

NOTICE OF FILING

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Registrar

Important Information

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Form 59
Rule 29.02(1)

Affidavit of Ryan Smith

VID 1023 of 2023

Federal Court of Australia
District Registry: Victoria
Division: General

MOIRA DEEMING

Applicant

JOHN PESUTTO

Respondent

Affidavit of: **Ryan Smith**
Address: [REDACTED]
Occupation: Non-Executive Director, Lincoln Minerals Ltd
Date: 21 May 2024

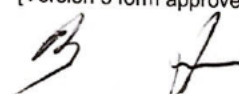
I, Ryan Smith, of [REDACTED], say on oath:

Background

1. I am a former Member of the Victorian Parliament.
2. I was a Liberal Party member of the Victorian Legislative Assembly from 2006 to 2023, representing the electorate of Warrandyte.
3. I served as Shadow Parliamentary Secretary for Environment and the Arts from 2008 to 2009 and then served as Shadow Minister for Industrial Relations and Shadow Minister for Manufacturing from 2009 to 2010.
4. I was Minister for Environment and Climate Change and Minister for Youth Affairs from 2010 to 2014, serving in both the Baillieu and Napthine governments.
5. From 2014-2022, I held numerous other portfolios.
6. I resigned from Parliament on 7 July 2023.

| | |
|---|--|
| Filed on behalf of (name & role of party) | Moira Deeming, Applicant |
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[Version 3 form approved 02/05/2019]



7. I am now a Non-Executive Director of Lincoln Minerals Ltd.

Exhibit RS-1

8. Exhibited to this affidavit is a bundle of documents marked 'Exhibit RS-1'.

Moira Deeming

9. I was aware of Moira Deeming before she was pre-selected in July 2022 to run for the Western Metropolitan Region in the Victorian Legislative Council. I had met her briefly at a few Liberal Party functions.

10. After she was pre-selected in July 2022, I arranged to have coffee with Moira. I then worked with her over the course of the following year, campaigning for support in the Western Metropolitan seats which culminated in her being elected in November 2022.

11. During that period:

(a) I invited Moira to join me in speaking with several Islamic communities about issues which were important to them like family values and freedom of religion. For example, she attended a debate with me that was organised by the Islamic Council of Victoria which was attended by people from various Islamic communities throughout Victoria. I observed Moira interacting with people from these communities and that they were attentive and listened to her and interacted with her positively. I formed the view from observing these interactions that they liked and respected her. I particularly recall she was invited to speak in the men's area of one mosque; this was a big deal because in my experience most mosques separate men and women and would not allow a woman to speak in person to the men in the men's area. This indicated to me the level of respect that this particular community had for Moira.

(b) I had also invited Moira to help me in a debate with a government minister, because I had observed that she had a talent for putting arguments together, was well read and well researched, and understood her topics.

12. Prior to 19 March 2023, I had formed a positive view of Moira. I thought she was a valuable addition to the Liberal Party team. She was knowledgeable and passionate. She had a reputation as being popular amongst, and having the support of, her constituents. I had every hope she would be a good Member of Parliament and would be regarded as such.

Chronology

13. I have seen a copy of Moira's Statement of Claim in these proceedings and adopt, in this affidavit, the terms used in that Statement of Claim.

14. In the evening of 19 March 2023, John Pesutto sent 'the Media Release' to me and other Members of the Victorian Parliamentary Liberal Party. I understand he also provided the



- Media Release to journalists and published it to his website and to the Victorian Liberal Party website.
15. Prior to receiving the Media Release, Matt Bach had called me in the evening of 19 March 2023. I cannot now recall precisely what he said, other than that he was letting me know I would soon be receiving a media release from Mr Pesutto and the Leadership Team about Moira.
 16. I had not heard of, or seen, any media reporting which linked Moira to the 'Let Women Speak' rally (**the Rally**) or to the neo-Nazis in the vicinity of the Rally until after the Media Release. [REDACTED]
 17. Prior to 19 March 2023, I had been in politics since 2006. Based on my experience as a politician since then, including my experience and knowledge of the usual practice and processes within the Victorian Parliamentary Liberal Party, I considered it completely inappropriate that Mr Pesutto publicised the Media Release. It was my view that, if there are alleged disciplinary issues involving members of the team, those issues should be resolved internally. The Media Release announced that Mr Pesutto was proposing to move an expulsion motion against Moira. My view was that any expulsion motion should have been sent to Members and it should have been resolved by Members. I thought Mr Pesutto should not have pre-empted the outcome of the process by anticipating that Moira would be expelled. I thought it was bad leadership. I thought there was no need for this to be aired in public. My view at the time was that I did not know the details, and therefore did not know whether the substance of the Media Release was accurate or not, but either way it should not have been publicised prior to it being discussed and resolved by the party room.
 18. I recall Mr Pesutto doing various interviews with the media on 20 March 2023. I thought this was complete madness. I considered this inappropriate for the same reasons I gave in the preceding paragraph.
 19. On 20 March 2023, Mr Pesutto sent me and other Members the 'Expulsion Motion and Dossier'. I thought it was amateurish. I thought it was laughable what the Leadership Team had prepared. It appeared to me that the content had been copied and pasted from the internet. Every claim within it seemed to me to be an overreach. I was shocked that this could have been prepared by Mr Pesutto who was a lawyer. I thought it was extraordinary.
 20. It was suggested in the Expulsion Motion and Dossier that Moira should be expelled because of her associations with extremists and Nazis or Nazi sympathisers. It seemed to me at the time that this ran counter to a fundamental Liberal Party tenet – freedom of association. I thought the claims were highly unfair.



21. I understand Mr Pesutto also provided the Expulsion Motion and Dossier to journalists and the public. Again, for the reasons I have given at paragraph 17 above, I regarded this as inappropriate.
22. At around this time (I cannot recall precisely when), I had a conversation with Moira about Mr Pesutto's statements about her and the proposed expulsion. I recall she was angry and indignant. She seemed to be trying to contain her emotions and was holding herself together well but I got the impression she was hurt and upset and was trying to hide her emotions from me and others. I could see she was under tremendous pressure and stress. I offered her my support.
23. One thing Moira told me has really stuck in my mind. I cannot recall precisely when she said this. She asked me whether Mr Pesutto could seriously expect that she should leave a women's rights rally because a group of men arrived and crashed it. She was very indignant about that. To my mind, no right-minded person could have expected her to do that.

Meeting on 21 March 2023

24. There was a Parliamentary Liberal Party meeting on 21 March 2023 (**21 March Meeting**).
25. Renee Heath, who was Secretary at the time, took notes of the 21 March Meeting. A copy of those notes is at pages 1 to 4 of Exhibit RS-1. These notes are consistent with my recollection of the 21 March Meeting, as a summary of it.
26. Richard Riordan moved a motion to delay Mr Pesutto's Expulsion Motion and I seconded Richard's motion.
27. There was then debate for and against Richard's motion. Amongst other things, Renee Heath's notes record that David Southwick said that the proposed expulsion was 'about Nazis' and I responded that Moira does not have any association with Nazis. That is consistent with my recollection. I recall that some Members spoke in favour of Richard's motion (i.e. in favour of delaying Mr Pesutto's Expulsion Motion). My general recollection of the reasons given by these Members included that the Expulsion Motion did not justify Moira being expelled and that if we postponed the Expulsion Motion we could potentially find a different solution which would allow Mr Pesutto to save face and save his leadership without Moira being expelled. Other Members spoke against Richard's motion (i.e. against delaying Mr Pesutto's Expulsion Motion). The gist of what these Members said was that we needed to put this to bed so it wouldn't drag on.
28. According to Renee Heath's notes, the vote went 11/18 against Richard's motion (11 in favour, 18 against).

B J

Meeting on 27 March 2023

29. There was another Parliamentary Liberal Party meeting on 27 March 2023 (**27 March Meeting**).
30. Renee Heath took notes of the 27 March Meeting.
31. There were subsequently three versions of Ms Heath's notes of the 27 March Meeting which are at pages 5 to 21 of Exhibit RS-1. The first version of Ms Heath's notes (pages 5 to 9 of Exhibit RS-1) was contained in an email she sent to Mr Pesutto on 27 March 2023 at 3.59pm. Those notes are consistent with my recollection of the 27 March Meeting. The second and third versions of her notes (pages 10 to 21 of Exhibit RS-1) are also consistent with my recollection of the 27 March Meeting. In my view, each of the three versions are materially the same.
32. Various members spoke for and against the Expulsion Motion.
33. I recall Mr Pesutto and the Leadership Team speaking in favour of the Expulsion Motion.
34. There were people begging for a compromise. When the debate had finished, but before Moira spoke, I asked Mr Pesutto directly whether there was any room for compromise. He said no. That was the last interaction before Moira spoke.
35. Moira spoke. I recall it was emotional, for her and others. Wayne Farnham was sitting next to me. I recall he was emotional as Moira spoke; his tears were dripping onto the carpet under us. Someone suggested a break. There was a lot of movement around the room at this stage. I believe Mr Pesutto was getting advice from his group. It was clear to me that, after Moira's speech, there needed to be a different outcome.
36. I went over to Moira with David Hodgett and Kim Wells. I was suggesting she might agree to a 6 month suspension, but my recollection is that Mr Pesutto was insisting on 9 months. I thought this would be a satisfactory outcome. I did not think it was fair; in my view Moira had done nothing that warranted any punishment, let alone an expulsion or suspension. But I thought it was a satisfactory practical resolution for the benefit of the party. The resolution was put to the party room and the party agreed to the compromise. The compromise was that there would be a 9 month suspension and that Mr Pesutto would put out a statement, jointly with Moira, recanting what he had said about her. The 'proposed compromise' as set out in Renee Heath's notes is consistent with my recollection of the resolution which we voted for.

Meeting on 2 May 2023

37. At another Parliamentary Liberal Party meeting on 2 May 2023 (**2 May Meeting**), there was a dispute about the minutes from the 21 March Meeting and the 27 March Meeting.

A copy of the minutes of the 2 May Meeting is at pages 22 to 23 of Exhibit RS-1. The minutes are consistent with my recollection of the 2 May Meeting.

38. I thought Renee's notes of the 27 March Meeting were as accurate as you could get and the criticism of them was unfair. [REDACTED]
[REDACTED]
[REDACTED]

39. It was agreed in the 2 May Meeting that Mr Pesutto and his office would work with David Southwick, Kim Wells and Renee Heath to prepare an agreed set of minutes for each of the 21 March Meeting and 27 March Meeting.

40. On 4 May 2023, Mr Pesutto was quoted in the media as having said: "*What was in the motion stands. Nothing in the dossier ever accused Moira Deeming of being a Nazi or herself having Nazi sympathies.*" I thought this was disingenuous. My view was that the whole point of the Dossier, and everything in it, was to imply that Moira had Nazi sympathies or had links to people who had Nazi sympathies. The Dossier was being used as 'evidence' to justify Moira's expulsion. It might be argued that the Dossier did not accuse her directly of these things; but the whole point of it was to infer those things.

Second Expulsion Motion

41. On 6 May 2023, James Newbury, Matthew Guy, Cindy McLeish, Roma Britnell, and Wayne Farnham moved a second expulsion motion against Moira (**Second Expulsion Motion**). [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

42. There were no reasons given for the proposed expulsion other than that Moira had apparently brought discredit on the Parliamentary Party. I considered the lack of reasons was unfair. In my view, Moira had not brought any discredit on the Parliamentary Party.
[REDACTED]

43. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

B L

Meeting on 12 May 2023

44. There was another Parliamentary Liberal Party meeting on 12 May 2023 (**12 May Meeting**). A copy of the minutes of the 12 May Meeting is at pages 24 to 26 of Exhibit RS-1. The minutes are consistent with my recollection of the 12 May Meeting.
45. There was debate about the Second Expulsion Motion and ultimately the vote passed and Moira was expelled. In my view, Moira was denied any natural justice in the process by which she was attacked following her attendance at the Rally until she was expelled. It was a poor reflection on the Leadership Team and on the party.
46. After that, a motion was moved that Renee Heath's position as Secretary be made vacant and she be replaced. [REDACTED]
[REDACTED]
[REDACTED] Mr Trung Luu was elected as Secretary in place of Renee.
47. I resigned soon after, on 7 July 2023.

Impact on Moira


48. Even after Moira was expelled, I maintained regular conversations with her and I have spoken with her from time to time after I left politics.
49. Over time, I observed that Moira's demeanour got worse and worse. She was stressed and struggling. My observations of her were that she was struggling to focus on anything other than the claims which Mr Pesutto had made about her which dominated her life and were overwhelming for her. She told me this had had a huge impact on her and her husband and children.
50. Whenever we have spoken since 19 March 2023, Moira raises the allegations against her and she would be very upset. She was focussed almost exclusively on this situation. In every conversation I could see she was upset. She wanted to resolve the situation but only in a way that restored her reputation which she thought had been unfairly attacked.
51. I know that Moira has very strong family ties. She has talked to me about how upset she is, as a mother and wife, about the way her husband and her kids have been affected by it. She has said it's had a huge impact on her family.

J

Sworn by the deponent
at Croydon
in Victoria
on 21 May 2024
Before me:

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)
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Signature of deponent


Signature of witness

JUSTICE OF THE PEACE FOR VICTORIA
Ross Stuart Tolliday FRVAHJ
Name and qualification of witness Reg. 
C/- Honorary Justice Services Support
