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16 September, 1994

Your Ref:

Our Ref: N/C001 G. Ellacott/JS

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By Facsimile: (03) 614 8730

ATTENTION: DR GORDON L HUGHES

Dear Dr Hughes

**ARBITRATION - TELECOM - ALLAN SMITH -
 CAPE BRIDGEWATER HOLIDAY CAMP**

L69153

Please accept the enclosed as Allan Smith's reply to the Telecom Interrogatories in respect to our Client's submissions to yourself in the Fast Track Arbitration procedure.

You will note that various answers in relation to the supply of documents in Schedule Two refer to documentation that is to be supplied direct to the Arbitrator. Our Client has furnished us with a significant amount of material that is to be forwarded to yourself and the same will be onforwarded by mail on Tuesday the 20 September 1994.

In respect to some of the material requested by Telecom, Mr Smith has been unable to locate the appropriate document. Mr Smith recognises that if the document is unable to be found then you will continue your procedure to assessment without that particular document. Mr Smith would then rely on your understanding that not every document over the past six years has been able to be located. I am sure that we are all aware of Telecom's inability to supply a wealth of documents to the COT cases.

In respect to Schedule Two, Number 6, Documents relating to the fault history of CBHC's telephone service and the request by Telecom for the supply of copies of Mr Smith's diaries which contain contemporaneous notes, we would advise that Mr Smith has some very real concerns about the supply of such diaries without deletion to Telecom. Mr Smith's reasons have been related to ourselves and we would share the concerns held by Mr Smith that Telecom could not guarantee the security of the contents of these diaries.

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form).

Bruce Pendlebury states not to check Smiths complaint, probably in RCM, Page 17 Cape Bridgewater Submission.

The writer of a Telecom document, who said the ELMI testing was not connected to the CBHC on the 13 October 1992 when it was. I complained to Commercial Melbourne. (Cape Bridgewater Submission Part Two August 1994).

(Cape Bridgewater Submission One Page 32 August 1994).

Rosanne Pittard told lies to Freehill Hollingdale & Page, that I only had 9 faults on my line from January 1993 to August 1993. This can be substantiated by checking Telecom 13999. 1100, 008 033849.

Re-video clip 1100 Telecom operator. Told lies. (Arbitrator and Telecom have a copy).

Steve Richards 03-720 6646 another fault operator, treated C.O.T. and myself with contempt. Had it not been for C.O.T. Coopers & Lybrand confirm the attitude of the operators.

24. In relation to page 48:

The Claimant alleges that his phone has been unlawfully tapped and the confirmation of that fact was received by the Claimant from Detective Superintendent Penrose of the Australian Federal Police. ↙

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- (a) State the date and circumstances and substance of the disclosure by Detective Superintendent Penrose that the Claimant's telephone was allegedly unlawfully tapped.

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Answer Question 24:

- (a) This matter is currently under investigation by the Federal Police. In the interest of fair justice I believe that I should not further comment apart from what I have already stated that it is true that I was told this by Detective Superintendent Penrose. If the Australian Federal Police are prepared to disclose the details of their investigation and of their dates of conversations with myself, then Telecom will be able to obtain the same.

L69180

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the claimants in presenting their claims and I'm not going to prejudice Telecom by imposing an artificial deadline in relation to the submission of its defence documents. But at the same time I don't think it's appropriate at this stage to be granting any extensions until you see how you go.

MR BLACK: If I can just make one comment, Mr Arbitrator. Our major concern of course is that some of the key documents, including the tax returns etcetera will only be coming on Friday. So some of the key financial elements and the key documentation thereto we see for the first time basically.

THE ARBITRATOR: Yes, I appreciate that.

MR BENJAMIN: That was the point I was going to make. The question of the start date of 14 October may be irrelevant to some extent.

THE ARBITRATOR: Yes, I appreciate that you haven't been in a position to get the whole claim or some of the key elements of the claim and you won't be in that position until this submission is complete. I simply am not prepared at this stage to grant an extension until we see how you're going.

MR BENJAMIN: We accept that.

THE ARBITRATOR: I also note you haven't asked for an extension yet. On that note we will conclude and I thank you?---Can I just - what was relevant, which I should have submitted, was that in 92 I tried to start quite a successful six camps, singles groups. Here's a lot of evidence - the thing is, these were names and addresses of single people which I'm a little bit - once again I would leave it in your hands but this is just

one - like a bit of cream for the cake, if you would like to call it, to prove beyond a shadow of a doubt that what I was saying about the small restaurant and the fact as I was running tours to Mount Gambier and to the wineries and things like that. This was going to be part of my build-up to produce a percentage above the Camping Association - in other words, part of my 15 or 20 per cent over and above all. The average rate of the Camping Association is \$28 per person or thereabouts per day. I could package a bus and get a driver to bring a group of 45 people down for \$165 for 3 days. So I was generating around about \$35 to \$40 a head compared to 25 and 26. Sometimes I was doing it at \$40 a head a day - extra. So this is where I was deriving a lot of my build-up to - now, you're welcome to have them. But these are - you know, these stem from 1992 and that's just a little bit more evidence. But I certainly don't want them to go out of this office. It's just more records of more people who I have spoken to who have been into the business and I'm just trying to say that's where I derived a lot of my revenue by way of the singles club. Now, had my phone worked, we would have got a lot more. Out of this, we have two different - a single group of people, single clubs stating that they could never ring me. So I started a - I had a base person in Hartwell to take my single people and even he couldn't ring me. You have documentation here in this. So I have not only lost the Cape Bridgewater Holiday Camp, I have lost a singles club. Not only did I do all the right things to try and create and get over that hurdle, I invented a person in Mount - in Melbourne and

HARTWELL WAS MY AGENT TO THE SINGLE CLUB MEMBERS EVEN HE COULD NEVER TELEPHONE ME AT WITH PETER TURNER.

BASE STATION TO TAKE MY CALLS
THE PHONES WERE TAKEN AWAY

also in Ballarat. You have other documentation - that same lady in Ballarat, she couldn't ring the camp; there's documentation that this number is no longer connected. What I'm trying to say is I have lost one business, I have lost two businesses. Now, I can verify it. I can't verify that through stress I have lost a certain amount of documentation - this is where I'm ending it now - and that's why I have brought in the taxation bureau to be able to show the people here I have nothing to hide. I have already had people in - and the Commonwealth Development do a complete look at how stressed I have been and they have experienced the problems too and so has Steve Black. He has been on the phone and he has heard, "This number is no longer connected," and he said he was going to forward me a letter but he hasn't done that.

Okay, thank you?---So here are the documents. ✓

Wait a minute. I want to hear a submission from Telecom, if they want to make one, in relation to putting further documentation into evidence at this stage.

MR BLACK: I'm a little unclear as to what the documents are. I assume they're documents of a list of names of the singles club. That's why I think you said?---Lists of names of people.

Are they documents supporting bookings or - - -?---Well, these people booked in as a club, right?

But do they actually list bookings made into the holiday camp?

---No.

They are just the names and addresses of the actual people who - - -?---And people that rang me, right, or people that - it was given me - that have tried to ring me. I

then rang them and we were trying to get people to come to the camp. Now, there were times that I went down to Ballarat and picked these people up or there were times I had a bus company bring them to Portland. They were actual bookings but some wasn't because I couldn't get the volume - - -

Some are names and addresses?---That's right.

Some people did book in, some didn't. Some reflect people who rung you about telephone problems?---That's right - no, no. There are points where I put - as you will see in the Ballarat Courier, for 4 months I ran a full ad, for 4 months, a large ad, and instead of getting 30 people, I ended up with five and six and seven people. It wasn't worth going down. It wasn't until about three groups later that we find out that these other people who had tried to ring me from Ballarat couldn't, and so therefore - and this is in your own documentation too. So what I'm trying to say is, I tried to set something up but once again, I had a hurdle, again in two areas with two people trying to use them as bases, right? They even couldn't - and that's some of their stuff.

But do those documents support that or do those documents just have names and addresses?---I mean, they support - I mean, I didn't just come and write them last night. They support evidence that people did - these people. Now, if you wanted to ring - and there are names of schools - but if you wanted to ring - the thing is, this is what I'm frightened of. You ring a certain number - what I'm trying to do is show I'm honest. Now, I know we're in an arbitration process. I'm trying to show you that I did record stuff, but it's not diary notes. It's

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---Correct.

And you do not wish to comment on it further?---Correct.
Telecom raises the point or makes the assertion that, "This is a very serious allegation and Telecom is therefore entitled to request further particulars." If I can ask a preliminary question, is this allegation relevant to your claim for compensation against Telecom? If it's not, the most expedient way of dealing with it might be to - - -?---Right, let it go.

Let it go?---Right, let it go.

Telecom, are you content with that resolution of this issue?

MR BLACK: If I understand it correctly, what you're saying is it's not relevant to the claim.

THE ARBITRATOR: My interpretation of what Mr Smith is saying - Mr Smith will correct me if I'm wrong - is that he does not seek to base his claim in any way on the allegation that his phones have been unlawfully tapped.

MR BLACK: Okay. I understood from what you said before that it's not relevant.

THE ARBITRATOR: Yes. What it means - and again I make sure Mr Smith understands what it means - is that effectively any reference in your claim documents to date regarding unlawful phone tapping will be treated by me and the resource unit as unsubstantiated and therefore not relevant for the purpose of determining whether you're entitled to compensation?---All right. No, I will go on to that then. I will go on to that - no, I will leave it in the claim because - - -

You understand if you leave it in the claim, Telecom is entitled to ask what is the basis for this allegat.

---Right, okay, yes, all right.

So you want to leave the allegation in?---I will leave the allegation in.

Can you provide further substantiating evidence?---I can provide documentation from Austel, that sent me a letter, stating the fact that my phones were listened to. A little bell used to ring every time somebody used to ring me. That bell used to ring for 3 months on end. I have come up with other evidence that Telecom still hasn't been able to answer and it's called a malicious trace call, an MTC, that was on my line 3 months or 2 months after apparently Telecom told the Federal Police that that other device, which was called an MTC, was taken off my line. So I don't know whether the second one is also - what would you say - a bugging device or whatever. I can't verify that. But I know a malicious call trace - - -

If I may interrupt, you said in relation to that second point that you could come up with evidence to that effect?
---Well, I can come up - - -

What sort of evidence?---It's clearly in the submission that there is evidence. It's written by Telecom and it states that - where it is, I'm not quite sure now. It clearly states that, "Mr Smith's phones for 3 months from June to August 1993, a little bell used to" - it doesn't say it like that, but that's how I see it. But it does - a machine device rang and the technician used to go and listen and make sure the phones were okay or whatever and then go about his work. Now, I have spoken to this Telecom technician. I have sent him a letter. I have spoken to my local police for every time I have contacted him because I knew that Telecom would say I'm

should be able to come up with and tell me what - you know - - -

If I can stop you there. That's not the point of this hearing today?---No, fair enough. Like I said - - -

I'm trying to ensure that all the materials available in support of your claim is put before Telecom and before me?---All right, okay.

Any further material that you believe is relevant to substantiate your allegation in relation to unlawful phone tapping should be supplied to me by 14 October? ---Right.

MR BENJAMIN: Mr Arbitrator?

THE ARBITRATOR: Yes.

MR BENJAMIN: I'm sorry.

THE ARBITRATOR: I was going to ask you if you had any further questions in relation to that item.

MR BENJAMIN: Just in respect of item 4 of the schedule 1 at p.2, Mr Smith has not provided any further details in respect of that particular question. So I take it then that he has nothing further to - - -

THE ARBITRATOR: The particular question being?

MR BENJAMIN: In respect of Detective Superintendent Penrose.

MR BLACK: There has been an allegation that Detective Superintendent Penrose says that the Plummers' telephone was allegedly unlawfully tapped?---I believe Telecom is playing on words - the word "illegally tapped" - it's like asking me - I'm not a - - -

THE ARBITRATOR: Sorry, if I can interrupt both of you, the issue here is that in your answers - your answer to question 24, you indicate that you were told something by Detective Superintendent Penrose?---Yes.

Is there any documentation to support that statement or is there any other light that you can shed upon that statement you have made in relation to Detective Penrose?

---Well, it's like the defence counsel talking to the guilty. I have been spoken to - I mean, there is a - - -

Again I will interrupt. If the answer is simply that Detective Penrose told you this and you can't say anything more - - -?---That's right.

- - - and that's your answer, that's all you have got to say?---That's right.

Simply, we're trying to clarify the status of the statement?

---Yes, right. I have spoken to Detective Penrose on two occasions and he has stated that my phones had been listened to.

Approximately when did you speak to Detective Penrose?

---2 weeks ago and 4 months ago at my premises.

MR BENJAMIN: If I can just make the point that Mr Smith is saying his phones have been listened to which is again somewhat different from what was stated here?---All right. At no time did Telecom ask my permission to listen in on my private phone calls.

THE ARBITRATOR: I think that is as much information that's going to be available in relation to that item. We now move on to claim documents submitted by the claimant on 18 August 1994. Can someone just clarify - where is this documentation? Whilst we're looking for the material to which this request refers, I note that Telecom is referring to a table consisting of five columns that was submitted by Mr Smith on 18 August 1994 and essentially Telecom are seeking a clarification of the meaning of that table. I think all of us would like