

MAKINSON d'APICE
L A W Y E R S

DATED: 26.9 2013

Deed of Settlement and Release

PHILIP GRAHAM D'AMMOND
(Releasor)

BISHOP PETER STUART
(Bishop Stuart)

ANGLICAN CHURCH OF AUSTRALIA - DIOCESE OF NEWCASTLE
(Diocesan Body Corporate)

ALL PRIOR AND FUTURE BISHOPS OF THE ANGLICAN DIOCESE OF NEWCASTLE
(Other Bishops)

Makinson d'Apice Lawyers
Level 10
135 King Street
Sydney NSW 2000

DX: DX 296 Sydney
Tel: 02 9233 7788
Fax: 02 9233 1550
Email: mail@makdap.com.au
Ref: 121662:AXK

MAKINSON d'APICE
LAWYERS

THIS DEED dated

26th SEPTEMBER

2013

PARTIES

PHILIP GRAHAM D'AMMOND of REDACTED Redfern in the State of New South Wales 2016 (**Releasor**)

BISHOP PETER STUART, the Administrator Bishop of the Diocese of Newcastle of 134 King Street, Newcastle in the State of New South Wales, 2300 (**Bishop Stuart**) of the second part.

ANGLICAN CHURCH OF AUSTRALIA – DIOCESE OF NEWCASTLE of 134 King Street, Newcastle in the State of New South Wales (**Diocesan Body Corporate**) of the third part.

ALL PRIOR AND FUTURE BISHOPS OF THE ANGLICAN DIOCESE OF NEWCASTLE c/o 134 King Street, Newcastle in the State of New South Wales (**Other Bishops**) (**the Releasees**) of the fourth part.

(Collectively the Releasees)

INTRODUCTION

- A. The Releasor has alleged that in or about the period 1975-1979 he was sexually assaulted by James Brown. As a result of these matters, the Releasor alleges that he has suffered injury, loss and damage and will require counselling and therapy in the future. The Releasor has made a statement to the Police and has filed a Statement of Claim in proceedings 288764 of 2012 in the District Court of NSW and provided medical evidence and other material through his solicitors, Carroll & O'Dea. All of these allegations are hereinafter referred to as "the claims".
- B. The Releasor has alleged that the Diocesan Body Corporate and Bishop Stuart, and/or other Anglican Church entities are liable to him in respect of the claims.
- C. The Diocesan Body Corporate and Bishop Stuart do not admit any wrongdoing or any of the claims as alleged or at all.
- D. James Brown was at all material times a Youth Ministry worker at St Albans Home Aberdare, which is conducted by the Anglican Diocese of Newcastle.
- E. In order to avoid the cost, expense and inconvenience of litigation or further dispute, the Releasees have agreed with the Releasor, without any admission of liability, to pay a lump sum of \$ 425,000.00 inclusive of costs (herein after referred to as the agreed sum) to the Releasor.
- F. The Releasor has agreed to accept the agreed sum in full satisfaction and discharge of any claim he may have or have had against any of the Releasees.

OPERATIVE PART

1. The Diocesan Body Corporate without any admission of liability agrees to pay to the Releasor the agreed sum as follows:
 - (a) payment of the agreed sum, less any part of the agreed sum required to be paid to Medicare Australia under sub-clause (b) or Centrelink under sub-clause (c) hereof;

- (b) payment of any amount that is required by the *Health & Other Services (Compensation) Act 1995* to be paid to Medicare Australia pursuant to that Act; and
- (c) payment of any amount required to be paid to Centrelink for any social security charge,

such payment of the agreed sum will be made within 28 days after the Releasees' solicitor receives a Centrelink clearance, or an Authority to Receive signed by the Releasor.

2. The Releasor for himself, his executors, administrators, heirs and assigns forever hereby releases, remises, quits and discharges the Diocesan Body Corporate, Bishop Stuart and the other Bishops and any member, servant, priest or agent of the Diocesan Body Corporate and each and every one of the Anglican Church entities described in clause 4 hereof or any of them from all actions, suits, claims and demands of every description which he now has or which but for this Deed might have or has had, or which hereafter could be asserted, brought or made by him, or by anyone on his behalf or through him, either at law or at equity, or under the provisions of any statute arising out of all or any of the alleged acts, facts and circumstances constituted by the claims or in any way relating to the same or any matters incidental thereto.
3. The Releasor agrees to file a discontinuance of the District Court Proceedings, with no order as to costs, within 14 days of him receiving the agreed sum.
4. Bishop Stuart, the other Bishops, the Diocesan Body Corporate, or their members, servants, priests or agents, or any of them, or any Anglican Church entity described in clause 4 hereof who may be liable to the Releasor arising out of the matters referred to in recital A may plead this Deed in bar to any claim or proceedings by the Releasor or any person claiming on his behalf in respect of the claims or any matter related or incidental thereto.
5. For the purposes of this Deed "**Anglican Church entity**" includes but is not limited to any Anglican Diocese or Province within Australia, any Bishop, Priest, servant or agent of such Diocese or Province, ^{whether current or former} any body corporate under the *Anglican Church of Australia Trust Property Act 1917*, *Anglican Church of Australia (Bodies Corporate) Act 1938*, *Anglican Church of Australia Constitution Act 1961* or *Anglican Church of Australia Act 1976* and all other Anglican Church related bodies.
6. The Releasor and Releasees agree to keep the agreed sum and the settlement discussions confidential, **PROVIDED** that this clause shall not in any way prevent or hinder the Releasor or Releasees from reporting to or co-operating with the police or any relevant authorities as required by law or from co-operating with the Releasees' advisers and insurers (if any), **AND PROVIDED FURTHER** that this clause shall not in any way prevent the Releasor from discussing the circumstances out of which the claims arose.
7. The laws of New South Wales governs this Deed and each of the parties irrevocably submits to the jurisdiction of the Courts of New South Wales.
8. The Releasor acknowledges that by accepting the agreed sum and executing this Deed he is not entitled to make any further approach to Bishop Stuart, the Diocesan Body Corporate or any employee, servant, priest, member or agent of them, or any

Anglican Church entity described in clause 4 hereof, for financial assistance, including assistance with respect to any specialist medical advice, counselling, therapy or for damages or otherwise.

9. The Releasor covenants and agrees that he will take no further civil action against the Diocesan Body Corporate or any member, servant, priest or agent of them, or any Anglican Church entity described in clause 4 hereof in respect of the claims.
- RD. 10. The Releasor ^{notifies} ~~covenants~~ that he has ~~not~~, as at the date hereof, been awarded or received any compensation pursuant to the *Victims' Compensation Act, 1996*. In the event it is established at any time that the Releasor has already been awarded or received, or subsequently receives or is awarded, compensation pursuant to the aforesaid Act (hereinafter called the **compensation**) and the Crown, pursuant to the aforesaid Act, seeks to recover all or any proportion of the compensation from the Diocesan Body Corporate or any member, servant, priest, or agent, or any of them, the Releasor covenants and agrees to repay and/or indemnify the said Body Corporate or the said persons the agreed sum. Such indemnity specifically includes any incidental costs, losses, liabilities, payments or expenses of any type to which the Diocesan Body Corporate and/or any member, servant, priest or agent of them, or any of them, may be or become liable to pay as a consequence of such recovery action by or on behalf of the Crown.
- TR 11. The Releasor covenants and agrees to indemnify the Diocesan Body Corporate in respect of any costs, claims, damages, liability, payment of expenses of any type that arise as a consequence of his breach of the terms of this Deed or as a consequence of any action, claim, suit or demand brought by any person claiming on his behalf or by any third party.
12. In the event that any provision of this Deed, or any part thereof, is held to be void or invalid, such provision or part thereof shall be severed from the whole and the balance of the Deed or the provisions (as the case may be) shall remain in full force and effect.
13. The Releasor confirms and acknowledges that prior to executing this Deed the Releasor had the opportunity to obtain his own independent legal advice, he fully understands the terms of this Release and has willingly entered into this Deed.
14. It is the intention of the parties that this Deed shall be binding on all parties and the benefit of this Deed should extend to all persons referred to throughout the Deed even though they are not parties to the Deed or they have not signed the Deed and the fact that they are not a party or have not signed the Deed shall not prejudice or affect their right to rely on the Deed.
15. This Deed sets forth the entire agreement between the parties hereto and supersedes any or all prior agreements or understandings between the parties hereto pertaining to the claims and the proceedings.

MAKINSON d'APICE
LAWYERS

4

EXECUTED as a Deed

Releasor

SIGNED SEALED AND DELIVERED by
PHILIP GRAHAM D'AMMOND in the
presence of:

Witness Signature

Signature

Print Name

REDACTED

Address

Bishop Stuart

SIGNED SEALED AND DELIVERED by
THE RIGHT REVEREND DR PETER
STUART, ADMINISTRATOR BISHOP OF
THE ANGLICAN DIOCESE OF
NEWCASTLE in the presence of:

Witness Signature

Signature

Print Name

REDACTED

Address

MAKINSON d'APICE
LAWYERS

5

Releasees

THE COMMON SEAL of THE ANGLICAN CHURCH OF AUSTRALIA - DIOCESE OF NEWCASTLE was affixed in pursuance of a resolution passed at a meeting of the body corporate in the presence of the Right Reverend Dr Peter Stuart and two members of the body corporate whose signatures are here set out.

Administrator Bishop

Member

Member