

1 August 2002

Doctor Peter Dodwell  
Dodwell and Associates  
PO Box 14666  
WELLINGTON

Dear Doctor Dodwell

### **Aviation Medical Assessor Examinations**

I refer to your judicial review application against the Civil Aviation Authority in which you challenge specific passages of the report by Professors Scott and Gorman entitled "The Process of Determining Fitness to Fly Aeroplanes in New Zealand: A Review of Current Practice and Recommended Changes".

I acknowledge that in respect of the passages challenged there has been a breach of the principles of natural justice in that it contained direct and indirect criticisms, which were made without affording you a fair and reasonable opportunity to respond to those criticisms before the report was published.

I acknowledge that you strongly dispute the criticisms and on behalf of the CAA. I unreservedly apologise for the breach of natural justice that occurred.

I understand that you will accept this letter as final resolution of your High Court claim, but in the circumstances I record that the CAA agrees to pay a contribution of \$15,000 towards your costs and disbursements in relation to the case.

In addition, to the matters relating to your judicial review application, you and I have met and discussed a number of other issues you are concerned about regarding your dealings with the CAA Medical Unit.

I am firmly committed to moving forward on issues involving your previous dealings with the CAA Medical Unit. We have agreed not to revisit issues disputed with CAA staff regarding the system in place prior to 1 April 2002. However, you have specifically asked me to address a number of personal issues relating to that period. As you are aware, I was involved in the medical issues and the judicial review in my role with the AIA on the other side of

these issues. I have a conflict of interest in dealing with these issues and cannot compromise the CAA's position. However, I can make the following comments regarding the matters you have raised:

1. With respect to your concern regarding the PMO's letter of 23 September 1999, I am advised that you have previously corresponded with the CAA through counsel on that matter. An apology was given by the Director for the manner in which CAA staff handled you with respect to the case which prompted the PMO's circular letter. However, the Director of the time declined to accept that these actions were unwarranted.

I have examined the record, and I confirm that your view that (regardless of whether some sort of action was warranted), it is clear that the specific action taken (threatening your appointment as an AMA and demanding an explanation, when in fact you had been approaching the PMO as an independent specialist in aviation medicine in order to discuss a case) appears to have been unsupported by any legislation of the time and seems to have inappropriately compromised your independence. It is also clear that at the time you had not been acting as an AMA for the case in question, and in any case were not in breach of any contractual obligations as an AMA.

The effect of this unresolved matter over the ensuing months was to put you into a false position as being "in dispute" with the CAA when in fact you had been wronged by CAA staff. This led indirectly to your position as Vice President of AMSANZ being questioned the following year, at the 2000 conference, because of an alleged "conflict of interest".

I unreservedly apologise for the actions of Dr Callaghan and Mr Macfarlane against you in that matter, and for the failure til now to address correctly the wrong done.

2. With respect to your e-mail of 31 May 1999 describing the concerns you had regarding the fitness of a particular AMA, I confirm that it was a self-evidently wrong interpretation, which was put on this e-mail (when Professor Gorman presented it in secret session to the Select Committee on 11 May 2001.) This interpretation was not supported by a correct reading of the e-mail itself, which does not display any misconduct on your part. You were referring a safety concern to the PMO's attention and I consider taking such action to be commendable.

It appears to have been a confidential message from yourself to Dr Callaghan (PMO) and Dr Hochberg (SMO) and it was improper for it to have been put to the purpose of discrediting yourself via documents and transcripts which are

now in the public domain. I unreservedly apologise that CAA staff permitted this confidential message to be used in such an improper way.

I acknowledge that these issues have caused you personal stress and I apologise for the CAA for the distress and inconvenience caused to you.

Yours sincerely

A handwritten signature in black ink, appearing to be 'John Jones', with a long, sweeping horizontal flourish extending to the right.

John Jones  
Director of Civil Aviation