

Your reference: R53129

Monday, 27th November 2017

Mr John McKenzie
Legal Services Commissioner
Office of the Legal Services Commissioner
Level 9, 75 Castlereagh Street
Sydney NSW 2000

Dear Mr McKenzie

Re: *Complaint about Fiona Seaton - request for internal review*

I refer to your letter of 17th November 2017. In such correspondence, you state:

"...arising from Mr Goldberg's representation of the late Reverend Patricia Cleary and other members of the Enmore Spiritualist Church Incorporated in relation to the litigation that concluded in 2009 and subsequent dissolution of the Church."

It is of note from your above written statement that you appear to have resiled from your previous position, in that you are no longer claiming that Terence Goldberg acted for the sixth Defendant (being the Enmore Spiritualist Church Incorporated), in the proceedings to which you refer, and you now correctly state that Mr Goldberg acted for a number of individuals.

If so, this is in direct conflict to your statements as made in your letter of 7th August 2017. I **attach** a copy of that letter (as well as copies of my responses).

You are fully aware of Mr Goldberg's fraudulent statement in an Application for Assessment of Solicitor/Client Costs, as filed with the Supreme Court of NSW on 23rd June 2010, in that Mr Goldberg wrongly claims that he acted for Enmore Spiritualist Church Incorporated in the said proceedings.

You are aware that Mr Goldberg did not act for the sixth Defendant in such proceedings, as that Defendant was an unrepresented party and remains as such on the Court record.

Given your own varying and contradictory stances in relation to the above, can you please confirm and clarify your exact position.

Given the Order as made by her Honour in the abovementioned proceedings that each party was to pay their own costs, and as Terence Goldberg did not act for the sixth Defendant in such proceedings, please explain to me how Mr Goldberg sued such Defendant to pay his legal costs.

A copy of this letter shall be provided to the Independent Commission Against Corruption and will also be placed into the public domain.

I await your response.

Yours faithfully

A handwritten signature in blue ink, appearing to read "Symn Waters". The signature is written in a cursive style with a large initial 'S' and a distinct 'W'.

Symn Waters



THE OFFICE OF THE
LEGAL SERVICES COMMISSIONER

Private and Confidential

Mr Symn Waters
20 Newman Street
NEWTOWN NSW 2042

File Ref: 52273_7

7 August 2017

Dear Mr Waters

Complaint about Mr Terence Goldberg – Request for internal review

I acknowledge receipt of your letters dated 31 July and 2 August 2017.

You refer, in both letters, to a letter from this Office dated 2 June 2015 in which, you say, I admitted that statements made by Terence Goldberg in an Application for Assessment of Solicitor/Costs [sic] as filed with the Supreme Court of New South Wales costs assessment scheme on 23 June 2010 were false.

You have quoted my letter selectively and out of context.

For the avoidance of doubt:

- My letter contains no such admission
- I do not accept the statements you have identified as being false, misleading and untrue, namely statements that:
 - i. Mr Goldberg acted for the Sixth Defendant in Supreme Court proceedings 2009/00291458-001 (the 2009 Proceedings)
 - ii. The Plaintiffs in the 2009 Proceedings brought their action on behalf of the Sixth Defendant.

were in fact false, misleading and untrue. I refer to the detailed analysis contained in my predecessor's letter dated 10 January 2013, which discussed the retainer arrangements, how Enmore Spiritualist Church Incorporated fitted into those arrangements and its role in the Supreme Court proceedings. It follows there was no reason to inquire

why Mr Goldberg made false statements, as you suggest should have been done.

The point of my letter of 2 June 2015 was that even if the statements were in fact false, misleading and untrue, as you contend, that would not necessarily result in disciplinary action being taken against Mr Goldberg.

Yours sincerely



John McKenzie
Commissioner

Your reference: 52273

Thursday, 10th August 2017

Mr John McKenzie
Legal Services Commissioner
Office of the Legal Services Commissioner
Level 9, 75 Castlereagh Street
Sydney NSW 2000

Dear Mr McKenzie

Re: Terence Goldberg - false statements

I refer to your letter of 7th August 2017, which I received in last evening's post.

In your letter of 7th August 2017, you claim that I have taken your letter of 2nd June 2015 out of context. I **attach** a full copy of such letter of 2nd June 2015 for your reference.

Again, in such letter of 2nd June 2015, you state:

"The Commissioner was not, and I am not, satisfied there is sufficient evidence to persuade the Tribunal that Mr Goldberg acted other than on instructions in making the statements, or that he knew such statements were false, untrue or baseless at the time he made them."

You will see that I have not changed any part of your sentence, and its meaning is very clear. It would seem that you are now attempting to change your position and therefore place a distance between yourself and the words you previously wrote. The remainder of your letter of 2nd June 2015 does not in any way alter the meaning of the above sentence.

I reject your assertion that I have taken your sentence out of context. Your above statement admits that Terence Goldberg made false statements [in an Application for Assessment of Solicitor/Client Costs].

In your letter of 7th August 2017, which I **attach** in full for preciseness and clarity, you state:

"I do not accept the statements you have identified as being false, misleading and untrue, namely statements that:

- i. Mr Goldberg acted for the Sixth Defendant in Supreme Court proceedings 2009/00291458-001 (the 2009 Proceedings)
- ii The Plaintiffs in the 2009 Proceedings brought their action on behalf of the Sixth Defendant.

were in fact false, misleading and untrue."

You are obviously and quite clearly once again stating that Terence Goldberg of Turner Freeman Lawyers acted for the sixth Defendant in Supreme Court proceedings 2009/00291458-001. However, it has been made known to you on innumerable occasions that this is neither true, nor is it possible.

I refer you to and **attach** a copy of my letter to you of 27th October 2016 (which encloses all Court documents relating to proceedings 2009/00291458-001) and you will again see that Terence Goldberg in fact acted for the four Plaintiffs only in the abovementioned Supreme Court proceedings. You have refused to provide any response to that correspondence.

As previously requested of you, please provide to me the basis of your claim that Terence Goldberg acted for both the four Plaintiffs **and** the sixth Defendant in Supreme Court proceedings 2009/00291458-001, bearing in mind the provisions of Rule 7.25 of the Uniform Civil Procedure Rules.

Your statement that the Plaintiffs in the said proceedings brought about their action on behalf of the sixth Defendant is also not true. As made known to you on several occasions, **all** Court documentation states otherwise.

Please provide to me the basis of your statement that the four Plaintiffs brought about their claim on behalf of the sixth Defendant.

In your letter of 7th August 2017 you now admit that Terence Goldberg was never requested to provide his reasons for making false statements in an Application for Assessment of Solicitor/Client Costs, which was filed with the Supreme Court of NSW on 23rd June 2010.

You are aware that Terence Goldberg stated in such Application that he acted for Enmore Spiritualist Church Incorporated in proceedings 2009/00291458-001 (while omitting that the church was in fact a Defendant), and that there were only five Defendants in the said proceedings, and that her Honour made 11 Orders in those proceedings, as well as a multitude of other fabricated and misleading statements.

The truth, as you know, is that Enmore Spiritualist Church Incorporated was the sixth of six Defendants in the said proceedings, was an unrepresented party in those proceedings, and her Honour made one Order only, ie: *"Each party is to pay their own costs"*.

It is obvious that if Assessor John Bartos had been made aware of the truths of the matter, he would not have issued a certificate of determination against the sixth Defendant and Turner Freeman Lawyers would not have obtained a judgment debt against that Defendant.

The last sentence in your paragraph entitled "For the avoidance of doubt", reads: *It follows there was no reason to inquire why Mr Goldberg made false statements, as you suggest should have been done.*

Once again, you appear to contradict yourself, and your paragraph does not quite make sense. If Terence Goldberg, as you state in your letter of 7th August 2017, did not make false statements, then why are you excusing the Office of the Legal Services Commissioner for not having inquired of Mr Goldberg as to why he made false statements?

As above, and as you well know, there is no doubt or question as to the falsity of the series of statements that Mr Goldberg made.

You refer to the letter from Steve Mark of 10th January 2013, wherein Steve Mark incorrectly and improperly claims that Enmore Spiritualist Church Incorporated was the client of Turner Freeman at the time of the said proceedings.

It is extraordinarily simple: If Enmore Spiritualist Church was Turner Freeman's client, the church would not, and could not, have been an unrepresented party in the abovementioned Supreme Court proceedings, and the church also could not have been named as the sixth Defendant in those same proceedings when Turner Freeman represented the four Plaintiffs.

Your claim that Turner Freeman acted with four of its clients as Plaintiffs and another of its clients as a Defendant, in the same proceedings, is an utter nonsense and defies logic, as well as the rule of law.

The Order as made by Justice Bergin in proceedings 2009/00291458-001 prohibited any Plaintiff from seeking or indemnifying their costs against any Defendant in the same matter, and that is exactly what took place, with Terence Goldberg suing the sixth Defendant to pay his clients' costs, having used deceptive methods to do so.

Despite the simplicity of the above, your office has entered into a long-running battle with a member of the public, while itself providing false, misleading, and contradictory statements in an attempt to cover up solicitor wrongdoing, with that cover up becoming more and more blatant and obvious by the day, and a cover up, which, is now undeniable.

This matter has been beleaguered with questionable conduct, with the Court having been consistently misled, and your office just as consistently turning a blind eye and summarily dismissing all complaints made to your office, with your office providing either spurious explanations for, or no explanation at all, regarding those summary dismissals.

Given your conflicting statements as well as your change of position, a copy of this letter, as well as its attachments, shall be provided to the Independent Commission Against Corruption.

I look forward to your response.

Yours faithfully

A handwritten signature in blue ink, appearing to read "Symn Waters". The signature is written in a cursive style with a large initial 'S' and a distinct 'W'.

Symn Waters

Thursday, 31st August 2017

Mr John McKenzie
Legal Services Commissioner
Office of the Legal Services Commissioner
Level 9, 75 Castlereagh Street
Sydney NSW 2000

Dear Mr McKenzie

Re: Conduct issues - misleading of the Court

I refer to your letter of 7th August 2017 and my response to you of 10th August 2017. I **attach** a copy of both such correspondences.

Despite having had ample time to so do, you have yet to provide any response to my letter of 10th August 2017.

It has been made known to you on innumerable occasions, over a protracted period of time, that Terence Goldberg of Turner Freeman Lawyers could not have acted for the sixth Defendant in Supreme Court proceedings 2009/00291458-001 ("**the Supreme Court Proceedings**"), as not only did Mr Goldberg act for the four Plaintiffs in such proceedings, but that the sixth Defendant was in fact an unrepresented party. A simple telephone call to the Supreme Court of NSW can, and will, confirm such.

Given that Terence Goldberg acted for the four Plaintiffs in the Supreme Court Proceedings and that the sixth Defendant in those proceedings was an unrepresented party, Mr Goldberg's statement (on oath) in Local Court proceedings 2015/00259781 ("**the Local Court Proceedings**") that he acted for the sixth Defendant in the Supreme Court Proceedings is clearly and obviously not true.

Notwithstanding the above, you continue to state that Terence Goldberg acted for both parties in the same proceedings, and yet you are fully aware that this is not possible.

I can only conclude that you, the NSW Legal Services Commissioner, have deliberately provided me, a member of the public, with information that you know is unable to be true, and that you have done so corruptly in order to protect and provide advantage to a solicitor who has misled the Court on more than one occasion.

Given the gravity of this matter, a copy of this letter shall be provided to the Honourable Magistrate Milledge of the Local Court, Sydney, who presided over the abovementioned Local Court Proceedings, and also to the Independent Commission Against Corruption.

I look forward to receiving a response to this letter and to my letter to you of 10th August 2017.

Yours faithfully

A handwritten signature in blue ink that reads "Symn Waters". The signature is written in a cursive style with a large initial 'S' and a long horizontal stroke at the end.

Symn Waters