the abridgement of time between now and Thursday.”* So why did you abridge it then?

14. You organised for Justice Hall to hear the notice of motion. What did you say to him?
15. And how did you convince Justice Hall hear the notice of motion and to override the judgement of Justice Harrison?
16. Why did you not hear the notice of motion?
17. What was the benefit to you of committing the crimes that you did as outlined above?
18. What did Kerry Stokes, Justine Munsie and Sandy Dawson promise you in return for the judicial favours?

Please respond in the next 24 hours and answer all questions. No need to send the response to Stokes, Munsie or Dawson as that would be alerting them to the investigation currently afoot.

Regards

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