

VIA EMAIL AND BY HAND tgmoniz@gov.bm

Our Ref: JL-18025-001

9 March 2017

Attorney General
Attorney General's Chambers
Global House, Fourth Floor
43 Church Street
Hamilton HM 12

Attention: Mr Trevor Moniz

Dear Sir,

We act for former Premier Dr Ewart Brown. Dr Brown is also represented in the United Kingdom by Lord Peter Goldsmith QC, who served as UK Attorney General, and in the United States by David A. O'Neil, who led the Criminal Division at the U.S. Department of Justice. Both have reviewed and agree with the contents of this letter.

As you know, our client is the subject of a long-running criminal investigation in the pursuit of which the Bermuda Police Service ("BPS") has recently carried out several high profile and widely reported searches and an arrest. The legality of these interventions is under consideration by the courts. Our client has continuously and publicly denied any wrongdoing whatsoever and continues to do so.

It was therefore with alarm and dismay that we read the Complaint filed by you against Lahey Clinic, Inc. and Lahey Clinic Hospital, Inc. on behalf of the Government of Bermuda on 14 February 2017 ("the Complaint") before the United States District Court of Massachusetts, as well as the accompanying press statement released in your name by a public relations firm, Liberty Square, that you apparently hired for the purpose of propagating the content of the Complaint.

By making public statements on behalf of the Government of Bermuda that describe serious criminal conduct, and by pronouncing our client's guilt to the world without even purporting to frame your statements as mere allegations, you have violated several fundamental tenets of the Bermudian constitutional settlement. We are also concerned that you may have violated international treaty provisions as well as US federal law.

As you well know, as an Attorney General and a serving Member of Parliament, the Bermudian constitution and well-established - and hitherto scrupulously respected - constitutional convention, prevents you from having any knowledge of, or involvement with, criminal investigations. We would find it difficult to believe that the Complaint could have been prepared without the benefit of material and information gathered during the course of the ongoing criminal investigation into our client.

Furthermore, much of the material relied upon in the Complaint appears to have been obtained from overseas, in particular the United States. If that material was gathered pursuant to criminal

processes governed by Federal Rules of Criminal Procedure and provided pursuant to the 2009 Treaty on Mutual Legal Assistance in Criminal Matters between the United States and Bermuda ("US/Bermuda MLAT"), absent the consent of the US government and an order of a US court, that material could not lawfully be used in this civil action.

Finally, and perhaps most shockingly, the Complaint and the accompanying statement clearly relate to a pending criminal investigation in Bermuda and were made with the intention to encourage a global public to believe that our client is guilty of serious criminal conduct. In circumstances where significant criminal procedural steps had been taken around the same time that the Complaint and statement were published, your actions appear designed to prejudge the assessment of the facts by the competent judicial authority. You therefore appear to have violated our client's constitutional right to be presumed innocent, and undermined the fairness of any future trial.

What is more, you did so without any prior notice to our client of an intention to make these grave allegations against him; still less give him an opportunity to comment and rebut them. We presume you are fully aware that Dr Brown has been trying for some time to discover the nature of the allegations against him. For example, copied U.S. counsel and leading London counsel for Dr Brown came to Bermuda to meet then Director of Public Prosecutions ("DPP") Mr Rory Field to ask about the investigation on 24 February 2016. They then followed up on that meeting with a letter to the DPP on 1 March 2016 where they stated on behalf of our client that they were "open and willing to assist you in order to address any concerns the Department may have so that we can resolve this matter promptly." The DPP declined to provide any information. This meeting took place against the background of a long-standing and repeated offer of assistance from Dr Brown to the BPS. In fact, since as long ago as August 2011, in correspondence with the Commissioner of the BPS, lawyers have on Dr Brown's behalf repeatedly offered his full assistance to the investigation and made it clear that he is eager to be interviewed so that he can rebut the allegations against him.

Over the course of nearly six years, Dr Brown has made his willingness to assist the police investigation and, in particular, to be interviewed about the allegations against him very clear. Yet, whilst never ensuring that Dr Brown had the opportunity to address the allegations against him, all the while you were preparing this action against Lahey implicating Dr Brown. This action is calculated to cause the gravest damage to Dr Brown's reputation with no opportunity for him to be heard in his defence. This is truly extraordinary.

In light of the above, on behalf of our client we request answers to the following questions:

1. Have you at any point discussed with representatives of the BPS or the DPP their investigation into our client?
2. In preparing the Complaint, have you benefited from any information gathered by the BPS or other entity investigating criminal allegations against our client?

3. By what means was the foreign-sourced evidence in the Complaint gathered? If that information was gathered in the US pursuant to criminal investigative processes, were the requirements of Federal Rules of Criminal Procedure followed?
4. By what means was the foreign-sourced evidence obtained? If obtained by means of the 2009 US/Bermuda MLAT, did you obtain consent from the US government and an order from a US court to use the evidence not for the purpose of enforcing criminal law but instead for the civil Complaint?
5. How do you, as a "political AG", and with a DPP in place, justify receiving and exploiting information from a criminal investigation by the BPS and DPP in light of the strict separation which the Bermudian Constitution and constitutional convention impose between your office and criminal matters?
6. How do you, as a political AG and with a DPP in place, justify making a claim based on allegations of criminal liability of a Bermudian citizen in light of the strict separation which the Bermudian Constitution and constitutional convention impose between your office and criminal matters?
7. How do you, as an officer of justice and representative of the Bermudian government, justify publicly asserting the guilt of a Bermudian citizen entitled to the presumption of innocence in proceedings where he is not even a party and able to defend himself?
8. As an officer of justice, was it not your duty to confront Dr Brown with the allegations you intended to make against him to give him the chance to respond? Why did you not?

We expect your answers to these questions within fourteen days. Our client's rights are fully reserved.

Yours faithfully
TROTT & DUNCAN LIMITED

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