

13 August 2024

Professional Standards Department  
The Law Society of New South Wales  
**Attention: Ms Valarie Griswold, Director**  
170 Phillip Street  
Sydney NSW 2000

**By email: [psd@lawsociety.com.au](mailto:psd@lawsociety.com.au)**

**RE: PSD Case No 2023\_57155.**

- 1. NSW Court of Appeal (NSWCA) referral of papers.**
- 2. NSW Law Society Professional Standard Department (PSD)/ Ms Valerie Griswold Director, Legal Regulation PSD - initiated case against Ms M. Odtojan & Mr A. Bryl.**

**RE: Ms Griswold/PSD unfounded statement of facts: findings of misconduct, prior misconduct and non-disclosure of prior misconduct in the application for renewal of practising certificate.**

Dear Ms Valerie Griswold, Director Legal Regulation Professional Standards

**A. First Letter from PSD dated 8 July 2024**

**A.1 Communications - OLSC/PSD**

1. I refer to your NSW Law Society Professional Standards Department (**PSD**) letter to me dated 8 July 2024, (**PSD Letter**) with its "Annexure A", which I have received for the first time in relation to the above matters.
2. I note that you have emailed your letter to my work email address and addressed it to my law firm. The leave to appeal proceedings in the NSW Court of Appeal (**NSWCA**) regarding the referral of papers<sup>1</sup> to the Office of the Legal Commissioner (**OLSC**), as you would be aware, is in relation to my personal civil tort damages cases against my former legal representatives, Mr Nicolas George Ford, Barrister of Edmund Barton Chambers (**Mr Ford**), Mr Thomas Patrick Glynn, Principal solicitor of Glynns Lawyers (**Mr Glynn**) and Mr Miles Kevin Condon, Senior Counsel of New Chambers (**Mr Condon SC**).
3. Please direct all correspondences regarding this matter to [mo.sydney.au@gmail.com](mailto:mo.sydney.au@gmail.com) which is the email address recorded on all court documents, where I am a party/applicant to the three proceedings, a litigant in person, a client of the above-mentioned respondent legal practitioners, a victim and a witness of the alleged fraud/improprieties recorded in my statement of claims,<sup>2</sup> and where I am not acting in professional capacity as a legal practitioner.
4. I note you have recorded in your PSD letter for me to provide my 'further submissions'<sup>3</sup> when I made no prior submissions to PSD or OLSC. As you are aware, your PSD letter is the first letter I received from you regarding this matter.

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<sup>1</sup> The OLSC complaint process provides that a referral by a judicial officer is a 'source of information' See n 11.

<sup>2</sup> n 60; Allegations of fraud and collusion are already known to the OLSC/PSD being similar allegations raised in the Ms Odtojan's report dated 27 June 2018 made against Piper Alderman lawyers which include the conduct of Mr Ford, Mr Glynn and Mr Condon SC, and impersonation of legal practitioners; See Ms Odtojan's email to PSD enclosing this letter - G.Drive links: See document numbers 15 to 17; See 'E. Reports to OLSC/PSD' 13-15; OLSC/PSD has a duty to report suspected offences under s 465 *Legal Professional Uniform Law (NSW) 2014 (LPUL)*;

<sup>3</sup> PSD Letter [2] 9.

- A. 2 Ms Griswold, Director of PSD, unfounded statement of fact - findings of 'misconduct'/'prior misconduct' and interference with the approval/renewal of practising certificate.
5. Your letter dated 8 July 2024 is the first letter I received in relation to this matter where you have made unfounded statements of fact of a serious nature against a legal practitioner, that there are findings of misconduct and 'prior misconduct'.<sup>4</sup> An unfounded statement of fact is a fabricated fact<sup>5</sup>, which you have created and recorded under the PSD's letterhead, using your position as an officer and Director of PSD.
  6. Upon receipt of your PSD letter, I was made aware for the first time, only after the act was done by you, that the first action you took was to arbitrarily affect my practising certificate (**certificate**) by interfering with the legitimate process of the renewal/approval of my certificate, preventing it from being renewed.
  7. The result of your conduct, based on your created facts that there is prior misconduct by me and I did not disclose such misconduct,<sup>6</sup> has unlawfully affected my application for the renewal/approval of my certificate where it is neither 'approved or refused', and 'is taken to continue in force on and from 1 July 2024',<sup>7</sup> until you have your next private meeting with the Council where you '*intend to ask Council... to consider whether to grant or refuse your application dated 15 May 2024.*'<sup>8</sup>
  8. It appears you have used your position, authority and delegated powers to influence the Law Council/Licensing and Registry Office (communications which are not made transparent to me), to prevent my certificate from being renewed on the false premise that there was misconduct by me.
  9. It appears from your PSD letter that the status of my practising certificate whether it will be renewed or refused and my ability to continue to practise law, which I have been practising for 14 years with years of undertaking extensive legal education and training, all comes down to your sole arbitrary decision in your next private meeting with the Law Council.<sup>9</sup>
  10. This matter was brought to your attention by the NSWCA referral of papers, which PSD received in July 2023 for Mr Condon's case, and in March 2024 for Mr Ford's and Mr Glynn's cases.<sup>10</sup>
  11. The OLSC clearly states in its complaint process that a referral by a judicial officer is a 'source of information'<sup>11</sup> relying on which the OLSC may initiate a complaint, conduct initial assessments and may undertake investigations if it proceeds to pursue the complaint.
  12. Based on your PSD letter, I note the following:
    - a. You waited for me to make my application to renew my practising certificate which was submitted on 15 May 2024, before you contacted me in relation to this matter on 8 July 2024. As you would be aware, a legal practitioner would not know if OLSC/PSD has decided to open a case concerning a complaint/referral until they receive a notice by correspondence from OLSC/PSD with a case number and the particulars, facts and legislation alleged to be breached are clearly put to the legal practitioner to answer.
    - b. Your email and letter provides the main subject matter as '*Application for the renewal of your practising certificate for the practice year 2024/2025*'.
    - c. It appears you have used the NSWCA referral of papers to initiate your/PSD's own case against me, where you used your office to search my personal civil cases and listed them in your PSD letter, and generally refer to those orders/judgments, without particulars, as findings of misconduct where you concluded that I have not disclosed 'prior misconduct'.<sup>12</sup> This is a separate matter from the NSWCA referral of papers initiated by you/PSD which is to have its own file/case number.

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<sup>4</sup> PSD Letter [5] 8, 4 '*serious past misconduct*' in *Thomas v Legal Practitioners Admissions Board* [2004] QCA 407 [2005] 1

<sup>5</sup> Black's Law Dictionary, 2nd Ed. '*A fact that is not founded on a truth*'.

<sup>6</sup> n 4, [3]-[7] 8.

<sup>7</sup> PSD Letter [1]-[3] 1.

<sup>8</sup> Ibid [5] 8.

<sup>9</sup> Ibid.

<sup>10</sup> PSD Letter 'Annexure A' [1]-[3] 1, [1]-[3] 5.

<sup>11</sup> OLSC, LSC Initiated Complaint:

<https://olsc.nsw.gov.au/complaints/information-about-complaints-for-the-profession/olsc-initiated-complaints.html>

<sup>12</sup> PSD Letter [3]-[7] 8.

- d. The list of documents in your 'Annexure A' provides that NSWCA referral of papers orders<sup>13</sup> have not been complied with as there are missing documents, which are substantially my court documents.<sup>14</sup>
- e. You had already taken action to notify the Law Council and/or the Licensing Registry Office to affect and prevent the legitimate renewal of my practising certificate before I received your PSD letter.<sup>15</sup> and where the NSWCA referral of papers orders had not been complied with. I refer to my email dated 2 August 2024<sup>16</sup> regarding the incomplete documents and request for extension of time regarding the serious matter of my practising certificate giving notice of contacting Law Cover about the matter where I only knew about the PSD initiated case regarding my certificate upon receipt of the PSD letter. I received no response from PSD to the matters I raised in my email.
- f. You vaguely state in the PSD letter, without any foundation nor specific particulars put to me, that *'Your certificate renewal applications for the period 2017/2018 to 2024/2025 may be considered to be providing incorrect or misleading information...'*<sup>17</sup> It appears you have used my personal civil cases including the NSWCA referral, stating generally that there are findings of misconduct/prior misconduct to be disclosed.<sup>18</sup> It is not clear what it is you allege I am to disclose under *Legal Profession Uniform General Rules 2015 (Uniform Rules)*.
- g. You sought to obtain admissions from me regarding misconduct, stating *'Council will, however, need to consider whether since that time you have taken steps to address the prior misconduct'*.<sup>19</sup> You have failed to provide me any particulars, the paragraphs and to quote the excerpts of findings of misconduct in the orders/judgments which you vaguely and generally state I should disclose.<sup>20</sup>
- h. My personal civil cases you listed stem from the Local Court proceedings (2014/00219407) (**LCProceedings**), where the OLSC/PSD have been aware of the nature of the proceedings and the serious issues I raised of fraud and collusion from the various reports made to the OLSC/PSD for the period 2016 to date.<sup>21</sup> These reports to the OLSC/PSD are relevant as OLSC/PSD were given notice of the facts, circumstances and issues relating to the LCProceedings which I note your PSD letter has omitted. I reported the conduct of Piper Alderman lawyers, their counsels, impersonation of legal practitioners including the conduct of my three former legal practitioners, Mr Ford, Mr Glynn and Mr Condon SC, and an incorporated legal practice of Credit Corp, Certus Partners.<sup>22</sup>
- i. It appears you are attempting to place me in the capacity of a legal practitioner in my civil cases, which is contrary to your determination in the 2016 complaint made by Piper Alderman against me in the LCProceedings using my status as a legal practitioner. OLSC/PSD closed the complaint determining that I am not acting in the capacity of the legal practitioner, being a party to proceedings, and the Solicitor Rules did not apply to me as relied upon by Piper Alderman.<sup>23</sup>
- j. The conduct of searching my personal civil cases and using them against me is similar conduct by Justices Leeming and Kirk (Condon case), who used their judicial public office to also search my personal civil cases and recorded in their judgment, by ambush, a 2019 case<sup>24</sup> which is irrelevant and was not a matter before them. The Justices had cast aspersions on me, my firm/business and my marriage/family unit in their judgment where such matters they recorded in the judgment were not raised nor put to me to answer in court. What is substantially recorded in the published judgment

<sup>13</sup> *Odtojan v Condon (No.2)* [2023] NSWCA 149 [39]; *Odtojan v Glynn t/as Glynn's Lawyers*; *Odtojan v Ford (No.2)* [2024]. NSWCA 25 [6].

<sup>14</sup> See [33].

<sup>15</sup> PSD Letter [1]-[4] 1.

<sup>16</sup> See Ms Odtojan email to PSD dated 2 August 2024.

<sup>17</sup> PSD Letter [7] 4.

<sup>18</sup> n 6.

<sup>19</sup> Ibid [5] 8.

<sup>20</sup> Ibid [1] 5, [3]-[7] 8.

<sup>21</sup> See 'E. Reports to OLSC/PSD' 13-15; OLSC/PSD has the Judgment of Magistrate Freund in the Annexure to the report on Piper Alderman dated 27 June 2018 (See Annexure D.1, p. 513).

<sup>22</sup> Ibid.

<sup>23</sup> See [60.a]

<sup>24</sup> *Odtojan v Condon* [2023] NSWCA 129 [78]-[79].

available to the public, was done by ambush. I gave notice to the Justices in my submission<sup>25</sup> of the above-mentioned issues amongst others, in the show cause for referral of papers. The Justices responded by recording in their published judgment (No.2): '*if anything, they reinforce that such a referral is appropriate*'.<sup>26</sup> The 2019 case recorded by the Justices was my appeal from costs assessment against Credit Corp/Piper Alderman. Mr Peter Rosier (**Mr Rosier**) assessed tampered/backdated account documents. Mr Rosier ignored the issues I put to him, seeking no questions or clarifications from Piper Alderman throughout the costs assessment process.<sup>27</sup>

- k. I note you have not provided the disclosures of the OLSC complaint process and the applicable legislation, particularly, the specific provisions of misconduct under the LPUL. Such disclosures are standard practice by OLSC/PSD, essential for an independent and fair procedure.
  - l. In your PSD letter, you rely on *Thomas v Legal Practitioners Admissions Board* [2004] QCA 407; [2005] 1 Qd R 331 to be applicable to me. The case of *Thomas* relates to a person who is not a legal practitioner, seeking admission with the Legal Practitioners Admissions Board (**APB**). Mr Thomas also had a criminal history which he did not properly disclose to the APB. This case is not applicable to me being a practising legal practitioner, who is not applying for admissions with the Admissions Board, and neither do I have any misconduct nor convictions/criminal history. The process applicable to a practising legal practitioner is under the *Legal Professional Uniform Law (NSW) 2014 (LPUL)*, which, I note, you have omitted to disclose to me in your PSD letter.
13. You have already taken action to affect my practising certificate without any notice to me, where I was not afforded due process and procedural fairness. I have been denied natural justice.
14. Your conduct is a contravention of the well-established process under the LPUL. The complaint process and procedures for determining alleged misconduct are clearly set out under the LPUL, the OLSC and NSW Law Society websites.<sup>28</sup> Professional misconduct is determined by the designated tribunal, NSW Civil and Administrative Tribunal (**NCAT**) under s 300(1)(b) of the LPUL.
15. On 17 July 2024, Mr Bryl received a letter from you/PSD which appears to be a copy and paste of your letter to me. The content of your letter to Mr Bryl shows disregard of whether the issues you raised with Mr Bryl apply to him or not. As you would be aware from the NSWCA judgments, Mr Bryl only appeared as a McKenzie friend, having been granted leave to appear at the NSWCA leave to appeal hearings. Mr Bryl is not the solicitor on record and has not acted in the capacity of a solicitor in my court proceedings other than a McKenzie friend. Mr Bryl cannot be held responsible for my court documents, correspondences and communications in my personal civil court proceedings.
16. In your PSD letter to Mr Brl, you repeated the conduct of recording unfounded statements of fact that Mr Bryl has 'prior misconduct'.<sup>29</sup> There are no findings of misconduct against Mr Bryl or me.
17. Professional misconduct and/or misconduct of any kind is the most serious charge by a regulatory body against a legal practitioner. You have made unfounded statements of fact that Mr Bryl and I have findings of misconduct/prior misconduct. You recorded such statements of fact against two legal practitioners where you would be aware such statements are untrue. However, you have used your position in PSD to record a false statement of fact, in the office of authority, under the PSD office letterhead, that there is misconduct by two legal practitioners to intervene with the renewal of our practising certificates, an act already done by you.

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<sup>25</sup> See 'D.1 NSWCA Judgments' 7-9.

<sup>26</sup> *Odojan v Condon (No.2)* [2023] NSWCA 149 [38].

<sup>27</sup> See [60.f].

<sup>28</sup> See Complaints Process Information brochure:

[https://www.lawsociety.com.au/sites/default/files/2020-04/2020\\_Complaints-process-information.pdf](https://www.lawsociety.com.au/sites/default/files/2020-04/2020_Complaints-process-information.pdf) ; Professional Standards Annual Report 2022, Complaints Investigation Process 7:

[https://www.lawsociety.com.au/sites/default/files/2023-01/LSNSW\\_PSD\\_AR2022\\_web\\_2022-12-19.pdf](https://www.lawsociety.com.au/sites/default/files/2023-01/LSNSW_PSD_AR2022_web_2022-12-19.pdf)

<sup>29</sup> See PSD letter to Mr Bryl's letter to PSD dated 17 July 2024.

18. The conduct of making a false statement recorded under the PSD letterhead is a very serious matter which requires the urgent attention by the Law Council, the Law Society President, Attorney General and the appropriate authorities,<sup>30</sup> where the Director of PSD, (with a Certificate IV in Investigations), in the position of authority over legal practitioners, has made unfounded statements of a serious nature of misconduct against two legal practitioners. All NSW lawyers are to be protected from such conduct by an officer of the regulatory body, in PSD.
19. The Council of the Law Society has delegated its powers to PSD for independent assessment/ investigation of the NSWCA referral of papers. Your statement in our first letter to me that you '*intend to ask Council... to consider whether to grant or refuse...*'<sup>31</sup> my practising certificate in your next meeting demonstrates that you/PSD are disregarding the LPUL process and not conducting an impartial and independent assessment/investigation. I am denied procedural fairness and not afforded due process under the LPUL.
20. It is made clear by your conduct and your letter to me, that you/PSD has no intention to conduct an independent and objective assessment/investigation of the matters referred to you by the NSWCA. Your actions indicate your intentions to affect Mr Bryl's and my practising certificates to either prevent us from continuing to practise law or impose conditions on our certificates, which will affect our ability to practise law and for Ms Odtojan to operate her legal practice.
21. The conduct of unlawfully affecting our practising certificates has caused great distress, damages and detriment. It affects our livelihoods, our ability to practise law, to provide services to our clients, our community and those in need of legal assistance, where we are also part of the NSW Law Society pro-bono scheme, and affect the operation of my business where I have obligations to my clients, to third parties among other business obligations. We have had to exert a lot of our time and resources away from our small law firm business and client matters to attend to your PSD letters where actions have been made against our practising certificates under the false premises of misconduct by us.
22. Your recordings of false statements of fact in your position of authority which cause detriment to a person are capable of constituting offences under Part 4AA under the *Crimes Act 1900* (NSW).

## **B. Notice/Next Action**

23. Based on your PSD letter to me, you have failed to provide me what jurisdiction and powers you invoked to interfere and prevent the legitimate renewal of Mr Bryl's and my practising certificates. PSD/The Law Council has provided no basis to withhold and/or prevent our practising certificates from being issued for the year 2024/2025.
24. If PSD and/or the Law Council is of the opinion that there is an alleged misconduct and/or non-disclosure by Mr Bryl and me, then the Law Council is to afford Mr Bryl and me the proper due process that all legal practitioners are afforded, under the LPUL, where such matters are to be impartially and independently assessed/investigated and to be determined by the tribunal, NCAT.<sup>32</sup> Notwithstanding, the Law Council has no basis to withhold/prevent the renewal of our practising certificates even if we were to undertake such a process, until the matter is determined by the Tribunal.
25. In reference to the above, you are to immediately notify/direct the Law Council and/or the Registry office to issue the renewal of the practising certificates of Mr Bryl and me for the year 2024/2025. Should you withhold the renewal of our practising certificates, where you have no legal basis, it will constitute an ongoing unlawful withholding of our certificates.

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<sup>30</sup> A copy of this letter and related documents will be provided to the above-mentioned parties.

<sup>31</sup> n 8

<sup>32</sup> S 300 LPUL; Findings of misconduct are recorded by OLSC under S 152 *Legal Profession Uniform Law Application Act 2014 (LPUL Application Act)*. *A Solicitor v Council of the Law Society of New South Wales* [2004] HCA 1; 216 CLR 253; 78 ALJR 310; 204 ALR 8.

26. In reference to the serious issues I raised herein of your conduct, you (Ms Griswold) are to immediately retract your statements in the PSD letter and to notify the Law Council and the Licensing and Registry Office and any other persons to whom you made such false statements of misconduct by Mr Bryl and me, that such statements are untrue. You are to promptly notify us, in writing, that you have done so.
27. I call for your removal. You are to immediately recuse yourself from this matter as you have demonstrated partial and corrupt conduct in your office of authority, as PSD Director.

*'Despite the many definitions and contextual uses of corruption, most dictionaries and legal systems agree about its basic meaning. The Oxford and Merriam-Webster dictionaries begin, respectively, with "[d]ishonest or fraudulent conduct by those in power" and "dishonest or illegal behaviour especially by powerful people". Moving in unison, they then proceed to deeper notions. First comes a transformation from purity to debasement - for example, "a departure from the original or from what is pure or correct" (see Merriam-Webster). Second, and relatedly, comes the archaic meaning of "decay", "putrefaction" and "decomposition."<sup>33</sup>*

LexisNexis Concise Australian Legal Dictionary 5th ed. Australia 2015 149 provide:

*Corruption: A deliberate act of dishonesty, breach of the law, abuse of public trust of power that undermines or is incompatible with the impartial exercise of an official's powers, authorities, duties or functions.*

*Corrupt conduct: Behaviour which does, or could, adversely affect the honest or impartial exercise of official functions by a public official or authority.*

### C. NSWCA Referral of papers

#### C.1 NSW Referral of papers orders

28. Based on your PSD letter, the referral of papers from the NSWCA in Mr Condon's case before Justices Leeming and Kirk on 31 May 2023 (referred by you as '**Odtojan No 2**') was received by OLSC on 3 July 2023, and forwarded to the Council of the Law Society on 7 July 2023. The referral of papers from the NSWCA in Mr Ford's and Mr Glynn's cases before Justices White and Basten on 11 October 2023 (referred to by you as '**Odtojan/Glynn Ford No 2**') was received by OLSC on 29 February 2024 and forwarded to Council of the Law Society on 8 March 2024.
29. A leave to appeal hearing (**LAHearing**) is a very limited procedural hearing where an applicant seeks permission to have a leave hearing before the NSWCA. Each party is allocated 20 minutes to present their leave to appeal arguments/issues.<sup>34</sup> Effectively, it is usually a 1-2 hour hearing which only addresses the leave/appeal argument/issues recorded in the prescribed Applicant's argument and the Respondent's Argument, and cannot address substantive issues of fact/law/credit which require a final hearing.

#### C.2 NSWCA referral of papers - Incomplete documents

30. I refer to your unpaginated Annexure "A" with no paragraph numbers. The documents listed on page 1 and 5 of your Annexure A are incomplete and provide that you do not have all the court documents in accordance with NSWCA referral of papers orders.<sup>35</sup>

<sup>33</sup> United Nations Office on Drugs and Crime.

<https://www.unodc.org/e4j/zh/anti-corruption/module-1/key-issues/corruption---baseline-definition.html>

<sup>34</sup> (Condon) Applicant's White Folder 1 dated 26 May 2023 *Summary of Applicant's Argument filed 30 March 2023* Tab 2, n39; (Ford and Glynn) Applicant's White Folder 1 dated 28 June 2023 *Summary of Applicant's Argument filed 28 June 2023* Tab 2; n 37 G.Drive link: See document numbers 12-14.

<sup>35</sup> n 13.

31. PSD has a duty to make enquiries to ensure compliance with the NSWCA orders.<sup>36</sup> The following documents appear to be missing in your 'Annexure A':
- a. In relation to show cause re: referral of papers (referred by you as Odtojan No.1):
    - i. The Applicant's Submissions dated 26 June 2023 (p.12).<sup>37</sup>
    - ii. The Applicant's Affidavit sworn 26 June 2023 (p.15)<sup>38</sup> with Annexure of court transcript 31 May 2023, Summary of Applicant's Argument dated 30 March 2023 and Applicant's Response to the Respondent's Response dated 29 May 2023, and correspondence to Mr Berg 21 May 2023. (p.80).
    - iii. My 'Applicant's Response to Respondent's Response' dated 29 May 2023 (p.8).<sup>39</sup>
    - iv. The affidavit of Mr James Berg of DLP Piper dated 30 May 2023 (p.8) with exhibits (p.193).
    - v. The affidavit of Mr James Berg of DLP Piper dated 31 May 2023 (p.6) with exhibits (p.26).
  - b. In relation to the referral of papers in Mr Ford and Mr Glynn's matter (referred by you as Odtojan/Glynn/Ford 2), there is no identification of both respondent's documents.
  - c. The court transcripts of 31 May 2023 (Condon) and 11 Oct 2023 (Ford and Glynn).<sup>40</sup>
  - d. The email response from the Associate of Justices Basten and White dated 6 December 2023.<sup>41</sup>

#### **D. PSD's Alleged conduct issues and the Judgments of Justices Leeming and Kirk (Condon) and Justices Basten and White (Ford and Glynn).**

##### **D.1 NSWCA Judgments**

32. I gave notice to the Justices that their respective judgments recorded facts, representations and evidence which were not ventilated at the leave to appeal hearings, including recordings of evidence for the respondents where no evidence was provided by any of the respondents as they did not attend the LAHearings nor gave evidence nor filed defences.
33. I rely on the following documents:
- a. The court transcripts of 31 May 2023 and 11 October 2023.<sup>42</sup> The court transcripts provide that the NSWCA judgments do not reflect what transpired at the LAHearing before Justices Leeming and Kirk (Condon) and Justices Basten and White (Ford and Glynn). I note you do not have the court transcripts for both of the LAHearings.
  - b. The Summary of the Applicant's Argument dated 30 March 2023 (Condon) and 28 June 2023 (Ford and Glynn)<sup>43</sup>
  - c. The Applicant's Written Submissions dated 14 February 2023.<sup>44</sup>
  - d. The Applicant's Submissions dated 26 June 2023.<sup>45</sup>
  - e. The Applicant's affidavit sworn 26 June 2023.<sup>46</sup>
  - f. The Applicant's Response to Respondent's Response' dated 29 May 2023.<sup>47</sup>
  - g. My email to the Associate of White and Basten dated 5 December 2023 and response email from the Associate on 6 December 2023.<sup>48</sup>

<sup>36</sup> n 35.

<sup>37</sup> Ms Odtojan's email to PSD enclosing this letter - G.Drive link: 4. *Applicant's Submissions dated 26 June 2023 (Condon)*.

<sup>38</sup> Ibid. G.Drive link: 6. *Applicant's Affidavit sworn 26 June 2023 (Condon)*.

<sup>39</sup> Ibid. G.Drive link: 3. *Applicant's Response to Respondent's Response dated 29 May 2023 (Condon)*.

<sup>40</sup> Ibid. G.Drive link: 6. *NSWCA Court transcript 31 May 2023 (Condon)*; 7. *NSWCA Court transcript 11 October 2023 (Ford and Glynn)*.

<sup>41</sup> Ibid. G.Drive link: 8. *Ms Odtojan w/Associate of Justices Basten and White emails dated 5-6 Dec 2023*.

<sup>42</sup> n 40.

<sup>43</sup> Applicant's White Folder 1 dated 26/05/2023 Tab 2 (Condon); Applicant's White Folder 1 dated 28/06/2023 Tab 2 (Ford); Applicant's White Folder 1 dated 28/06/2023 Tab 2 (Glynn). n 37 Documents number 12.

<sup>44</sup> Applicant's White Folder 1 dated 26/05/2023 Tab 10 (Condon); Applicant's White Folder 1 dated 28/06/2023 Tab 10 (Ford); Applicant's White Folder 1 dated 28/06/2023 Tab 10 (Glynn); n 37 G.Drive link: See documents number 9-11.

<sup>45</sup> n 37.

<sup>46</sup> n 38.

<sup>47</sup> n 39.

<sup>48</sup> n 41.

34. Justices Leeming and Kirk acknowledged in court that Mr Bryl and I are witnesses in the all-important conference. However, these material facts, among others, were omitted in the Justices' judgments.<sup>49</sup>
35. I refer to my email to the Associate of Justices Basten and White dated 5 December 2023, giving notice that Mr Bryl and I could not adequately provide our submissions in the show case regarding the referral of papers as the judgment substantially recorded matters that did not transpire at the hearing. The judgment recorded evidence regarding the conduct of Mr Ford and Mr Glynn where no evidence was given by the respondents. We sought for the Justices to provide me with evidence of the contract recorded in the judgment, where a contract did not exist but was found by Magistrate Freund.<sup>50</sup> The Justices recorded the application of s 170 of the Credit Code to a contract where no contract was before them at the LAHearing. The Justices created a narrative of what transpired at the LCProceedings which is contrary to the court documents, transcripts and conduct of the parties.<sup>51</sup>
36. The material issues and documents/evidence raised and referred to by Mr Bryl, acting as McKenzie friend at the LAHearings were either omitted and/or misrepresented in the NSWCA judgments.
37. My firm, Odtojan Bryl Lawyers (**OBL**), and the criticism recorded in the judgment, casting aspersions on me, placing me in capacity of legal practitioner in my personal civil cases, and disregarding the established legal, contractual and fiduciary obligations of my legal representatives (Mr Ford, Mr Glynn and Mr Condon SC), were not raised nor put to me to answer at the LAHearings.
38. My firm, Mr Byl and I have been defamed in the NSWCA judgments where there are representations and criticisms, casting aspersions on us which were not put to us at the LAHearings to answer. Mr Bryl and I are witnesses and I am a victim, however, the Justices have impermissibly disregarded witnesses and have engaged in conduct that threatens, intimidates and discredits witnesses and a victim who is to give evidence at a final hearing.
39. The respondents, Mr Ford, Mr Glynn and Mr Condon SC, has failed and continue to fail for 8 years, to produce to me the credit contract in support of Mr Ford and Mr Glynn's representation at final hearing in the LCProceedings, where they stated to the court that I received a contract on 12 January 2015 (which is not my case and where there is no evidence to support such statement),<sup>52</sup> and where the three respondents expressly relied upon a written contract in their written appeal advice and draft summons. Justices Leeming and Kirk created evidence for Mr Condon SC and recorded in their judgment<sup>53</sup>, by ambush and without any evidence in support, that Mr Condon SC addressed my 16-page letter to resolve the issue that Mr Condon SC had not provided a contract in support of his written appeal advice for 7 years (at the time of the hearing). This issue was completely ignored and omitted in the Judgment of Justices Basten and White in Ford's and Glynn's cases.
40. The respondents and their legal representatives<sup>54</sup> are aware how they obtained the NSWCA judgments.<sup>55</sup> There was no involvement of their respective professional indemnity insurance

<sup>49</sup> See [33.a]; (Condon) Court transcript 31 May 2023 [44]-[48] 1;

<sup>50</sup> A contravention of s 91 of the *Evidence Act 1995* (NSW) (**EA**); There is no record that the Magistrate found a credit contract in the judgment. No contract was produced in evidence nor ventilated at the final hearing in the LCProceedings. These issues were put to the Justices in both LAHearings which were disregarded by the Justices. n 37 G.Drive link: 25. *Magistrate Sharon Freund Judgment 16 Aug 2016 (LCProceedings 2014\_00219407)*.

<sup>51</sup> See [32]-[35], [39], [41], [49].

<sup>52</sup> At the interlocutory hearing on 16 February 2023, Judge Norton stated in court that Mr Ford conducted a different case to his client (me). See Court Transcript 16/02/2023 [46]-[50] 30, [1]-[15] 31. Mr Ford's case was that his client received contract documents on 12 January 2015 where his client's case was disputing the existence of a contract. This supports that the client's case was not heard nor ventilated at the final hearing on 18 and 19 July 2016.

<sup>53</sup> *Odtojan v Condon* [2023] NSWCA 129 [12].

<sup>54</sup> (1) Mr Miles Condon SC legal representatives: counsels Mr Anthony McInerney SC and Ms Winnie Liu of New Chambers, solicitors: Mr James Berg, Partner and Sarah Li Yee Lien of DLA Piper; (2) Mr Nicolas Ford's legal representatives: counsel Mr Bernard Lloyd of 9 Wentworth Chambers, solicitors: Mr Jonathan Newby and Mr John Georgas of Colin Biggers and Paisley; (3) Mr Thomas Glynn's Legal representatives: Ms Anne Horvath SC of Banco Chambers, solicitors who appeared at the NSWCA LAHearing: Ms Elizabeth Lough and Mr Baron Alder of Moray & Agnew, and former solicitors: Mr Nicholas Andrew and Ms Belinda Marshall of Barry Nilsson.

<sup>55</sup> [48.f]; Also see Ms Odtojan's email to PSD enclosing this letter - G.Drive link: 20. *Judicial Registrar James Howard email to parties dated 28 Sept 2022 and Ms Odtojan reply email dated 29 Sept 2022*.

representatives noting the nature of the proceedings, where a client is making a claim against respondents for the legal services they provided. The court transcripts of the LAHearings will provide that Mr Bryl spoke approximately 60% of the time, the Justices approximately 30% of the time, and the respondent's Counsels approximately 10% of the time. In the LAHearings, Mr Bryl had referred to court documents, representations, correspondences, s 91 Evidence Act 1995 (NSW) (**EA**), the credit laws and the respondent's written appeal advice (expressly recording their reliance on a credit contract) which was inconsistent with representations made in conference on 12 September 2016 where Mr Ford with Mr Condon SC stated to me and Mr Bryl that there was no contract nor pre-contractual statement produced nor ventilated at the final hearing. The material issue of the inconsistent statements about the credit contract by the respondents, among other matters raised in court, were omitted by the Justices in their respective judgments.

41. The Justices, by ambush, impermissibly conducted a re-hearing under r 13.4 of the Uniform Civil Procedure Rules 2005 (**UCPR**) of summarily dismissal for claims that are baseless, vexatious and frivolous. The Justices also impermissibly resolved issues of fact/law/credit where it is for the final hearing. The Justices disregarded and contravened s 91 EA by referring to a prior judgment/opinion of a judge regarding the issue of fact, the credit contract. Notwithstanding the Justices' reliance on Magistrate Freund's judgment in the LCProceedings that a credit contract was found, there is no such record that the Magistrate found a contract in the judgment. The contract issue was not ventilated by counsels, Mr Ford and Mr Hartford-Davis, at the final hearing, nor was there a record in the judgment that Credit Corp proved their cause of action, a breach of terms under a credit contract.
42. In relation to the District Court interlocutory hearing where I sought to appeal Judge Norton's orders, Judge Norton did not dismiss the case under r 13.4 UCPR (summary dismissal) which was the application made by the respondents along with r 14.28 UCPR (Strike out pleadings). Judge Norton made orders under r 14.28 UCPR, however, without reasons/legal basis, Judge Norton limited my claim to plead only in relation to the respondents 'appeal/prospects of success of appeal'. Judge Norton stated that my claims pertain to criminality, however, in limiting my claim, the pleadings of fraud/conspiracy were removed, rendering my case hopeless as the pleadings no longer supported my causes of action. There is no cause of action under 'appeal/prospect of success to appeal'.
43. Judge Norton made oppressive orders where I was to file all evidence before the Respondents filed their defences. Such order is contrary to the civil procedure and prescribed timetables of filing evidence only after the pleadings are closed. Judge Norton applied criminal standards to my civil torts cases.

## D.2 Your/PSD Alleged Conduct Issues

44. Your PSD letter is vague and provides no evidence, facts and particulars to support what you recorded in your PSD letter regarding 'misconduct', 'prior misconduct' and the non-disclosure under r 13.1 Uniform Rules.<sup>56</sup>
45. You cited case laws which clearly provide the specific misconduct in those cases, however, in this matter, there is no misconduct particularised. It is unclear what you refer to as misconduct by me.
46. You have listed alleged conduct issues from 1 to 15 in your PSD letter,<sup>57</sup> however, you failed to provide any specific rule/legalisation with applicable facts and particulars you allege I have breached.

In *Kioa v West*, Gibbs CJ said that the '*fundamental rule is that a statutory authority having power to affect the rights of a person is bound to hear him before exercising the power*'.<sup>58</sup> The rule against bias ensures that the decision maker can be objectively considered to be impartial and not to have pre-judged a decision.

<sup>56</sup> See [12.c], [12.g]-[12.h], [12.j].

<sup>57</sup> PSD Letter 5-8.

<sup>58</sup> *Kioa v West* (1985) 159 CLR 550, 563, quoting Mason J in *FAI Insurances Ltd v Winneke* (1982) 151 CLR 342, 360.

47. The OLSC/PSD have a duty to adhere to the model litigant standards in the complaint process. *Legal Services Commissioner v Adamakis* [2013] VCAT 1970 at [31].

*Lawyers' Professional Responsibility*. Gino Dal Pont. 7<sup>th</sup> edition. Lawbook Co. 2021:

At p. 788:

Disciplinary investigations and proceedings must be conducted according to procedural fairness standards (*Wentworth v New South Wales Association* (1992) 176 CLR 239 at 251 by Deane, Dawson, Toohey and Gaudron JJ; *Smith v New South Wales Bar Association* (1992) 176 CLR 256 at 270 per Deane J; *Carver v Law Society of New South Wales* (1998) 43 NSWLR 71 at 98 per Powell JA; at 101 per Stein JA). As disciplinary bodies and tribunals exercise adjudicative functions, a high standard of procedural fairness is expected... (*Newfoundland Telephone Co v Board of Commissioners of Public Utilities* [1992] 1 SCR 623 at 638 per Cory J; *Livers v Legal Services Commissioner* [2018] NSWCA 319).

At p. 789:

As regulatory bodies and tribunals have broad powers to investigate and summon evidence, these must be exercised bona fide and not in an oppressive manner (*Rogerson v Law Society of the Northern Territory* (1993) 88 NTR 1 at 10 per Asche CJ). While disciplinary proceedings are not criminal in nature, moreover, the position of the regulatory body or officer is sufficiently similar to that of a prosecutor in criminal proceedings to justify a duty of fairness and behaviour as a model litigant (*Legal Services Commissioner v Adamakis* [2013] VCAT 1970 at [31])

At p. 826:

The Uniform Law empowers the Commissioner to initiate and prosecute proceedings against a lawyer in the designated tribunal (in New South Wales the Civil and Administrative Tribunal (NCAT))... if the Commissioner of the opinion that the alleged conduct may amount to unsatisfactory professional conduct that would be more appropriately dealt with by the tribunal, or that the alleged conduct may amount to professional misconduct (LPUL s 300(1) (NSW, Vic).

48. In relation to the alleged conduct issues in 1-15 in your PSD letter:

- a. You have raised conduct issues with me, solely relying on the NSWCA judgments and quoting from them without referring to any other documents. As noted herein, you do not have all the documents pursuant to the NSWCA referral of papers orders, where my court documents are substantially missing and not within your possession.<sup>59</sup>
- b. My three amended statements of claim (**ASOCs**)<sup>60</sup> have extensive pleadings of 27 pages (Condon), 50 pages (Mr Ford) and 44 pages (Mr Glynn) filed in the NSW District Court Sydney under the civil tort damages division which contains alleged facts and allegations in support of the pleading rules for causes of action of unlawful civil conspiracy, intentional negligence and fraud. My claims require a determination by a trial judge at a final hearing in the civil District Court. The issues and allegations I raised in my claims remain outstanding and unresolved.
- c. The OLSC/PSD has no jurisdiction to determine alleged facts and allegations in my ASOCs, being court documents. The regulatory body is not the appropriate forum. Notice was given to Justices Leeming and Kirk that the OLSC has no jurisdiction to determine the allegations in my ASOCs, where such allegations require a final hearing.<sup>61</sup>
- d. As you are aware, the ASOCs raise serious allegations that pertain to criminality and the OLSC/PSD cannot determine these matters and have a duty to report under s 465 LPUL. It is a serious matter to threaten and intimidate a victim and witnesses of conduct that constitutes offences under the *Crimes Act*, including referring an innocent person to be subject to an investigation by an authority/regulatory body.

<sup>59</sup> See 'C.2 NSWCA referral of papers - Incomplete documents' 6.

<sup>60</sup> See (Condon) Applicant's White folder 1 dated 26 May 2023 *Amended Statement of claim* Tab 6; (Ford and Glynn) Applicant's White folder 1 dated 28 June 2023 *Amended Statement of claim* Tab 8; [33.c] above; n 37 G.Drive link: See ASOCs documents number 21-23.

<sup>61</sup> See [33.d]-[33.e].

- e. I had exercised my rights under the civil court jurisdiction where the respondents had legal, contractual and fiduciary obligations to me under the established legal relationship of client/legal practitioner. This legal relationship was disregarded by the Justices in their judgments.
  - f. The respondent's legal representatives are aware how they obtained the judgments/orders. I refer to the court transcripts and to my letter to Mr James Berg of DLA Piper.<sup>62</sup>
49. In relation to your alleged conduct issues 1,2, 8, 9, 10, 12 and 13:
- a. It is unclear what you are alleging I have breached? I refer to [29]-[31], [32]-[48] and [54]. The alleged facts and allegations in my ASOCs can only be determined at a final hearing.
  - b. It is an impossibility for pleadings of civil conspiracy to be determined at preliminary hearings and this is supported by case authorities as it requires a trial judge to have all the evidence and witnesses' evidence including making inferences of multiple conduct by alleged conspirators and cross referencing of pleadings in the statement of claim.<sup>63</sup>
  - c. Your alleged conduct issue 13 states that I *'allege because Mr Ford referred to documents as "contract documents", as CCS claimed the document to be, that was evidence of fraud by Mr Ford.'* This statement is unfounded.<sup>64</sup> No such statement was made. I rely on the court transcript of 11 October 2023 and my ASOC on Mr Ford. Mr Ford's conduct is extensively pleaded.
  - d. The Justices in the leave to appeal hearing of Condon (approx 1.5 hour hearing) and Mr Ford and Mr Glynn (approx. 3 hour hearing) did not go through my extensive pleadings of civil unlawful conspiracy, fraud and intentional negligence. It is not within the scope of the limited LAHearing to determine evidence nor resolve issues of fact/law/credit. There are strict procedures and documents to be completed for LAHearings. The judgments recorded matters that are impermissible, ultra vires and done by ambush, and went beyond the summary of the applicant's argument<sup>65</sup> and the respondent's response.
  - e. Justices Basten and White recorded that there is *'No skerrick of evidence to support the premise...'*<sup>66</sup> where the LAHearing is not to determine evidence and neither did we go through evidence. In court, the Justices did not put to Mr Bryl that they did not understand the Applicant's argument nor stated there is no 'skerrick of evidence'. The court transcript provides that the Justices understood the Applicant's argument and did not request for production of any evidence. Section 91 EA was disregarded and contravened by the Justices in relying on Magistrate's Freund Judgment to prove an issue of fact of credit contract (which is impermissible to determine in a LAHearing). Section 91 EA is omitted in the Justices NSWCA judgments.

<sup>62</sup> n 54; [33.a]; See Ms Odtojan's email to PSD enclosing this letter - G.Drive link: 19. *Ms Odtojan ltr to Mr Berg DLA Piper dated 3 July 2023 (Condon)*; (1) On 16 February 2023, Mr Anthony McNerney SC of New Chambers for Mr Condon SC gave unfounded evidence at the bar table that the contract is based on secondary documents (See Court transcript dated 16/02/2023 at [42] 16 - [7] 17). (2) On 17 March 2023, Mr Bryl put on record that Mr McNerney SC was laughing when he raised to the court the issue of Mr McNerney SC's conduct of giving evidence at the bar table and misleading the court that the contract is based on secondary documents (See court transcript 17/03/2023 at [35] 44- [8] 45). (3) On 16 February 2023, Ms Anne Horvath SC of Banco Chambers for Mr Glynn gave unfounded evidence at the bar table that the contract was the 'Terms and Conditions' (Court transcript dated 16 /02/2023 at [30]-[41] 39). (4) On 11 October 2023, at NSWCA LAHearing Ms Horvath SC brought up an issue whether her client, Mr Glynn, was aware of the existence of the contract issue (Court transcript dated 11/10/2023 at [25]- 35] 46). Ms Bryl proved to the court, referring to Mr Glynn's emails/court documents drafted by Mr Glynn, that he was aware of the existence of the contract issue [31]48 - [16] 50. Justices Basten and White did not refer Ms Horvath SC, her client or Mr Ford to the regulator, instead referring innocent persons, Mr Bryl and Ms Odotjan, using their legal statuses, to the regulatory body, OLSC.

<sup>63</sup> See [31.a.i]-[31.a.iii] and [33.c], [49.f].

<sup>64</sup> *Odtojan v Ford* [2023] NSWCA 277 [16].

<sup>65</sup> See [33.b].

<sup>66</sup> *Odtojan v Glynn t/as Glynn's Lawyers* [2023] NSWCA 276 [96].

The Court transcript 11 October 2023 [49] 49 - [16] 50:

*BRYL: But then we go to the transcript and realise that Mr Ford has given evidence that the contract is not an issue and she received it on 12 June 2015 defeats the problem. So we don't have an issue of the contract, because it's been eliminated from start here, and why this statement of facts and issues has not been provided to the client to see it. Why does she have to discover that the issue of the contract has been eliminated, and that contradicts to what just the counsel of Mr Glynn stated, that he wasn't aware that the contract was in issue, that it wasn't provided, but his email confirms he is aware, he is fully aware, and his additions to the documents confirms he does not want to disclose the issue to the Court. There is a problem with whether the contract has been provided.*

*WHITE JA: I understand the argument. Anything else?*

*BRYL: My majority of the argument was in relation to what her Honour found. Section 91 does not allow you to rely on the facts determined by the judge.*

*WHITE JA: You've made that submission before.*

- f. The Justices disregarded two witnesses and a victim before them, among other witnesses yet to be called to give evidence. The documents before the Justices were substantially court documents from the LCProceedings, court transcripts, the Notices to Produce and court orders<sup>67</sup> (for production of the alleged credit contract, credit insurance contract documents etc), the respondent's written appeal advice and more. My NSWCA White Folders contained documents of approximately 740 pages in each case of Mr Condon SC, Mr Ford and Mr Glynn. These documents were substantially not acknowledged as the basis for my claims by the NSWCA Justices.<sup>68</sup>
  - g. The NSWCA Justices do not refer/quote my affidavits, arguments, submissions, legislation (Credit Laws and s 91 EA) and case authorities which support my claims. Justices Basten and White recorded in their judgment that s 170 of the Credit Code applied to a contract which did not exist and was not before them to apply the code. This issue s 170 of the Credit Code was raised by the Justices not by the respondents and neither was it an issue before the LCProceedings.
50. In relation to your alleged conduct issue 3:
- a. It is unclear what you are alleging I have breached? I refer to [29]-[31], [32]-[49]. Justices Leeming and Kirk, recorded in their judgment a 2019 case which is my costs assessment appeal against Credit Corp/Piper Alderman and is irrelevant to the Condon case before the said Justices at the LAHearing. The recording of this case in the judgment was made by ambush. The Justices had searched for my past civil cases which are not the matters before them.<sup>69</sup> It is noted that you have engaged in similar conduct, searching for my personal civil cases<sup>70</sup> and using them against me.
51. In relation to your alleged conduct Issue 4:
- a. It is unclear what you are alleging I have breached? I refer to [29]-[31], [32]-[49]. This issue recorded by the Justices in their judgment making criticisms about me sending an email to Judge Norton was not put to me to answer at the LAHearing.<sup>71</sup> This was recorded by ambush. I refer to my email to Judge Norton, copying the other side party, which is self-explanatory as to the purpose of my email. I was exercising my right to contact the court within 14 days after the orders were made and I had also relied on r 36.16 of the *Uniform Civil Procedure Rules 2005 (UCPR)*.

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<sup>67</sup> Mr Sebastian Hartford-Davis, the opposing counsel at the final hearing in the LCProceedings, signed Notice to Produce dated 17 December 2015 which became a Court order. See Notice to Produce/Court orders: (Ford) Applicant's White Folder 1 dated 28 June 2023, Tab 12, 234-245; (Condon SC) Applicant's White Folder 1 dated 26 May 2023, Tab 12, 199-210; (Glynn) Applicant's White Folder 1 dated 28 June 2023, Tab 12, 231-242; n 37 G.Drive link: See document number 24.

<sup>68</sup> Pleadings were not closed. No defences were filed. Evidence was yet to be timetabled for filing in the District Court.

<sup>69</sup> See [12.j].

<sup>70</sup> See PSD letter [1] 5, [3]-[4], [7] 8; See [12.j].

<sup>71</sup> n 37 G.Drive link: 6. NSWCA Court transcript 31 May 2023 (Condon)

52. In relation to your alleged conduct issue 5, 11 and 14:
- It is unclear what you are alleging I have breached? I refer to [29]-[31], [32]-[49]. This issue recorded by the Justices in their judgment making criticisms about me regarding my appeal grounds of bias, breach of bias rule and denial of procedural fairness was never put to me to answer at the LAHearing.<sup>72</sup> These are my grounds for appeal and I am exercising my legal rights to appeal and access the court. This is my constitutional right. No one should be threatened nor prosecuted for exercising their rights to appeal a court order/judgment.
53. In relation to your alleged conduct issue 6 and 7:
- It is unclear what you are alleging I have breached? I refer to [29]-[31], [32]-[49]. I refer to paragraphs 3 and 4 of the Applicant's Response to Respondent's Response dated 29 May 2023<sup>73</sup> which refer to Annexure A 'Table of Issues in Respondent's Supplementary White Book...' in Tab 7.<sup>74</sup> A side-by-side comparison can be made of the documents being tampered. This was disregarded by the Justices and such evidence/documents were omitted in the judgment. Tampering with court documents is an offence under s 317 of the *Crimes Act 1900* (NSW) (**Crimes Act**). Disregarding evidence that constitutes an indictable offence, is concealment, and accusing an innocent person to be investigated by authority/regulatory body are offences under the *Crimes Act*.
54. In relation to your alleged conduct issue 15:
- It is unclear what you are alleging I have breached? I refer to my email to Associate of Justices Basten and White dated 5 December 2023 which is self-explanatory. See [35].
  - Mr Bryl and I sought a 7-day extension on the condition that the Justices provide clarification of the evidence they relied upon in the judgment regarding the contract, the application of s 170 of Credit Code to a contract which was not before them to apply the Credit Code, and their recordings of Mr Ford's and Mr Glynn's conduct in the judgment stating '*the conduct of which they complained could be readily explained as a matter of oversight...*'.<sup>75</sup> There was no such evidence nor submissions made by the respondents or their counsels. I rely on the court transcript dated 11 October 2023.
  - It is noted that the Justices' Associates reply email to me dated 6 December 2023 is not listed in your Annexure A. The said email did not state to me that my email to the Justices Associate was inappropriate, however, the Justices' published judgment records that my email was inappropriate. The Justices had failed to provide the clarifications sought in my email as above-mentioned.
55. You have raised the issue whether Mr Bryl and I are fit and proper persons to hold practising certificates relying on your statement of fact that we have 'prior misconduct'. Such a statement of 'prior misconduct' is unfounded. It is unethical for a legal practitioner/Director of PSD to make unfounded statements of misconduct against a legal practitioner which raises questions of their fitness to practise.

## E. Reports to OLSC/PSD

- OLSC/PSD have received multiple reports for the period 2016 to date. The reports involved conduct that involve fraud/criminality, indictable offences, and administration of justice offences.
- My reports to the OLSC/PSD with supporting evidence/documents were systemically closed without investigation. OLSC/PSD has a duty to report suspected offences under s 465 LPUL.
- These various reports are easily accessible to the PSD/OLSC, however, they have been omitted in your PSD letter to me. These reports are relevant as PSD is alleging it is unaware of the circumstances of my LCProceedings when such matters are well-known to the OLSC/PSD having received voluminous documents and reports of the LCProceedings where OLSC/PSD has copies of

<sup>72</sup> Ibid.

<sup>73</sup> See [31.a.iii].

<sup>74</sup> (Condon) Applicant's White Folder 1 dated 26 May 2023, Tab 7 38-40.

<sup>75</sup> *Odojan v Glynn t/as Glynn's Lawyers* [2023] NSWCA 276 [107].

the judgment of Magistrate Sharon Freund (**Magistrate Freund**) in my 2018 report on Piper Alderman. I raised issues of how the judgment and costs order were obtained by fraud and collusion.

59. The allegations I have raised in my ASOCs against my former legal representatives of fraud and conspiracy are already known to the OLSC/PSD. I made similar and consistent allegations in my reports against Piper Alderman in 2018 (102 pages and approx. 660 pages of supporting documents), which outline the conduct of my former legal representatives, Mr Ford, Mr Glynn and Mr Condon.
60. I refer to the following reports:
- a. In 2016 - Complaint to OLSC by Mr Florian Ammer and Mr Matthew Mellinni of Piper Alderman Lawyers on me, during Local Court proceedings (22014/00219407), using my profession as solicitor against me in my personal civil case where they were aware I am a litigant in person (**LIP**).
    - i. Mr Ammer/Piper Alderman made the complaint against me for giving notice of the issue disputing the existence of their alleged credit contract and raising their conduct of misleading the court. Piper Alderman repeatedly ignored the issues of their failure to produce their alleged contract<sup>76</sup> under the Notices to Produce/Court Orders. Notice was given to Mr Adam Carpenter of Credit Corp, who was aware of the issue to produce the contract under Notices to Produce/orders up to March 2016.
    - ii. PSD held onto the complaint throughout the LCProceedings despite their guidelines not to conduct an investigation whilst proceedings are on foot. PSD/OLSC closed the complaint after the conclusion of the proceedings, and determined I was a LIP and not acting in the capacity of a solicitor and the Solicitors Rules relied upon by Piper Alderman did not apply.
  - b. In 2016, in reply to Mr Ammer/Piper Alderman's complaint, I gave notice to PSD, amongst other issues, that Ms Natalie Miller paralegal/JP of Piper Alderman (**Ms Miller**), an unqualified person, was impersonating a legal practitioner throughout the LCProceedings, sitting at the bar table and being referred to as a solicitor/instructing solicitor by the Credit Corp/Piper Alderman's counsel Mr Sebastian Hartford-Davis, who was aware Ms Miller was not a solicitor.
    - i. Mr Hartford-Davis misled the court by referring to an unqualified person, Ms Miller, as his instructing solicitor throughout LCProceedings and in the two day final hearing. Ms Miller touched/tampered with evidence, circling my signatures at the bar table where that document was tendered as evidence/exhibit. PSD did not investigate the issues raised and returned my written submissions retaining no copy for its record (available upon request).
  - c. In 2017 - My report to OLSC on Mr Carlos Toda and Ms Kelly Witts of Certus Partners (Credit Corp lawyers) regarding their undertakings in correspondence where they represented in writing, that they would produce to me their alleged credit card contract, (as pleaded in their statement of claim), within a specified timeframe.
    - i. OLSC did not refer the complaint to PSD and closed the complaint stating the lawyer's representation to provide the credit card contract was not an undertaking.
    - ii. To date, Mr Toda of Certus Partners continues to plead credit card contract/agreements, (regardless if a contract exists or not, and with no causes of action), in Credit Corp's statements of claim filed in the courts throughout Australia, circumventing and contravening *National Consumer Credit Protection Act 2009* (**NCCPA**)<sup>77</sup> adversely affecting the lives of many Australians across the Country.

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<sup>76</sup> See n 67. Notices to Produce/Court orders to produce the credit contract among other documents were agreed by Credit Corp/Piper Alderman/Mr Sebastian Hartford-Davis signed 17/12/2015, where they failed to produce and comply with the court orders and are in contempt of the Notices to Produce/Court orders since 2015-16, for almost 10 years and ongoing. Mr Ford at the final hearing represented that his client received the contract on 12 January 2015 (not his client's case). This representation is contrary to the Notice to Produce signed by Mr Hartford-Davis on 17 December 2015. Mr Hartford-Davis did not prove a cause of action (breach of terms/default) nor did he put his case to Ms Odtojan (*Browne v Dunn*). The Notices to Produce/court orders were disregarded and omitted in the NSWCA judgments.

<sup>77</sup> *NCCPA* Schedule 1 - *National Credit Code*.

- d. In 2018 - My report to OLSC on Piper Alderman Lawyers dated 27 June 2018<sup>78</sup> included the conduct of Mr Sebastian Hartford-Davis, Mr Nicolas Ford, Mr Thomas Glynn and Mr Miles Condon SC and the impersonation of legal practitioners. The allegations of fraud and collusion raised in my statements of claim filed in 2022 are already known by the OLSC/PSD. The allegations are consistent with my said reports.
  - i. OLSC did not forward the report to PSD, however, I had provided a copy to PSD.
  - ii. OLSC closed the complaint without investigation. The former Commissioner, Mr John McKenzie represented that Magistrate Freund found the contract and stated it was a “Form” without any evidence in support of such statement and without citing where it is recorded in the judgment that the contract was a “Form”. There is no such record in the judgment.
- e. In 2018 - My report to PSD on Ms Natalie Miller (Piper Alderman paralegal/JP) and Mr Owen Nanlohy (Piper Alderman clerk) for unqualified persons impersonating legal practitioners (solicitors and a barrister) at LCProceedings’. PSD closed the complaint without investigation. The letter from PSD dated 6 November 2019, (Ref.No 1283 and 1284) signed by Mr William Sit, PSD Litigation Solicitor, stated that PSD *'has determined that the matters will not need to be taken any further.'* PSD disregarded s 10 of the LPUL NSW 'Prohibition of engaging in legal practice by unqualified entities'. The Law Society website provides the penalties for unqualified practitioners.
- f. In 2019 - Report on Mr Peter Rosier, Costs Assessor in the three costs assessment matters of Mr Ford, Mr Glynn, and Piper Alderman. Mr Rosier ignored issues of fabricated account statements and unaccounted trust funds with Mr Glynn and Mr Ford and the altered account records in Piper Alderman’s account documents, such as backdating/changing Ms Miller’s attendances from ‘instructing’ to ‘attending conference’, among many other matters raised.
  - i. Mr Rosier, a legal practitioner, disregarded his duties as Costs Assessor, to report such matters to the regulatory body<sup>79</sup> and proceeded to assess the matters for the benefit of Mr Ford, Mr Glynn and Piper Alderman disregarding serious issues I raised of their conduct that pertains to offences under the Crimes Act.
  - ii. Mr Ford made a false recording in his account statement, framing my firm/me as instructing solicitor when I am his client and was not acting in a professional legal capacity. He omitted Mr Glynn/Glynns Lawyers as the instructing solicitor from his account statements, where trust funds are not recorded to be received from Mr Glynn’s Trust account. There are unaccounted trust funds since 2016 to date. Mr Ford never mentions nor records Mr Glynn as his instructing solicitor throughout his costs assessment submissions in 2017.
  - iii. Mr Rosier did not seek any questions/clarifications about Mr Ford, Mr Glynn and Piper Alderman’s account statements nor raised any concern of their conduct. Mr Rosier answered for Mr Ford and Piper Alderman that the credit contract was some “document” with a signature. There was no evidence to support Mr Rosier’s statement.
- g. On 12 June 2019 - Notice was given to OLSC/PSD that the legal practitioners/persons I reported are engaging in the same conduct. Notice was given to protect the public. My notice was ignored and I received no response from OLSC/PSD.<sup>80</sup>

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<sup>78</sup> See Ms Odtojan’s email to PSD enclosing this letter - G.Drive link: See document numbers 15 to 17, Report on Piper Alderman law firm (PA) and its 8 (eight) PA legal practitioners: Mr Florian Ammer (Partner), Ms Anne Freeman (Partner), and solicitors: Ms Matthew Mennilli, Ms Hannah Veldre, Mr Brendan May, Mr Malcom Quirey, Mr Stefano Calabretta, Mr Owen Nanlohy (who was a PA clerk impersonating a counsel at the court hearing on 16/08/2016. Mr Nanlohy was admitted as a lawyer on 11/12/2017). The report also outlined the conduct of Mr Sebastian Hartford-Davis of Banco Chambers, Mr James Willis of Eight Selborne Chambers, Mr Nicolas Ford of Edmund Barton Chambers, Mr Miles Condon SC of New Chambers and Mr Thomas Glynn of Principal Solicitor of Glynns Lawyers.

<sup>79</sup> LPUL s 202.

<sup>80</sup> See n 78 G.Drive link: 18. Ms Odtojan correspondence to OLSC 12 June 2019 (J.McKenzie).

## F. Notice/Public Importance

61. This letter will be made public for the protection of Mr Bryl, myself and the law firm where we have been defamed in the NSWCA judgments where substantial records in the judgment were made by ambush, disregarding and contravening the *Evidence Act 1995* (NSW), s 91 EA and recording evidence/representation for the respondents where the respondents gave no such evidence and was not at the court hearings. The NSWCA referral of papers is being used by the OLSC/PSD to create unfounded statements of fact that Mr Bryl and I have 'prior misconduct' to interfere with the legitimate renewal of our practising certificates with the intent to affect our ability to practise law.
62. My case is of great importance. For almost 10 years I have been dealing with the alleged fraud/Improprieties of an ASX-listed company, Credit Corp Services Pty Limited, its lawyers and my former legal representatives that stem from St George Bank's contravention of the credit laws<sup>81</sup> in failing to form the credit card contract and pre-contractual documents, and providing an unsolicited credit card.<sup>82</sup> This conduct was perpetuated by Credit Corp and its lawyers making a claim under a credit card contract that does not exist and using the NSW Local Court Sydney to obtain a judgment without proving a cause of action.<sup>83</sup> The alleged conduct of the reported legal practitioners/persons greatly undermines the integrity of the legal system and legal profession.
63. My case is not an isolated case. The conduct of Credit Corp and its lawyers, as above-mentioned, is their *modus operandi* across Australia, where many lives are adversely affected, these are individuals, business owners, vulnerable people (elderly, those with disabilities etc), estates and deceased estates. I made various reports over the years to OLSC/PSD among others, which have been systemically closed without any investigation.
64. Mr Bryl and I are witnesses and I am a victim of the alleged conduct as above-mentioned, and outlined in my ASOCs and in my reports to OLSC/PSD. Mr Bryl and I have been threatened, intimidated and are being prosecuted, and our careers are at risk because we discovered the fraud committed against me by my former legal representatives, by Credit Corp and its lawyers in the LCProceedings, who are alleged to obtain the judgment by fraud and committed further acts of fraud/improprieties in the costs assessment process and subsequent court proceedings. The said conduct is captured in the court transcripts, court documents, correspondences, account statements and more, where these documents have substantially been provided in my reports to the OLSC/PSD.
65. OLSC/PSD is fully aware of the allegations of fraud and collusion that stem from the LCProceedings which are recorded in the various reports I made to them.<sup>84</sup> However, these reports have been omitted in your PSD letter to me where they are relevant as you raised questions representing as if PSD is unaware of the facts and circumstances of the LCProceedings and subsequent civil cases.
66. There is a history of OLSC/PSD systematically closing and not investigating my various reports where the reported conduct pertains to indictable offences and administration of justice offences which OLSC/PSD has a duty to report suspected offences under s 465 LPUL.
67. This matter was referred to PSD for independent and objective assessment/investigation. It is a serious matter if a regulatory body willfully fails to discover conduct that is capable of offences under the Crimes Act, which such conduct is to be referred to the appropriate authority.

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<sup>81</sup> n 77.

<sup>82</sup> ASIC Act. Penalties for issuing an unsolicited credit card attract penalties of approx. \$2.5M.

<sup>83</sup> Magistrate Freund's Judgment dated 16 August 2016 records 'contract' as a statement of fact approximately 75 times and identifies the proceedings as a 'credit card contract' case, however, no contract was produced nor ventilated at the final hearing on 18 and 19 July 2016, (See court transcripts 18 and 19 July 2016). The judgment does not identify/refer to evidence of a credit contract nor determine the cause of action of a breach of term/default under a credit contract contract; n 37 G.Drive link: 25. *Magistrate Sharon Freund Judgment 16 Aug 2016 (LCProceedings 2014\_00219407)*

<sup>84</sup> 'E. Reports to OLSC/PSD' 13-14.

68. I refer to the matters raised herein and to 'B. Notice/Next Action' on page 5-6. Based on the PSD letter to me, PSD/The Law Council has no basis to withhold and/or prevent Mr Bryl's and my practising certificates from being issued for the year 2024/2025. We call for the following immediate action:
- a. For PSD/Law Council to issue the renewal of Mr Bryl and my practising certificates;
  - b. For you/Ms Griswold to retract your statements in the PSD letter and to notify the Law Council, Licensing and Registry Office and any other persons to whom you made such unfounded statements of fact that Mr Bryl and I have findings of misconduct/prior misconduct that such statement of misconduct made by you is untrue, and you are to promptly confirm with us in writing that you have done the above-mentioned notice to those parties.
  - c. For you/Ms Griswold to recuse yourself from this matter based on the conduct set herein and to notify the Law Council of this matter.
69. The PSD/Law Council has a duty to afford Mr Bryl and me the process which all legal practitioners are afforded under the LPUL and applicable rules.

I reserve my rights in relation to this matter.

*Marie Odtojan*

Ms Marie Odtojan

