
DATED

Gordon Thomas Galt
and
Glen Richard Lewis
and
James David Beecher
and
Michael Neil McGregor Davies
and
Barry O'Farrell MP
and
Crown in Right of New South Wales

**DEED OF RELEASE
AND INDEMNITY - DEFAMATION**

John McDonnell
A/Crown Solicitor
60-70 Elizabeth Street
SYDNEY NSW 2000
DX 19 SYDNEY

Tel: (02) 9224-5128
Fax: (02) 9224-5122
Ref: 201400705
T03 Bruce Cantrill



mc *BD*

THIS DEED is made the day of Two Thousand and Fifteen,

BETWEEN **Gordon Thomas Galt of c/-Quinn Emanuel Urquhart & Sullivan**, New South Wales
("the First Releasor")

AND **Glen Richard Lewis of c/- Quinn Emanuel Urquhart & Sullivan**, New South Wales
("the Second Releasor")

AND **James David Beecher of c/- Quinn Emanuel Urquhart & Sullivan**, New South Wales
("the Third Releasor")

AND **Michael Neil McGregor Davies of c/- Quinn Emanuel Urquhart & Sullivan**, New South Wales
("the Fourth Releasor")

AND **Barry O'Farrell of c/- Crown Solicitors Office of New South Wales**, New South Wales ("the First Releasee")

AND **The Crown in right of New South Wales**, represented for the purpose of this Deed by the Secretary of the NSW Department of Premier & Cabinet ("the Second Releasee")

(The First, Second, Third and Fourth Releasors are collectively referred to in this Deed as "the Releasors". The First and Second Releasees are collectively referred to in this Deed as "the Releasees". The Releasors and Releasees are together referred to in this Deed as "the Parties")

RECITALS:

- A. On 10 February 2014 the First Releasee made certain comments at a community Cabinet meeting in Maitland that made an implied but unintended connection between adverse findings in an ICAC Report and the Releasors (the "Publication").
- B. The First, Second, Third, and Fourth Releasors are the current directors of NuCoal Resources Ltd ACN 060 352 990.
- C. The Releasors claimed to have been defamed by the first Releasee's Publication made on 10 February 2014.
- D. The First Releasee is willing to make, and the Releasors are willing to accept, the provision of a correction with respect to the Publication and otherwise agree to resolve the matter upon the terms set out in this Deed.
- E. The Releasors have commenced proceedings 2015/42053 in the Supreme Court of NSW against the First Releasee.

- F. The Releasees deny all liability of any kind to the Releasors in respect of the Publication.
- G. It has been agreed by the Parties, without any admissions of liability on the part of any of the Parties, that Court proceedings will be resolved on the basis set out in this Deed in full settlement and full satisfaction and discharge of all claims and actions by the Releasors against the Releasees concerning the Publication.

AGREEMENT:

1. Definitions

- 1.1 Except to the extent that such interpretation is excluded by the context, in this Deed:
- (a) **"Claims or actions"** refers to all manner of claims, actions, causes of action, suits, arbitrations, debts, dues, costs and demands whatsoever or any one or more of them whether at law or in equity or under the provisions of any legislation or otherwise, arising now or at any past or future time.
 - (b) **"Correction"** refers to the "Correction" in Appendix A to this Deed.
 - (c) **"Releasor"**, in the phrases "First Releasor", "Second Releasor", "Third Releasor" and "Fourth Releasor" , means the Releasor and the successors, executors, administrators, assigns and agents of the Releasor and each of them.
 - (d) **"Releasors"** means the First Releasor, Second Releasor, Third Releasor and Fourth Releasor and each of them, jointly and severally.
 - (e) **"Releasee"** means:
 - (i) Barry O'Farrell MP;
 - (ii) the Crown in right of New South Wales; and
 - (iii) the Crown (as defined in the *Crown Proceedings Act 1988*); and
 - (iv) the State of New South Wales (within the meaning of the *Crown Proceedings Act 1988*);
 - (v) the Government of New South Wales, and its Ministers, departments, agencies, statutory authorities, statutory corporations, offices, office holders, officers, servants, employees and each of them; and

the successors, executors, administrators, assigns and agents of the Releasee and each of them.

- (f) **"Releasees"** means the First and Second Releasees and each of them, jointly and severally.
- (g) **"Parties"** means the Releasors and Releasees as defined in sub-clauses (c), (d),(e) and (f) above.
- (h) A reference to a word or expression in the singular form includes a reference to the word or expression in the plural form, and a reference to a word or expression in the plural form includes a reference to the word or expression in the singular form.

2. Resolution of Proceedings

- 2.1 By signing this Deed the Releasors authorise the Second Releasee to pay the sum of \$35,000 to the law firm Quinn Emanuel Urquhart & Sullivan as payment of the Releasors' legal costs in connection with the Publication.
- 2.2 The Releasors acknowledge that payment to the law firm Quinn Emanuel Urquhart & Sullivan will discharge the Releasees' obligation according to clause 2.1 of this Deed.
- 2.3 No interest at the rate specified by section 101 the *Civil Procedure Act* and *Uniform Civil Procedure Rules* will be payable on the legal costs if same is paid to Quinn Emanuel Urquhart & Sullivan within 28 days of the date when the Deed is last signed by one of the Parties.

3. Correction

- 3.1 The First Releasee agrees to provide the Correction to the Releasors as set out in Appendix "A" to this Deed.
- 3.2 The Correction will be provided by the Releasees' legal representative to the Releasors' legal representatives when the Deed is signed by all the Parties.
- 3.3 The Second Releasee undertakes to cause the Correction to be published by way of official media release within 3 business days of the date when the Deed is last signed by one of the parties, or when the Government of New South Wales ceases to hold a caretaker role after 28 March 2015, whichever is the latter event.
- 3.4 The Releasors shall be at liberty to make public the Correction and its contents but undertake not tender the Correction in any proceedings of a Court or Tribunal.

4. Discontinuance of Court Proceedings

- 4.1 Pursuant to the terms of this Deed the First, Second, Third and Fourth Releasors and First Releasee authorise their legal representatives to sign the Notice of Discontinuance a copy of which is annexed to this Deed and marked "B".

5. Releases and Indemnities

- 5.1 By executing this Deed, the Releasors:
- (a) release the Releasees from all claims or actions by the Releasors against the Releasee in respect of the Publication or any matter arising from it in respect of all manner of loss, damage, injury or other prejudice or wrong;
 - (b) shall not commence, proceed with or seek to prosecute any claims or actions against any person, corporation or other entity in respect of the Publication or any matter arising from it.

6. No Admission

- 6.1 Entering into this Deed and/or undertaking any act required by this Deed does not constitute an admission of liability in any respect by any of the Parties.

7. Entire Agreement

- 7.1 This Deed embodies the entire agreement between the Parties in respect of the subject matter of the Deed and there is no other understanding, agreement, representation or warranty whether express or implied in any way extending, modifying or qualifying any of the provisions of this Deed.

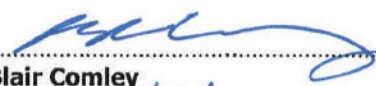
8. Bar To Proceedings

- 8.1 This Deed may be pleaded by the Releasees as a bar to any claims or actions arising in respect of the Publication.


EXECUTED AS A DEED:

SIGNED SEALED AND DELIVERED BY)
)
Blair Comley, Secretary – Department of Premier)
and Cabinet)
on behalf of the Crown in right of New South)
Wales, but not so as to incur personal liability,)
in the presence of:)


.....
Witness: **WILLIAM ATKINS**
Dated: **19 March 2015**


.....
Blair Comley
Dated: **19/3/2015**

Barry O'Farrell MP, in his own capacity, but)
not so as to incur personal liability, in the)
presence of:)


.....
Witness: **Bruce Centrill**
Dated: **19.3.15**


.....
Barry O'Farrell MP
Dated: **19.3.15**

Gordon Thomas Galt, in the presence of)
)

.....
Witness:
Dated:

.....
Gordon Thomas Galt
Dated:

Glen Richard Lewis, in the presence of)
)

.....
Witness:
Dated:

.....
Glen Richard Lewis
Dated:

EXECUTED AS A DEED:

SIGNED SEALED AND DELIVERED BY)
)
Blair Comley, Secretary – Department of Premier)
and Cabinet)
 on behalf of the Crown in right of New South)
 Wales, but not so as to incur personal liability,)
 in the presence of:)

.....
 Witness:
 Dated:

.....
Blair Comley
 Dated:

Barry D'Farrell MP, in his own capacity, but)
 not so as to incur personal liability, in the)
 presence of:)

.....
 Witness:
 Dated:

.....
Barry O'Farrell MP
 Dated:

Gordon Thomas Galt, in the presence of)
)

.....
 Witness: **ANDY SAMPSON**
 Dated: **17/03/15**

.....
Gordon Thomas Galt
 Dated: **17/03/2015**

Glen Richard Lewis, in the presence of)
)

.....
 Witness:
 Dated:

.....
Glen Richard Lewis
 Dated:

EXECUTED AS A DEED:

SIGNED SEALED AND DELIVERED BY)
)
Blair Comley, Secretary – Department of Premier)
and Cabinet)
 on behalf of the Crown in right of New South)
 Wales, but not so as to incur personal liability,)
 in the presence of:)

.....
 Witness:
 Dated:

.....
Blair Comley
 Dated:

Barry O'Farrell MP, in his own capacity, but)
 not so as to incur personal liability, in the)
 presence of:)

.....
 Witness:
 Dated:

.....
Barry O'Farrell MP
 Dated:

Gordon Thomas Galt, in the presence of)
)

.....
 Witness:
 Dated:

.....
Gordon Thomas Galt
 Dated:

Glen Richard Lewis, in the presence of)
)

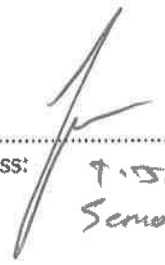
Meghan Etcell

 Witness: *Meghan Etcell*
 Dated: *17/3/2015*


Glen Richard Lewis

Glen Richard Lewis
 Dated: *17/3/15*

James David Beecher, in the presence of)
)



Witness: T. SONES
Senior Constable
Rose Bay Police



James David Beecher Dated: 17 MARCH 2015.

Michael Neil McGregor Davies, in the presence of)
)

Witness:
Dated:

Michael Neil McGregor Davies
Dated:

James David Beecher, in the presence of)
)

.....
Witness:

.....
James David Beecher Dated:

Michael Neil McGregor Davies, in the presence of)
)


.....
Witness: *Geoffrey Lewis*
Dated: *20 March 2015*


.....
Michael Neil McGregor Davies
Dated: *20 March 2015*

*Michael Mills, Partner of
Quinn Emanuel and solicitor
for Michael Davies*

ANNEXURE A

Correction

During my time as Premier, on 10 February 2014, I conducted a community Cabinet meeting in Maitland. At that meeting, in response to a question, I stated that ICAC had made adverse comments about the directors of Nucoal Resources. I also stated that the directors of NuCoal Resources were attempting to distract shareholders from their responsibilities as directors. I accept that those remarks may have suggested that the current directors of Nucoal (Messrs Galt, Lewis, Beecher and Davies) had been the subject of such comments. I accept that ICAC did not make adverse comments about those current directors of Nucoal. I did not intend to suggest that it had. I also accept that those directors were not attempting to distract shareholders from their responsibilities to them. I regret my comments and apologise to the four gentlemen in question.

Barry O'Farrell MP

NOTICE OF DISCONTINUANCE

COURT DETAILS

Court	Supreme Court of New South Wales
Division	Common Law
List	Defamation
Registry	Sydney
Case number	2015/42053

TITLE OF PROCEEDINGS

First Plaintiff	Gordon Thomas Galt
Second Plaintiff	Michael Neil MacGregor Davies
Third Plaintiff	Glen Richard Lewis
Fourth Plaintiff	James David Beecher
Defendant	The Honourable Barry Robert O'Farrell MP

FILING DETAILS

Filed for	Defendant
Legal Representative	John McDonnell, A/Crown Solicitor for NSW
Legal Representative Reference	201400705 T03
Contact name and telephone	Bruce Cantrill (02) 9224-5128
Contact email	crownsol@csso.nsw.gov.au
Frequent User ID	AG4NSW

NOTICE DETAILS

1. The plaintiffs discontinues the whole of these proceedings.
2. The plaintiffs do not represent any other person.
3. The defendant consents to the discontinuance.

SIGNATURE

Signature of legal representative

Quinn Emanuel Urquhart & Sullivan
Solicitors for the plaintiffs

.....

Date of signature

NOTICE OF CONSENT

Defendant

Signature of legal representative

John McDonnell
Solicitor for the defendant

.....

Signed in my capacity as a solicitor
employed in the office of the said
John McDonnell

.....

Date of signature

