

## QUEENSLAND HEALTH PAYROLL SYSTEM

### COMMISSION OF INQUIRY

#### SUBMISSIONS ON BEHALF OF MALCOLM JOHN GRIERSON

These submissions deal with the matters listed in the document headed "Issues List for Settlement Submissions" as they relate to Mr Grierson's evidence on 29 May 2013.

#### **Issue 12 - Did Mr Grierson, in negotiating with IBM on 19 August 2010, depart from the negotiating protocols established by Clayton Utz?**

Mr Grierson's negotiating protocols were established by the Cabinet Review Budget Committee Decision ("the CBRC") of 22 July 2010. In brief terms, the CBRC appointed Mr Grierson as Chief Negotiator. His task was to pursue a negotiated settlement with IBM. Mr Grierson's evidence was to the effect that he was informed by the Premier that the "overriding parameter" was to ensure that the payroll system kept paying Queensland Health employees. Ms Bligh, Mr Schwarten and Mr Lucas also gave evidence as to the importance of keeping the payroll system running.

Mr Grierson instructed others to engage Clayton Utz to assist in the negotiation process. Although it is accepted that Clayton Utz and Blake Dawson agreed on a method as to how negotiations ought to be conducted, the "negotiating protocols" were established by the CBRC, not by Clayton Utz. The CBRC reposed negotiating authority in Mr Grierson. He commenced negotiations with IBM as early as 23 July 2010, and continued to do so (e.g. see Annexure B to Charlston statement 20 May 2013, letter from Grierson to IBM dated 28 July 2010, wherein "The State reserves all its rights"). Mr Grierson's negotiations with IBM on 19 August 2010 and throughout the negotiation/settlement period were within the CBRC protocols.

#### **Issue 13 - If Mr Grierson did depart from the protocols established by Clayton Utz, was it prudent for him to have done so?**

Mr Grierson did not depart from the protocols. He was instructed to pursue a negotiated settlement with IBM. He had been informed, by Mr Brown, Mr Beeston and perhaps others, that IBM did not seem to be genuine in their efforts to negotiate. It is plain from the material that IBM were attempting to delay the negotiating process for as long as was possible, up to

20 August 2010, the end of the agreed settlement negotiation period, and the deadline for the State to terminate the contract. It is equally clear that it was always IBM's preferred position that negotiations take place without lawyers being present. In those circumstances, Mr Killey's email "complaint" of 17 August 2010 seems disingenuous.

The necessity for a face to face meeting with IBM on 19 August 2010 ought to be viewed in the context of the 20 August 2010 deadline and the requirement for Mr Grierson to report back to Cabinet. Mr Grierson clearly understood the limits of his obligations and responsibilities; he understood that he had no authority to "settle" anything.

Mr Grierson's negotiations on 19 August 2010 did not bear fruit. That much can be seen from the letter from Blake Dawson to Clayton Utz dated 20 August 2010:

*"Whilst IBM and the State have endeavoured to reach a negotiated settlement, IBM and the State have not been able to reach agreement."*

**Issue 14 - If Mr Grierson did depart from the protocols established by Clayton Utz, might a better outcome have been achieved for the State had Mr Grierson not departed from those protocols?**

The "outcome" for the State was not determined or achieved by Mr Grierson. The ultimate outcome was decided by Cabinet.

**Issue 15 - Did Mr Grierson negotiate with IBM on 19 August 2010 within the parameters set by the Cabinet Budget Review Committee Decision of 22 July 2010?**

It is submitted that the answer is yes.

**Issue 16 - If the answer to Issue 15 above is "no", in what respects and to what extent did Mr Grierson depart from those parameters?**

Given the foregoing submissions, and that Mr Grierson did negotiate within the parameters set by the CBRC, it is not necessary to submit in response to this issue.



**B H P MUMFORD**

Counsel for Mr Grierson

20 June 2013