

Your ref

Our ref PTG/AUSS205-1006318 (PTG)

# Kennedys

**NOT FOR PUBLICATION - PRIVATE AND CONFIDENTIAL**

Ms Rachel Launders  
General Counsel  
Nine Entertainment Co. Holdings Ltd  
24 Artarmon Road  
WILLOUGHBY NSW 2068  
**By Email:** rlaunders@nine.com.au

Mr Nick McKenzie  
The Age  
**By Email:** nmckenzie@theage.com.au  
nickmckenzie@protonmail.com

Ms Charlotte Grieve  
The Age  
**By Email:** charlotte.grieve@theage.com.au

Peter Bartlett  
Minter Ellison  
Level 23 Rialto Towers  
525 Collins Street  
MELBOURNE VIC 3000  
**By Email:** peter.bartlett@minterellison.com

Dear Ms Launders et al

**PETER SCHIFF V NINE NETWORK AUSTRALIA PTY LTD AND OTHERS**

1 We refer to our letter dated 20 October 2020.

**Matters Complained Of**

2 We refer to the numerous publications about Mr Schiff made by you and/or the agents of Nine Entertainment Co., including but not limited to, the following:

- (a) The segment titled “*Operation Atlantis*” on the 60 Minutes program that aired on Channel 9 on Sunday 18 October 2020;
- (b) The article published in The Age on 18 October 2020 entitled “*The day the international tax authorities came knocking*”;

*Kennedys offices, associations and cooperations:* Argentina, Australia, Belgium, Bermuda, Brazil, Canada, Chile, China, Colombia, Denmark, Dominican Republic, England and Wales, France, Guatemala, Hong Kong, India, Ireland, Israel, Italy, Mexico, New Zealand, Northern Ireland, Norway, Pakistan, Panama, Peru, Poland, Portugal, Puerto Rico, Russian Federation, Scotland, Singapore, Spain, Sweden, Thailand, United Arab Emirates, United States of America.

---

Kennedys (Australasia) Pty Ltd  
Level 22  
85 Castlereagh Street  
Sydney NSW 2000  
PO Box A65  
Sydney South NSW 1235  
Australia  
ABN 31 119 302 742

---

t +61 2 8215 5999  
f +61 2 8215 5988  
DX 239 Sydney

---

**kennedyslaw.com**

---

**Direct Dial**+61 2 8215 5901  
Patrick.George@kennedyslaw.com  
4 November 2020

---

- (c) The publication on the Sydney Morning Herald Facebook page on 18 October 2020 entitled *“Exclusive: How tax investigators from agencies around the globe launched simultaneous raids on wealthy people who were all using the same Puerto Rican bank run by an American millionaire”*;
- (d) The publication on The Age Facebook page on 18 October 2020 entitled *“Exclusive: A big Aussie bank, a gold company and individuals have been caught up in a global tax evasion and money laundering investigation involving a Puerto Rican bank run by an American millionaire”*;
- (e) The publication on the Sydney Morning Herald Facebook page on 18 October 2020 entitled *“A big Aussie bank, a gold company and individuals have been caught up in a global tax evasion and money laundering probe involving a Puerto Rican bank run by a US millionaire”*;
- (f) The publication on The Age Facebook page on 18 October 2020 entitled *“Exclusive: How tax investigators from agencies around the globe launched simultaneous raids on wealthy people who were all using the same Puerto Rican bank run by an American”*;
- (g) The article published in The Age on 18 October 2020 entitled *“Westpac, mint, hundreds of Australians ensnared in global tax evasion probe”*;
- (h) The publication on the Twitter feed of the Sydney Morning Herald on 18 October 2020 entitled *“A big Aussie bank, a gold company and individuals have been caught up in a global tax evasion and money laundering probe involving a Puerto Rican bank run by a US millionaire”*;
- (i) The publication on the Twitter feed of The Age on 18 October 2020 entitled *“Exclusive: A big Aussie bank, a gold company and individuals have been caught up in a global tax evasion and money laundering investigation involving a Puerto Rican bank run by an American millionaire”*;
- (j) The publication on the Twitter feed of The Age on 18 October 2020 entitled *“Exclusive: How tax investigators from agencies around the globe launched simultaneous raids on wealthy people who were all using the same Puerto Rican bank run by an American millionaire”*;
- (k) The article published in The Age on 18 October 2020 entitled *“The Australian lawyer who built a booming practice on finding loopholes”*;
- (l) The publication on the Twitter feed of the Sydney Morning Herald on 19 October 2020 entitled *“Exclusive: How tax investigators from agencies around the globe launched simultaneous raids on wealthy people who were all using the same Puerto Rican bank run by an American millionaire”*;

- (m) The article published in The Age on 19 October 2020 entitled “*CBA chief says no bank wants to facilitate 'heinous crimes'*”;
- (n) The article published in the Sydney Morning Herald on 19 October 2020 entitled “*The Australian lawyer who built a booming practice on finding loopholes*”;
- (o) The editorial published in the Sydney Morning Herald on 20 October 2020 entitled “*Anti-Money Laundering Laws Must Cover Lawyers and Accountants*”;
- (p) The article published in The Age on 21 October 2020 entitled “*Westpac's ties to Puerto Rico bank Euro Pacific spark calls for financial crime reform*”;
- (q) The publication on the Twitter feed of the Sydney Morning Herald on 21 October 2020 entitled “*Westpac's links to an offshore bank at the centre of a sweeping international money laundering and tax evasion probe have sparked fresh calls for reform of the financial sector's approach to curbing crime*”; and
- (r) The article published in the Sydney Morning Herald on 22 October 2020 entitled “*Lawyers, accountants and real estate agents should report suspicious activity: AUSTRAC boss*”.

#### **(Matters Complained Of)**

- 3 The above list is not exhaustive and does not include the many republications of the Matters Complained Of made by others, for which you are also liable.

#### **Defamatory Imputations**

- 4 The Matters Complained Of conveyed seriously defamatory imputations of our client which have caused immeasurable damage to our client's reputation. The manner in which the Program was arranged will be addressed below but it is clear that it was a “*set up*” to take our client by surprise and its broadcast, in the edited form in which it was presented, calculated to cause our client the most extensive and ongoing damage.
- 5 For present purposes, we do not propose to particularise the defamatory imputations conveyed by each of the Matters Complained Of.
- 6 The 60 Minutes Program, in its natural and ordinary meaning, conveyed the following false and defamatory imputations:
- (a) Mr Schiff is guilty of fraudulently evading Australian taxes he owes;

- (b) Mr Schiff has deliberately assisted the theft of hundreds of millions of tax dollars owed by Australian taxpayers to the Australian Tax Office (“ATO”);
- (c) Mr Schiff fraudulently evades tax he owes to US tax authorities;
- (d) Mr Schiff is guilty of tax fraud;
- (e) Mr Schiff owns a bank in Puerto Rico with hundreds of Australian customers who he knows using the bank to fraudulently evade Australian taxes;
- (f) Mr Schiff is the central target of an enormous worldwide fraudulent tax evasion investigation secretly conducted by five nations known as ‘Operation Atlantis’;
- (g) Mr Schiff is reasonably suspected by the ATO of knowingly assisting hundreds of Australian taxpayers to fraudulently evade tax owed to the ATO;
- (h) Mr Schiff is guilty of money laundering for Australian organised crime figures;
- (i) Mr Schiff owns a bank in Puerto Rico with hundreds of Australian customers who he knows using the bank to launder money from the proceeds of crime;
- (j) Mr Schiff knowingly assisted a notorious Australian crime figure, Simon Anquetil, to fraudulently evade more than \$100 million he owed in tax to the ATO through the use of his bank Euro Pacific Bank;
- (k) Mr Schiff knowingly assisted a convicted drug trafficker, Darby Angel, to launder the proceeds of crime through the use of his bank Euro Pacific Bank;
- (l) Mr Schiff knowingly assisted Australian organised crime figures to launder proceeds of crime through his bank Euro Pacific Bank;
- (m) Mr Schiff is reasonably suspected by the Australian Federal Police of knowingly assisting Australian organised crime figures to launder money from the proceeds of crime through his bank Euro Pacific Bank;
- (n) Mr Schiff dishonestly avoided questions, contrary to his agreement to be interviewed by Charlotte Grieve, by seeking to answer questions only on the economy and investing, and by ending the interview, rather than answering questions as to large scale tax avoidance by Australian taxpayers through the use of his bank Euro Pacific Bank;
- (o) Mr Schiff dishonestly refused to answer the question whether his bank Euro Pacific Bank has accounts for organised crime figures when he knew that to be the case;

- (p) Mr Schiff dishonestly refused to answer the question how such a notorious crime figure as Simon Anquetil was allowed to get through the front door of his bank;
- (q) Mr Schiff dishonestly refused to answer the question whether he was under investigation by the IRS in the US and the central target for a worldwide investigation into fraudulent tax evasion and money laundering when he knew that to be the case.

## **Damage To Our Client**

- 7 The publication of these imputations has caused and is likely to cause Mr Schiff substantial damage. They have already caused him, and will continue to cause him substantial hurt, distress and embarrassment.
- 8 The extent of publication has been greatly increased by the uploading of the publications to the internet and social media platforms, and by dissemination through the grapevine effect.

## **Aggravation**

- 9 Mr Schiff's harm has been aggravated by his knowledge of the following:
  - (a) The falsity of the imputations;
  - (b) The bullying and accusatory tone and insulting, sensationalised and contemptuous language used in the Matters Complained Of and the 60 Minutes Program particularly;
  - (c) The conduct in publishing the Matters Complained Of with the intention of damaging his reputation, knowing and foreseeing that the harmful imputations would be conveyed and after Mr Schiff called the producer to put him on notice of this;
  - (d) The misleading and deceptive request by Charlotte Grieve for an interview with Mr Schiff about his comments on gold and inflation as set out in the email dated 20 August 2020;
  - (e) The misleading and deceptive editing of the interviews of various participants including Mr Schiff as broadcast in the program, and/or the exclusion of exculpatory material, in order to deliberately and falsely impute criminality or wrongdoing by Mr Schiff or his bank, compared with the full recorded interviews and raw recorded footage of participants, or other available information;

- (f) The knowingly false suggestion that Puerto Rico is a “*tax haven*” when as a US territory it is regulated by the Fed and the IRS in the same way as every other US state and territory and does not have the banking privacy laws that some other US and Caribbean jurisdictions have, contrary to the portrayal of Puerto Rico as a typical Caribbean “*tax haven*” in the program;
- (g) The knowingly false suggestion that there is no other reason for an Australian customer to bank with the Euro Pacific Bank than tax evasion;
- (h) The knowingly false suggestion that customers of the Euro Pacific Bank enjoy secrecy of their bank accounts from tax authorities such as the IRS, typical secrecy of those enjoyed by customers of banks in tax havens;
- (i) The knowingly false suggestion that the Euro Pacific Bank has lax or nil anti-money laundering compliance and that Mr McKenzie had tried to open an account with the bank;
- (j) The knowingly false suggestion that John Ogilvie was a former IT employee with Euro Pacific Bank and that his email to Mr Schiff dated 22 August 2016 asserted that the managers of the Bank were dishonest or unscrupulous;
- (k) The knowingly false suggestion that Mr Schiff was the central target of the investigation by the ATO and US tax authorities;
- (l) The knowingly false suggestion that the IRS had informed Mr Schiff that he was suspected of fraudulent tax evasion or money laundering;
- (m) The deliberate attempt to pressure Mr Schiff to answer questions that required strict secrecy , which if answered might have exposed him to criminal sanction for breach of the secrecy requirements;
- (n) The airing of audio footage of private commercial dealings Mr Schiff had in his home when Mr Schiff explicitly forbade such audio recording;
- (o) The hurt and humiliation suffered by Mr Schiff’s wife, who did not consent to being part of the program.

## Action Required

- 11 Our client is entitled to substantial damages. However in an effort to avoid incurring further costs and swiftly resolve this matter, he is willing to settle this matter if you agree to do the following within seven (7) days of the date of this letter:

Ms Rachel Launders, Nine Network  
Mr Nick McKenzie, The Age  
Ms Charlotte Grieve, The Age  
Mr Peter Bartlett, Minter Ellison

# Kennedys

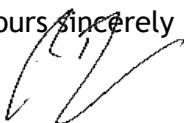
- (a) Publish a full and unequivocal retraction and apology in the next available program of 60 Minutes and the next available edition of the Age and the Sydney Morning Herald, in a form and content to be decided by our client;
- (b) Remove the Matters Complained Of from the various websites owned or controlled by you;
- (c) Undertake not to repeat the defamatory imputations above or any similar imputations about our client in the future;
- (d) Pay our client's reasonable legal costs in dealing with this matter in an amount acceptable to him, or if the amount is not agreed, the amount to be assessed in the usual way (noting that payment of our client's costs is a requirement for a valid Offer to make Amends under the *Defamation Act 2005* (NSW) ("Act").

12 Our client has already suffered significant losses, both personally and through various entities in which he has interests. It is hoped that most of these losses may be reversible should you comply promptly with the above demands. Should the above demands not be met, we anticipate bringing very substantial claims for general, aggravated and special damages for Mr Schiff. We are also instructed to pursue claims on behalf of various entities related to Mr Schiff that have suffered and are likely to continue to suffer substantial losses.

### Reservation Of Rights

- 13 We reserve all of our client's rights including the right to commence proceedings, without further notice, should you not agree to his demands.
- 14 We shall rely on this letter on the question of costs in such proceedings.
- 15 Please note this is a Concerns Notice on behalf of our client under the Act. The Notice is not intended or authorised for republication in any form.

Yours sincerely



**Patrick George**  
Senior Partner  
for Kennedys