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Government accepts Pan Pharmaceuticals Liability, to Pay Mr Selim \$55 Million

In the Federal Court today, Mr Justice Emmett made orders which involved the Australian Government accepting liability in relation to the closure of Pan Pharmaceuticals Limited and agreeing to pay \$55 million to Mr Selim, Pan's former Managing Director.

Mr Selim's legal advisors, McLachlan Thorpe, believe the Government consenting to a judgment against it on a claim that public servants in the Therapeutic Goods Administration deliberately acted outside their power, is a landmark in Australian legal history.

The actions of the TGA in 2003 resulted in the destruction of Pan Pharmaceuticals, which then had a market capitalisation exceeding \$300 million, and the loss of over 300 jobs.

The basis of the legal challenge was an allegation by Mr Selim, that effectively has now been accepted by the Government, that a group of public servants improperly sought to shut Pan down in a way which would prevent Pan from being able to protect itself by seeking the assistance of the Federal Court. Mr Selim further alleged that those public servants were motivated by misguided feelings of vengeance arising from a failed prosecution against Pan in the 1990's.

Mr Selim originally lodged his claims against the TGA in 2005. The hearing commenced on 30 June this year. After four weeks of evidence, the cross examination of the TGA witnesses revealed such fundamental abuses of power that the Government accepted Mr Selim's claims and consented to today's judgment, even though the matter was only part heard.

Mr Selim's legal advisor, Mr Andrew Thorpe of McLachlan Thorpe, said he was unaware of any other matter in Australia's legal history where the Government had consented to a judgment against it on a claim for abuse of public office for such a large amount in favour of a private individual.

"We always knew the claims against Mr Selim were untrue and now that has been established", Mr Thorpe said.

"It's never easy to fight the Government, and we commend Mr Selim for his courage in fighting the Commonwealth alone over many years, at a time when he is suffering from failing health.

"His determination and self belief was an inspiration to his legal team.

"Mr Selim particularly wants to thank his lead Counsel Justin Gleeson SC and Simon Kerr, and Junior Counsel James Watson and Peter Kulevski, as well as from earlier days, Steve Stanton. Their painstaking dissection of literally thousands of documents with solicitors in my office helped work out what really happened and this was fundamental to victory."

"We would like to think that these landmark orders will have some influence on the way these types of decisions are made by Government in the future so that a debacle like this can be prevented from happening again."

"While the agreed amount of damages is substantial compensation for Mr Selim, it can never bring back what was taken away from him wrongfully", Mr Thorpe said.

The judgment for \$55 million comprises \$50 million for damages and \$5 million for costs with these amounts to be paid within 28 days. Mr Selim is calling on the Government to conduct a full enquiry with extensive terms of reference, regarding both what has happened and the role of the TGA in the industry in the future.

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