

## SETTLEMENT AGREEMENT

**BETWEEN**                                 **THE DIRECTOR OF HUMAN RIGHTS  
PROCEEDINGS**

**AND**                                       **THE SENSIBLE SENTENCING GROUP TRUST  
(SSGT)**

**AND**                                       **THE SENSIBLE SENTENCING TRUST (SST)**

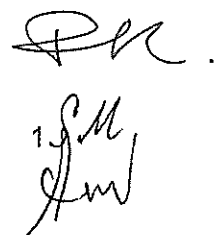
### Background

- A. On 13 April 2010 the aggrieved individual made a complaint to the Privacy Commissioner (the Commissioner) alleging that SSGT (now SST) had interfered with his privacy.
- B. The Commissioner investigated the complaint and formed the final opinion that the SSGT and SST had interfered with the aggrieved individual's privacy contrary to Information Privacy Principles 6, 8 and 11 and section 66 of the Privacy Act.
- C. The Commissioner referred the matter to the Director of Human Rights Proceedings (the Director), for the Director to decide whether to bring proceedings in respect to the matter. The Director decided to bring proceedings.
- D. The parties have reached a full and final settlement of the complaint in the terms set out in this agreement (the Agreement).

### Agreed Terms of Settlement

SSGT, SST and the Director agree to settle the complaint on the following terms:

- 1. SST and SSGT acknowledge that they interfered with the aggrieved individual's privacy in contravention of the Privacy Act as follows:
  - a) On 5 November 2009 the aggrieved individual requested personal information from SST and SSGT. SST and SSGT failed to make notification on or before 10 December 2009 in respect to the request and are thereby deemed to have refused to make the information available.
  - b) Prior to SSGT and SST publishing the aggrieved individual's name and details of his convictions for sexual offending on their sex offender database on 20 October 2009, SSGT and SST failed to take sufficient steps prior to publication to ensure that the information was complete, insofar as it did not refer to name suppression.

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- c) During the period from 20 October to 22 October 2009, and from 4 November to 30 November 2009, SSGT and SST disclosed personal information about the aggrieved individual on its website, namely, his name and details about his convictions for sexual offending. The SSGT and SST had no reasonable grounds for believing that any of the exceptions in IPP 11 would apply to the disclosure.
2. SST and SSGT accept that the Court of Appeal has held that interim suppression orders have permanent effect if no further order is made in relation to them. Accordingly, they acknowledge that there is an order under s 140 of the Criminal Justice Act 1985 prohibiting the publication of the name or occupation or any other particulars likely to lead to the identification of the aggrieved individual in respect to the sexual offences for which he was charged, tried, convicted and/or sentenced in 1995.
  3. SST and SSGT undertake to comply with the order referred to in clause 2 above, and with the provisions of s 139 of the Criminal Justice Act 1985 in respect to the matter - subject to any later order made by the District Court or High Court lifting these orders.
  4. Within six months of the date of the Agreement, relevant personnel of the SST and SSGT will attend an individualised Privacy Act workshop run by the Office of the Privacy Commissioner, in either Auckland or Wellington (to be arranged) at their own expense, provided that the cost per head shall be the same as the Introduction to Privacy Act workshop.
  5. The Director will discontinue the current proceedings before the Tribunal.
  6. None of the parties will seek costs in relation to the proceedings before the Tribunal.
  7. This Agreement can be signed by each of the parties signing a counterpart of the agreement by way of facsimile or email correspondence. The counterparts taken together constitute one agreement.

**SIGNED BY:** the Director of Human Rights Proceedings at Auckland this 28<sup>th</sup> day of July 2014



**Robert Kee**  
*Director of Human Rights Proceedings*



SIGNED BY: a duly authorised Director of the Sensible Sentencing Group Trust at

Wellington ~~Wapiti~~ this 28<sup>th</sup> day of July 2014

Alice Anne McNear

Name of person signing:

Position: Trustee SSGT

SIGNED BY: a duly authorised Director of the Sensible Sentencing Trust at

Wellington this 28<sup>th</sup> day of July 2014

Sally McNear Gauth McNear

Name of person signing:

Position: Trustee