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Crime and Corruption  
Commission

QUEENSLAND

Our Reference: CO-18-0348  
eDERMS: 18/108535  
Contact Officer: [REDACTED]

10 May 2018

<b>Queensland Legislative Assembly</b>	
Number: 56/8T 701	
 17 MAY 2018	Tabled <input checked="" type="checkbox"/>
MP: Hon Duke	By Leave <input type="checkbox"/>
Clerk's Signature: [Signature]	

Mr David Mackie  
Director-General  
Department of the Justice and Attorney General  
GPO BOX 149  
BRISBANE  
QUEENSLAND 4001

Dear Mr Mackie *Dave*

**RE: ALLEGATIONS ABOUT THE WORKPLACE CONDUCT OF MR WALTER VAN DER MERWE, INCLUDING WORKPLACE INTOXICATION, BEING ABSENT FROM WORK WITHOUT REASONABLE EXCUSE, FAVOURITISM, BULLYING, AND INAPPROPRIATE CONDUCT TOWARDS JUNIOR STAFF**

This letter is to provide advice outlining the outcome of a corruption investigation undertaken by the Crime and Corruption Commission (CCC) with respect to the allegations of corrupt conduct by Walter Van der Merwe in his role as the Electoral Commissioner of Queensland.

In your letter of 12 February 2018, you formally raised the allegations relating to the workplace behaviour of Walter Van der Merwe including-

- *being intoxicated in the workplace during working hours;*
- *being absent without reasonable excuse;*
- *showing favouritism;*
- *bullying some staff;*
- *undermining decisions by management by overriding decisions;*
- *behaving inappropriately towards junior staff; and*
- *being seen in a compromising position with a temporary employee.*

A summary of the 7 allegations investigated by the CCC is as follows:

**Allegation 1:** Van der Merwe routinely did not perform his functions as Electoral Commissioner when in the workplace. An example given relates to an incident where he was allegedly seen in a compromising position with a temporary employee. It is believed the conduct was of a sexual nature.

**Allegation 2:** Van der Merwe was intoxicated in the workplace and often absent from the workplace without reasonable excuse.

**Allegation 3:** Van der Merwe directed senior managers not to regulate the behaviour of employees who were friends of Van der Merwe. Action for unacceptable work practices was not allowed by Van der Merwe to be addressed against those particular employees.

**Allegation 4:** In favouring particular employees, Van der Merwe overruled reasonable management decisions of senior managers in relation to staff favoured by him.

**Allegation 5:** Van der Merwe had an internal auditor's position improperly re-classified from an AO6 to an AO8 classification and then promoted a friend of his executive assistant to the role without an appropriate process. A similar allegation was also raised concerning the role of Chief Financial Officer, who was allegedly appointed without any proper recruitment process.

**Allegation 6:** Van der Merwe left locked containers in the offices of the Electoral Commission Queensland. The containers were later seized by way of search warrant. When opened one of the containers held a quantity of steroids. It is suspected that Van der Merwe used drugs in the workplace.

**Allegation 7:** Van der Merwe fraudulently booked expensive hotels on his corporate card and refused to use the Qld Government Travel System.

The CCC has investigated all of the allegations that you have raised and that investigation has now concluded. The purpose of this letter is to advise you of the outcome of that investigation.

The CCC investigation has found there is sufficient evidence, on the balance of probabilities, to substantiate five of the seven allegations. The CCC has noted that Mr Van der Merwe was appointed by the Governor in Council under the *Electoral Act 1992* and is not subject to the provisions of the *Public Service Act 2008*. Any post disciplinary action under the *Public Service Act 2008* would not apply due to his resignation.

Findings in relation to the allegations are as follows:

**Allegation 1:** Based on the evidence provided by witnesses and forensic evidence obtained from mobile devices, Van der Merwe has breached section 1.5(d) of the Code of Conduct, which states 'ensure our private conduct maintains the integrity of the public service and our ability to perform our duties'. This allegation is substantiated.

**Allegation 2:** Based on the evidence provided by witnesses and forensic evidence obtained, Van der Merwe has breached section 1.5(d) of the Code of Conduct, which states 'ensure our private conduct maintains the integrity of the public service and our ability to perform our duties'. This allegation is substantiated.

**Allegation 3:** Based on the evidence provided by witnesses, Van der Merwe has breached section 1.5(d) of the Code of Conduct, which states 'ensure our private conduct maintains the integrity of the public service and our ability to perform our duties'. This allegation is substantiated.

**Allegation 4:** Based on the evidence provided by witnesses and forensic evidence obtained, Van der Merwe has breached section 1.5(d) of the Code of Conduct, which states 'ensure our private conduct maintains the integrity of the public service and our ability to perform our duties'. This allegation is substantiated.

**Allegation 5:** After interviewing witnesses, it became apparent to investigators that this allegation emanated as rumours amongst staff and seemed to be embellished slightly more upon each recollection. This allegation is therefore unsubstantiated.

**Allegation 6:** Based on the evidence seized, witness statements, the forensic analysis conducted on mobile phone devices and his subsequent court appearance, Van der Merwe has breached section

1.5(d) of the Code of Conduct, which states 'ensure our private conduct maintains the integrity of the public service and our ability to perform our duties' and also section 9(1) of the *Drugs Misuse Act 1986*. This allegation is substantiated.

**Allegation 7:** As explained in the financial audit and the version provided by the witnesses Van der Merwe did not conduct any unauthorised travel. This allegation is therefore unsubstantiated.

The CCC commenced prosecution proceedings against Mr Van der Merwe for a charge of possession of a dangerous drug in relation to allegation 6, and he has entered a plea of guilty and was sentenced in relation to that charge.

The investigation identified 7 procedural recommendations, being-

- That the section 48A (*CC Act*) policy for ECQ be finalised;
- That governance and audit processes relating to corporate credit card usage and travel by senior managers in ECQ be implemented;
- That advice be provided to ECQ HR/management reminding them of their obligations under 9.3 of the *Commission Chief Executive Directive 15/13* (See Annexure 10);
- That there be advertising in relation to long term relieving roles, including the Chief Financial Officer (CFO) role;
- That there be provision of Public Interest Disclosure (PID), Code of Conduct and Negative Workplace Behaviours training to all ECQ staff;
- That ECQ develop and implement an ECQ policy that provides parameters for formal and informal contact with Members of Parliament during a State Election;
- That ECQ develop and implement an ECQ policy that provides parameters for the 'exceptional circumstances' under which the Electoral Commissioner does not have to adhere to Queensland Government travel and corporate credit card policies.

The senior leadership of ECQ should be responsible for implementing those recommendations. The CCC would be pleased if you would provide advice back when these procedural recommendations have been implemented.

Should you require any further information or advice, please do not hesitate to contact [REDACTED]

Yours sincerely



**Alan MacSporran QC**  
**Chairperson**  
**Crime and Corruption Commission**