

Monday, 8th April 2019

Ms Radhika Withana
Barrister at Law
12 Wentworth Selborne Chambers
12th Floor, 180 Phillip Street
Sydney NSW 2000

Dear Ms Withana

Re: Proceedings 2018/00197067 and 2018/00214619 - conduct of Mr John McKenzie

I understand you act for Mr John McKenzie, the NSW Legal Services Commissioner, in Supreme Court proceedings 2018/00197067 and 2018/00214619, wherein two separate individuals have commenced proceedings against Mr McKenzie while seeking a judicial review in relation to decisions as made by the OLSC.

In order to prevent and avoid possible professional embarrassment to yourself, you need to be made aware that Mr McKenzie actively and routinely dismisses complaints as made to his office, despite egregious and seemingly criminal conduct on the part of certain legal professionals.

While I am unable to comment directly on the Supreme Court of NSW matters of 2018/00197067 and 2018/00214619, I am most certainly in a position to comment on the activities of Mr McKenzie and his turning of a blind eye to solicitor wrongdoing and misconduct. My tale is thus.

In November 2009, I was named as a defendant in Supreme Court proceedings. There were six defendants in those proceedings with an incorporated association being named as the sixth defendant in the same matter. The said sixth defendant was an unrepresented party, and remains as such on the Court record. The only Order made in those proceedings (2009/00291458-001) was that each party was to pay their own costs.

Pursuant to the aforesaid proceedings, Terence Goldberg of Turner Freeman Lawyers filed an Application for Assessment of Solicitor/Client Costs ("Application"), making the improper claim in such Application that he had acted for the sixth defendant. In fact, Mr Goldberg had acted for the four plaintiffs in the matter.

Despite having acted for the four plaintiffs only in the aforementioned Supreme Court proceedings, Mr Goldberg names his four actual clients and the sixth defendant as respondents in his Application to the Court for his costs. Mr Goldberg in such Application also claims that there were only five defendants in the said proceedings.

Clearly, as the association in question was an unrepresented party, as well as being a defendant in the matter, Mr Goldberg's claim that the incorporated association was his client is clearly false. Mr Goldberg's equal and separate claim that there were only five defendants in the proceedings is also totally false.

Mr Goldberg's actions were an obvious attempt to create a debt where in fact no debt was owed. As events proceed, it becomes even more obvious and indeed plainly evident that Mr Goldberg's actions are unlawful.

Terence Goldberg's fraudulent claim that the sixth defendant was indebted to his firm caused firstly a judgment debt to be issued by the District Court, Sydney, in the amount of \$124,661.90 against the sixth defendant, which then caused and brought about the winding up of the association. A short time later during the winding up of the association, Terence Goldberg, and despite the amount stated in the obtained judgment debt, claimed to be owed the swelled sum of \$185,802.62. Such disparity remains unexplained.

The only asset owned by the sixth defendant, the premises of 2 London Street, Enmore, was sold in June 2011 for the sum of \$965,000.00 in order to pay the claimed debt by Turner Freeman Lawyers.

Turner Freeman Lawyers was paid the sum of \$188,303.60 by the liquidator on 20th December 2012. Further, it was a long-time associate of Terence Goldberg, while claiming to be owed the paltry sum of \$85.00, who originally put forward the resolution to wind up the association. That associate of Mr Goldberg is a man by the name of Mr Jon Lindsay.

I mention Mr Lindsay directly as the majority of the remaining funds, as belonging to the sixth defendant, have since made their way to a sham entity, with that sham entity being headed by Mr Lindsay. Terence Goldberg had a direct hand in setting up the said sham entity, with Mr Goldberg and Mr Lindsay having been acquainted with each other since at least 1999. At creation, the said sham entity was registered to the given home address of Mr Lindsay. There was and is no functioning entity at this address (3/349 Bourke Street, Darlinghurst).

On 29th May 2014, some 17 months after Turner Freeman Lawyers was paid in full of the debt claimed, Terence Goldberg attended a 'meeting of creditors' at the offices of Jones Partners, the liquidator. Of course, as Mr Goldberg's law firm had been paid in full some 17 months prior, Mr Goldberg's attendance at this 'meeting of creditors' is again clearly and obviously improper. Also, Mr Goldberg was the sole attendee at this meeting, therefore rendering such meeting null and void due to a breach of s 5.6.16(2) of the Corporations Regulations. Your client was made aware of this breach on 17th August 2016.

At such meeting of creditors, as per the minutes of such, Terence Goldberg discusses the creation of a Trust. It transpires that Mr Goldberg created such Trust via Perpetual Trustees, and on inspection of the Trust Deed relating to same, its only objective is to provide funds to the already mentioned sham entity, as also created by Turner Freeman Lawyers.

The remaining funds belonging to the original association were then released by the liquidator some five years after the fact and diverted into the Trust (as created by Terence Goldberg), and then diverted once more to the sham entity, headed by an acquaintance of Mr Goldberg (as also set up by Mr Goldberg). I do believe the said activity is termed as 'money laundering'.

Despite all the said information having been provided to the Legal Services Commissioner on several different occasions, the Commissioner remains inactive and has not once questioned Mr Goldberg in relation to any of the above, despite the obviousness of the criminal behaviours involved. In fact, Mr McKenzie, in correspondence of 25th July 2017 states:

"...I have not reported Mr Goldberg to the Police as I do not believe there are reasonable grounds to suspect Mr Goldberg has committed an offence."

It must also be mentioned that Mr McKenzie has repeatedly claimed, in writing, that no offence has occurred as the said incorporated association was Turner Freeman's client. However, it has been pointed out to Mr McKenzie that this is neither logical, nor is it legally possible, due to the fact that the association was a defendant in the abovementioned proceedings and was also unrepresented. As you (and Mr McKenzie) would know, a solicitor is unable to act for both and opposing parties in the same proceedings (Rule 7.25 of the UCPR) and also cannot leave a client unrepresented in Court proceedings.

Mr McKenzie, in later correspondence of 17th November 2017, changes his position and by this time makes the correct claim that Turner Freeman in fact acted for four individuals. However, and despite his change of position, Mr McKenzie has still to seek any information from Mr Goldberg regarding his activities, and has also yet to ask Mr Goldberg as to how he claimed to have acted for the association as stated in an Application to the Court in seeking his costs, when such, by Mr McKenzie's now own admission, is a false statement.

Mr McKenzie has made a large number of written statements to me which are unable to be true, however, Mr McKenzie refuses to explain both his untrue statements and also his reasons for turning his head in the other direction to the clear and obvious wrongdoing as repeatedly brought to his attention.

In relation to my writing to the Commissioner on a large number of occasions regarding all the above, I **attach** for your perusal and careful consideration correspondences to the Commissioner of 10th August 2017, 31st August 2017, 6th September 2017, 27th November 2017, 28th November 2017, 19th February 2018, and 21st November 2018. Such correspondences provide a sample of my letters written to the Commissioner in relation to the issue at hand.

You will see from such correspondences to your client that there is not only a clear pattern of cover up and of protection of the solicitor concerned, ie Terence Goldberg, but also of the outlining in very clear terms of the fraud that has taken place. The Commissioner's turning of a blind eye must be deliberate.

Given the Commissioner's deliberate behaviours, I have grave concerns as to the workings of his office, and it is due to those concerns that I write to you. I greatly fear the plaintiffs in the matters in which you are involved will be prejudiced by the Commissioner's actions. I understand that the above matter does not directly involve the said plaintiffs, however, the Commissioner's conduct is more than questionable. If Mr McKenzie is providing untrue statements to me, it would indicate that he is doing the same to other complainants.

In relation to the preceding paragraph wherein I speak of the Commissioner providing untrue statements to other complainants, find **attached** copy of correspondence from Mr McKenzie to Ms Roseanne Beckett of 25th June 2018.

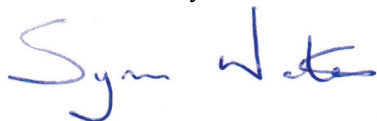
You will see that Mr McKenzie dismisses Ms Beckett's complaint as made to his office about the same solicitor (regarding an entirely separate matter), however, you will also see that Mr McKenzie breaches Rules 52(4)(a) and 52(4)(b) of the Legal Profession Uniform General Rules 2015 in so doing, and provides untrue statements to Ms Beckett in order to dismiss the said complaint.

In relation to the above paragraph, find **attached** copy of letter from me to the Office of the Legal Services Commissioner of 29th June 2018. Despite it being made known to the OLSC that the Legal Profession Uniform General Rules had been breached in relation to the dismissal of Ms Beckett's complaint, no corrective or remedial action has been taken by that office, notwithstanding the said breach. As stated above, there is a very clear pattern to events.

In order to provide fairness and transparency, I provide a copy of this correspondence and its attachments to the Office of the Legal Services Commissioner.

I look forward to your response.

Yours faithfully



Symn Waters