

## Media Release

28 February 2014

MinterEllisonRuddWatts

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### Whittall's lawyers happy to make letters public

This media release is made by Stuart Grieve QC and Stacey Shortall of Minter Ellison Rudd Watts, who acted for Peter Whittall in his defence of the health and safety charges brought by the Ministry of Business, Innovation and Employment (now WorkSafe).

There has never been any intention on Mr Whittall's behalf to be anything other than open about what his lawyers know about the circumstances in which the Ministry decided not to proceed.

In light of certain statements reported yesterday, Mr Grieve QC has today written to the Ministry's lawyer asking him to support Mr Grieve's intention to ensure that WorkSafe accurately represents to the New Zealand public what occurred in relation to the Ministry's decision to offer no evidence in support of the charges.

This is important because, as Mr Whittall's lawyers see it, the way this matter has developed with regard to their role in the process which led to the charges being dismissed is being misrepresented.

Any suggestion it was Mr Whittall's defence team who initiated discussions about the prosecution being resolved without trial is incorrect. It was the Ministry which initiated discussions about the possibility of a resolution in July 2013.

Mr Whittall's lawyers had been writing to the Ministry since May 2013 expressing concerns about the integrity of the Ministry's investigation and disclosure process. These were significant issues that the defence believed, and still believe, went to the heart of whether the prosecution against Mr Whittall could ever succeed. Such concerns were described in memoranda filed with the District Court in May, July and August 2013.

It was made clear to Mr Whittall's lawyers that any payment to the families and survivors could not be made in sole return for the charges being dismissed. This position was accepted by the defence team, even though they believed funds could be better used by the families and survivors than paid to lawyers to defend what they considered to be a flawed case.

Three letters were sent by Mr Grieve QC to the Ministry's lawyer regarding resolution of the prosecution without the need for a very lengthy and expensive trial at which the various allegations would be the subject of detailed challenge. The first letter was sent on 7 August 2013. The second letter was sent on 16 October 2013. At the Ministry's request, in early December 2013, that letter was amended to accommodate the Ministry's position that the payment be made into the District Court instead of using a trust structure. The amended letter also contained a new paragraph 2 which set out matters which the Ministry suggested should be added to the letter. The letter was nearly identical to the original 16 October version and not "sanitised" in any fashion.

Neither Mr Whittall nor Mr Grieve have any issue with any of their letters on this matter being made public. As a matter of protocol, WorkSafe will need to mutually agree.

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