



22 April 2015

Legal Services Commissioner  
(Attn: Ms Cara O'Shanassy)  
DX 185 Melbourne

Dear Cara,

In reply to Mr Daily's letter of 24 February, 2015, I must first ensure that you are aware that there are five stages in this matter, and that Mr Ussher's complaint ignores the first four of these.

Mr Ussher's complaint cannot be considered in isolation from the events that have led up to it, and so I have set out brief details of the events leading up to Mr Ussher's complaint. I conclude with my own formal complaint against Mr Ussher – that he is a stalker as defined in the *Crimes Act 1958*, and that his complaint is part of an ongoing and obsessive stalking of me.

#### First Stage – Dispute With CAV

The first stage commenced in the year 2002, when I asked Consumer Affairs Victoria (CAV) to thoroughly investigate my business model in order to resolve a dispute over the right of an incorporated legal practice to sell real estate without the need to be licensed under the *Estate Agents Act 1980*.

Initially, I was told that my law firm was a "*real estate business*" as defined in the Act, and that I would be prosecuted unless I applied for an estate agent's licence within 21 days. I challenged CAV's interpretation of the legislation, and the issue was investigated.

Eventually CAV advised me that a *prima facie* case had been established, but I would not be prosecuted for operating an unlicensed real estate business because prosecutorial discretion was being exercised in my favour. (It was later revealed that no *prima facie* case had ever been established, and that this was the true reason for CAV never laying any charges. This was also confirmed by Dr Claire Noone, Director of CAV in a letter dated 22 February, 2010, "*The previous investigation by CAV concluded on the basis that there was insufficient evidence to prove that your conduct breached the Act.*")

CAV informed me that they would work with me to bring about compliance with the Act.

I sought advice from CAV regarding their requirements for compliance. I sought advice as to whether any aspect of my sales operations caused CAV concern, and if so, what steps I should take to alleviate such concerns. I also stated that I was prepared to discuss ways in which my service might

be improved and that I would consider any proposals CAV may wish to put in terms of voluntary accountabilities, procedures etc.

On 16 October, 2003, Mr Peter Hiland, General Manager of the Compliance & Enforcement Branch of Consumer Affairs Victoria concluded the matter with the following statements:

*"I am advised that the previous investigation into your activities, as they related to aspects of the Estate Agents Act 1980, has concluded. I confirm that no charges against you have been laid under that Act. I am also advised that no other enforcement activity is to be pursued against you in respect of the previous investigation conducted by Consumer Affairs Victoria...I believe that compliance with the obligations and limitations imposed under the Act and, where relevant, any other consumer legislation administered by Consumer Affairs Victoria would ensure that any future interaction with this Office will be positive."*

Although the matter had concluded, CAV continued to frustrate my business development. They sought to maintain that I was in breach of the Act, but they refused to prosecute, relying on the fictional exercising of prosecutorial discretion. At the same time, contrary to their charter to advise and inform on compliance matters, they would not tell me what they wanted me to do to become "compliant".

A complaint to Ombudsman Victoria in August, 2004 did not resolve matters. The Ombudsman informed me:

*"As you will appreciate, CAV had determined that you are in breach of the legislation and exercised its discretion not to prosecute. This decision was based on legal advice."*

It was apparent to me that CAV could not prosecute me for not holding an estate agent's licence, or they would have done so.

It was also apparent to me that CAV did not want to disclose their requirements for "compliance" as they did not want me to become compliant.

It was patently clear to me that CAV was motivated by reasons other than regulation and compliance imperatives, and that they did not want my business to be legitimised by my successfully defending a prosecution or by acceding to their compliance requirements.

Between 2004 and 2009 I operated my law firm in the same manner, and without any recommendations from CAV on compliance or threats of prosecution.

## **Second Stage – Corruption Complaint**

The success of my business model, and growing consumer demand for my services encouraged me to consider a franchise model.

To ensure that other legal practitioners would not experience the same difficulties with CAV as I had experienced in the past, I sought assurances from CAV that franchisees would be permitted to operate unhindered by CAV as I had been in latter years.

CAV refused.

As I had never been prosecuted for having breached the Act, and CAV had never identified any non-compliance, I was satisfied that CAV's conduct was the result of corrupting influences. Accordingly, I lodged a complaint with the Minister for Consumer Affairs, stating *inter alia*:

*"The circumstances of this ongoing dispute are such that I am forced to conclude that individuals within CAV are motivated by corrupt or improper purposes, rather than a genuine desire to protect the interests of consumers and the broader community."*

A copy of my corruption complaint letter was also sent to the Attorney General, the Ombudsman Victoria, The Registrar Business Licensing Authority, The Chairperson of the Estate Agents Council and the President of the Law Institute of Victoria.

I was informed by the Ombudsman Victoria that the complaint had to be submitted to Dr Claire Noone, Director of CAV, notwithstanding that she was the person who was most likely to be found responsible if my corruption complaint was substantiated.

Dr Noone's response made little sense, in that it acknowledged that matters had been resolved in my favour:

*"I note that your complaints refer to conciliation, investigation and compliance monitoring activities that occurred in 2002, 2003 and 2004. I do not intend to initiate an investigation into matters that occurred over 5 years ago, particularly as those matters were resolved in your favour."*

and that there was no evidence on which to base a prosecution:

*The previous investigation by CAV concluded on the basis that there was insufficient evidence to prove that your conduct breached the Act. That has remained the CAV position, but I have some concern..."*

While simultaneously raising vague "concerns" about the number of properties sold through my law firm and instructions regarding sale negotiations, Dr Noone's letter nevertheless concluded with:

*"CAV has discharged its responsibilities in relation to its regulatory responsibilities in a balanced and proportionate manner and will continue to do so. You previously raised these issues in 2005 and were advised of CAV's position at that time. I do not intend to reassess them now."*

I was now convinced that Dr Noone and CAV were deliberately and corruptly misusing the regulatory role of CAV to thwart and frustrate my efforts to develop my business model, and I suspected that powerful real estate interests were involved (I will elaborate on this if and when I am asked to do so).

On 1 March, 2010 I wrote to the Ombudsman Victoria and lodged a formal corruption complaint, which I headed **"RE: CORRUPTION COMPLAINT – DIRECTOR CONSUMER AFFAIRS VICTORIA"**

I concluded by letter with the following paragraph:

*"I confirm my allegation that Dr Noone and Consumer Affairs Victoria have embarked upon a corrupt course of conduct, which started with the making of false allegations of criminal conduct, was perpetuated by the improper use of "prosecutorial discretion" in place of total*

*exoneration, and has now developed into a "cover-up" whereby Dr Noone and Consumer Affairs Victoria seek to avoid scrutiny by continuing to assert through various publications that my firm is engaging in illegal conduct but remains beyond the reach of the law because 'there was insufficient evidence to prove that your conduct breached the Act.'*

*I request that this matter be thoroughly investigated by an independent body that has access to high quality legal advice and assistance."*

Instead of having an independent party appointed, the matter was investigated by officers of CAV, including Mr Blair Ussher.

### **Third Stage – Setting the Scene for Retaliatory Legal Proceedings**

On 5 July, 2010 Dr Claire Noone wrote a letter to me, headed **"COMPLIANCE WITH THE ESTATE AGENTS ACT 1980"**

Dr Noone's letter made no mention of the corruption complaint I had lodged against her, and I submit that her letter was no more than a device, the purpose of which was to set up a situation whereby CAV could claim that they had identified non-compliance, and to commence legal action in retaliation for my having lodged a corruption complaint.

In this letter Dr Noone made vague references to my website and to statements I made on a television program about my business model, and then set me up with an impossible task:

*"I offer you the opportunity to satisfy me that you and/or Lawyers Real Estate Pty Ltd do not...sell real estate in Victoria."*

Despite the implication that compliance was impossible (if selling real estate in Victoria was a non-compliance, then I could not possibly comply), Dr Noone then went on to imply that I could bring about compliance by making changes to my method of operation:

*"If your business operation does negotiate the sale price or sells real estate, I offer you the chance to change your method of operation, including advertising, to comply with the Act."*

However, Dr Noone did not offer any hint as to what I had to do to satisfy her demands for "compliance". Once again, the corrupt *modus operandi* I had complained of (i.e. requiring compliance, asserting non-compliance, but refusing to identify how compliance could be achieved) was being used by CAV to confuse and frustrate me.

Dr Noone's letter concluded with a threat to take proceedings to bring about compliance:

*"If I do not receive your reply within 14 days of the date of this letter or I am not satisfied that you have changed any non-compliant aspects of your business operation, I reserve the right to take appropriate proceedings to bring about compliance with the law."*

All Dr Noone had to do was to respond to the requests I had made back on 2 September, 2003 when I wrote to CAV requesting advice on compliance and offered to consider any proposals CAV may wish to put in terms of voluntary accountabilities, procedures etc.

**Dr Noone's purpose, I submit, was not to provide an opportunity to bring about compliance, but to precipitate a situation where she could claim that I had defiantly and deliberately refused to cooperate and comply, so that she could justify the bringing of legal action against me.**

I believe that Mr Ussher was directly involved in the process of engineering the strategy by which CAV could move from being accused of corruptly thwarting my efforts to work with CAV, to one of pursuing me for operating an unlicensed real estate business. (I emphasise that the issue of my operating an unlicensed real estate business had been quite conclusively dealt with and disposed of previously.)

It was also Mr Ussher who confirmed CAV's complete change of approach when, in a letter dated 1 December, 2010, he stated to my lawyers in response to a request for mediation, *"The Plaintiff is somewhat surprised that the Defendants seek mediation...In this instance your clients either need to be licensed or they do not."*

#### **Fourth Stage – Taken by Surprise – Mr Ussher's Supreme Court Writ**

I was taken completely by surprise when Mr Ussher sent a process server to my home to serve me with a Supreme Court writ. The writ, signed by Mr Ussher, was dated 20 August, 2010, just 5 months after I had lodged my corruption complaint against Dr Noone. The corruption complaint was never investigated; effectively displaced by Mr Ussher's writ, and completely ignored.

Also ignored by Mr Ussher and Dr Noone were:

- CAV's assurances that investigations into my operating a real estate business without an estate agent's licences had concluded some years previously;
- CAV's confirmation that no charges would be laid against me for operating an unlicensed real estate business, and that there would be no further investigations;
- CAV's assurances that a real estate agent's licence would not be required provided my business operations were compliant;
- My requests for CAV's compliance requirements and for advice as to undertakings and procedures that CAV might ask of me in order to ensure compliance;
- Dr Noone's personal confirmation that matters relating to my operating a real estate business without holding a real estate agent's licence had been resolved in my favour, and would not be further examined;
- CAV's charter, requiring that CAV should advise and assist businesses with regulatory compliance;
- Model litigant rules which prevented CAV from using technicalities in order to pursue unwarranted legal action;
- Whistleblower protection legislation that prevents a party accused of corruption from taking retaliatory legal action against the whistleblower;

- Natural justice, whereby I was entitled to be treated fairly in all of the circumstances;

Mr Ussher had taken great care to ensure that I would be taken by surprise and unable to adequately defend the case he intended to present to the Supreme Court.

Mr Ussher had become aware that, due to the change from the *Legal Practice Act 1996* to the *Legal Profession Act 2004*, my law firm had, overnight, ceased to enjoy the exemption it had under the earlier Act. Mr Ussher did not inform me of this situation or that CAV intended to use it against me in proceedings in the Supreme Court of Victoria.

I submit that Mr Ussher's withholding of this information from me was dishonest and reprehensible, and that it formed part of a strategy to ensure that CAV would succeed in its Supreme Court proceedings.

Mr Ussher also withheld from me CAV's contention that words appearing on my website, namely "*As a law firm, Lawyers Real Estate does not rely on the Estate Agents Act 1980 for authority to represent its clients in real estate sales, and is not required to hold an estate agent's licence under that Act*" would be used to base an allegation that I and my law firm had engaged in misleading and deceptive conduct, or that CAV intended to request that the Court should order that I must publish advertisements implying dishonest and anti-consumer conduct on my part.

I submit that Mr Ussher's withholding of this information from me was dishonest and grossly unfair, and that his purpose in keeping the information from me was to ensure that I would make no changes to my website in order to comply with any request by CAV that it be removed or altered.

I submit that Mr Ussher's strategy was to cause me as much personal and professional damage as possible in retaliation for my having lodged a corruption complaint against CAV, and had nothing whatsoever to do with the protection of the interests of consumers.

Mr Ussher had also secretly approached the Law Institute of Victoria Property Law Section, and procured the services of Mr Murray McCutcheon, a leading member of the Property Law Section. As a member of the Law Institute of Victoria I was entitled to know the opinion of Mr McCutcheon before he was called upon by Mr Ussher to provide evidence against me.

I submit that Mr Ussher's procuring of Mr McCutcheon in the circumstances was mischievous. I further submit that the amount of money paid to Mr McCutcheon for what was a very meagre contribution to the procedure was exorbitant, and that, arguably, it assumed the characteristics of a bribe by its magnitude (approximately \$18,000.00).

I submit that Mr Ussher acted corruptly in using the justice system to bring about a result that he knew was unjust in all of the circumstances.

I further submit that Mr Ussher's conduct was dishonest and highly improper, employing stealth and misinformation in order to deceive me into believing in a false set of circumstances, and then using this ploy in order to entrap me.

After succeeding in having the Supreme Court find against me, Mr Ussher arranged for the CAV website to portray me as a dishonest person who had successfully evaded the law for a long period of time, and whom CAV had eventually bought to book, when he knew that I had done my utmost to co-operate with CAV by seeking advice, requesting compliance information and offering undertakings and accountabilities.

I submit that Mr Ussher's intention was to cause me as much personal and professional damage as possible, and that this was in retaliation for my having lodged a corruption complaint against CAV. I further submit that Mr Ussher's conduct was dishonest and corrupt.

#### **Fifth Stage – Mr Ussher's Conduct As Stalking**

In further reply to Mr Daily's letter of 24 February, 2015, it is clear to me that Mr Ussher is mentally unbalanced and that he has been permitted by too many, to get away with too much, for too long.

Mr Ussher's conduct is not merely a matter of occasional lapses or errors of judgement. Rather, Mr Ussher has adopted and perpetuated a malicious campaign against me and my law firm. While this campaign may have been initiated by others on behalf of Consumer Affairs Victoria, Mr Ussher has assumed control of it such that it has become his personal obsession.

Mr Ussher appears to have been given *carte blanche* to act as policy administrator, legal counsel, investigator, informant, crown witness, evaluator of evidence, and prosecutor with little or no supervision or accountability. This has allowed him to stalk and harass me, to ruin my business and my reputation and to cause me and my family ongoing distress. It has also unfairly allowed Mr Ussher to fend off complaints I have made regarding his conduct.

Mr Daily's letter is a further indication to me that Mr Ussher's bizarre behaviour is being accommodated, rather than addressed, and that he is effectively using your office as a means by which he can continue to stalk and harass me.

I have disclosed to you the observation made by Mr Tim Dixon in August, 2012:

***"The complete absurdity of your current position is certainly not wasted on me. I think you are right to assume that Blair Ussher will be waiting, no doubt trawling through blogs and other internet websites in the dark of night, to try to catch you out. His actions to me have all the hallmarks of bullying. He seems to want to prove that he is more powerful than you and he can both subjugate and punish you for not toeing his line in the first place. It smacks of "the little man who is a failure in the profession" proving to himself that he can get revenge on the profession which has largely rejected him - by picking on someone who has less resources and less ability to defend himself. Personally, I have some doubts as to whether Claire Noone has ever had any real interest in your matter and my suspicion is that this has been Ussher's personal barrow to push from the start."***

Mr Dixon had first-hand knowledge of Mr Ussher's behaviour and his improper approach to matters involving me. I believe that Mr Dixon was also intimidated by Mr Ussher. At one point Mr Dixon expressed a fear that Mr Ussher would verbal him in an affidavit, and made the decision to limit telephone contact with him. This was but one indication that Mr Dixon had serious concerns about Mr Ussher's professionalism and conduct.

You too have direct knowledge of Mr Ussher's personal interest in me and his attempts to cause difficulties for me. I am referring to my appearance at VCAT.

When I arrived at VCAT Mr Ussher was waiting for me. He had no reason to be in attendance, and I felt that he was, once again, stalking me – ensuring that I knew that he was monitoring my every involvement in the legal system.

Mr Ussher was not content simply to watch proceedings; he actually approached the legal team representing the Legal Services Commissioner on a number of occasions. The ease with which Mr Ussher could approach the LSC legal team, and engage them in discussion about me and the conduct of the LSC case, was most disturbing. I accept that he may not have actually influenced the manner in which the case against me was conducted, however his very obvious attempts to do so was a cause of great distress to me and to my wife.

After the hearing had been adjourned my lawyer, Mr Grant Hutchinson, informed me and my wife that Mr Ussher had approached him noting that he needed to speak with him. Mr Hutchinson, advised us to leave him behind and to wait for him at a cafe across the road from the VCAT building. When Mr Hutchinson met up with us after his conversation with Mr Ussher he expressed surprise and concern for Mr Ussher, given Mr Ussher's state during their conversation.

Mr Hutchinson informed us that Mr Ussher was visibly worked up despite apparently trying to suppress his agitation as he spoke. According to Mr Hutchinson, Mr Ussher was in such a state that it was difficult at a couple of points to fully understand what Mr Ussher was saying. Mr Ussher wanted Mr Hutchinson to "go on the record" so that he could communicate with me through Mr Hutchinson's office (Hutchinson Legal).

The attendance of Mr Ussher at the VCAT hearing, his communicating with your legal team and his intercepting of Mr Hutchinson were all quite unnecessary. I submit that these behaviours are symptoms of Mr Ussher's obsession with me, and constitute examples of his stalking me.

A further example of Mr Ussher's stalking me is the article that appeared in the Maroondah Leader newspaper on 27 January, 2015. I submit that Mr Ussher was instrumental in having this article published prominently on page 3 of the newspaper, together with my photograph. I have no direct evidence of Mr Ussher's involvement, however the circumstances surrounding the article's publication, together with the reticence of the journalist and his editor when I sought certain information from them, satisfies me that Mr Ussher was directly involved. I request that the LSC make enquiries with the journalist and editor involved, to ascertain Mr Ussher's involvement in having the article published in the way it was.

Mr Ussher's complaint to the Legal Services Commission is yet another example of his stalking me. The complaint contains a number of falsehoods and false implications. You have direct knowledge of at least two lies told by Mr Ussher (he informed you that he had received no response to letters written to me on his behalf, and he also told you that there had been no offer of an apology. The truth is that Mr Hutchinson had made genuine attempts to end Mr Ussher's stalking by negotiating an apology through Mr Ussher's lawyers).

Mr Ussher's pursuit of me was personal, malicious and highly improper. It involved a departure from CAV's published policy on its role as regulator, and a deliberate denial of procedural fairness. Mr Ussher's methods and strategies constituted misconduct in public office, and tainted the entire matter, such that Mr Ussher's manipulation of the justice system brought about an unjust result.

The injustices perpetrated by Mr Ussher are perpetuated by articles which still appear on the CAV website, and are aggravated with each article Mr Ussher publishes with reference to my Supreme Court trial.

When Mr Ussher commenced his campaign against me he did so under the guise of legal counsel representing the Director of Consumer Affairs Victoria. This gave the appearance that Mr Ussher was



pursuing a noble cause, namely the protection of consumers through the enforcement of consumer protection regulation. In fact, Mr Ussher was reacting to corruption complaints I had made against the Director of Consumer Affairs Victoria, and an ongoing dispute with that office in which I had gained the upper hand.

In short, Mr Ussher's motive in pursuing me was to discredit me and my law firm so that we could no longer challenge CAV and the misconduct of officers within that department. He wanted to silence a whistleblower.

Mr Ussher has managed to mislead and manipulate the investigative processes to date. I am of the firm and genuine view that Mr Ussher is labouring under some form of mental disorder, allowing him (or perhaps driving him) to make me a victim of his pernicious and ill-conceived conduct.

Thus, the real issue here is not the nature of Mr Ussher's complaints, but Mr Ussher's intolerable behaviour. As stated above, Mr Ussher's complaint to your office is just one further example of his stalking behaviour and his personal campaign against me.

Other examples include (but are not limited to) the following:

(As you are aware, Mr Ussher has identified himself personally with my words, "...CAV has gone to great lengths to destroy my firm and reputation." (Maroondah Leader 27 January, 2015 p.3). I made this comment in reference to the conduct of CAV over a period spanning 10 years. I will assume that Mr Ussher identifies himself with all of the matters listed below, subject to his proving otherwise. At the very least, Mr Ussher will have had full knowledge of these matters through his examination of records held by CAV. Please excuse my inclusion of some matters already alluded to above.)

- In reply to a complaint I had lodged, Ms Anna Lygopoulos of CAV informed me on 9 May, 2002 that she had discovered that I did not hold an estate agent's licence, that her office had conducted successful prosecutions against unlicensed estate agents, and that I should assess whether I was operating within the law.
- On 4 July, 2002 Ms Lygopoulos informed me, "*The material that has been provided to Consumer Affairs Victoria (CAV) clearly indicates that the services you offer and provide are in the business of an estate agent and you are required to be licensed. As previously stated, the exemption provided by Section 5(2)e of the Act does not apply to your conduct.*"
- I challenged the view of CAV that my law firm was "*the business of an estate agent*" requiring an estate agent's licence, and I requested that CAV should conduct a full and proper investigation into my business model to determine the issue. I went so far as to request that my own letter should be regarded as a formal complaint (against myself) so as to prompt a formal investigation.
- CAV conducted a number of investigations involving visits to my business premises, the taking of photographs and the copying of material from my websites. There were numerous letters sent back and forth, and I lodged complaints with CAV, the Ombudsman and my local Member of Parliament regarding the conduct of the CAV investigations, the delay in concluding matters and my general dissatisfaction with the conduct of CAV. At one stage I had approached a CAV officer who was conspicuously taking flash photographs of my shopfront and invited him for a chat over coffee. The officer informed me that I was regarded by CAV as "*rocking the boat*", implying that I was being harassed, rather than investigated.

- On 6 June, 2003 I was informed by CAV that investigations had concluded and that, despite a *prima facie* case having been established, no charges had been recommended. I was also told, “CAV would encourage you to review your ongoing structure and conduct...in relation to sale boards, shop front and advertising material... CAV has previously indicated that it would be prepared to work with you to bring about compliance with the Act.”

(Nearly a decade later, as the result of a Freedom of Information application, I discovered that CAV’s investigation had not established any *prima facie* case against me, and that assertions made regarding a *prima facie* breach of the Act were false.)

- As CAV had confirmed that it was possible for me to operate without an estate agent’s licence provided I reviewed certain aspects of my business model, I sought further guidance from CAV regarding their compliance requirements.
- On 2 September, 2003 I wrote to CAV requesting advice on compliance:

*“I request advice from CAV as follows:*

1. *Please advise as to whether there is any aspect of my sales operations that cause CAV concern; and*
2. *Please advise as to what steps should be taken to alleviate these concerns.*

*I am prepared to enter into discussions with CAV as to ways in which my service can be improved and I will consider any proposals CAV may wish to put in terms of voluntary accountabilities, procedures etc. My intention is to make my sales service as fair, transparent and as accountable as possible.*

*Please be assured that I wish to work with CAV as far as is reasonably possible.”*

- CAV’s response to my plea for advice on their compliance requirements was vague and dismissive. General Manager Mr Peter Hiland replied, “As to the questions you pose in your letter, I do not propose to provide suggestions or directions on how you should conduct your business.” This was in direct breach of CAV’s charter to assist and advise on compliance. I submit that this response was made in the knowledge that no *prima facie* case had been established, and there were no compliance issues that could truly be identified.

Compliance without the need for an estate agent’s licence was further confirmed by Mr Hiland in the same letter:

*“I am advised that the previous investigation into your activities, as they related to aspects of the Estate Agents Act 1980, has concluded. I confirm that no charges against you have been laid under that Act. I am also advised that no other enforcement activity is to be pursued against you in respect of the previous investigation conducted by Consumer Affairs Victoria...I believe that compliance with the obligations and limitations imposed under the Act and, where relevant, any other consumer legislation administered by Consumer Affairs Victoria would ensure that any future interaction with this Office will be positive.”*

- Mr Ussher was aware that CAV had investigated the allegation that my law firm's business model was a "*real estate business*", and that I had been informed that no further action was contemplated in this regard.
- Mr Ussher was aware that I had sought advice on compliance, but CAV had refused/failed to provide this advice.
- Mr Ussher was aware that my law firm had been selling real estate in reliance on the assurances provided by CAV that investigations into my law firm being a "*real estate business*" had concluded, and that there would be no prosecution.
- Mr Ussher was aware that I had done my best to seek advice on compliance, and that I had indicated a preparedness to adopt and conform with CAV's compliance requirements.
- Mr Ussher knowingly and deliberately "entrapped" me by allowing me to operate my business in the belief that I was operating lawfully in the circumstances.
- Mr Ussher deliberately withheld from me his intention to assert that words on my website could be construed so as to support an allegation of "Misleading and Deceptive Conduct". Based on my track record and correspondence to CAV, Mr Ussher knew that I would have immediately addressed any stated concern of CAV by removing words that CAV asserted were misleading or deceptive. Instead he sought to avoid/prevent my becoming compliant in order to entrap me.
- Mr Ussher deliberately engineered a strategy by which I and my law firm would be required to publish advertisements admitting to a technical breach of Misleading and Deceptive Conduct in order to bring about the destruction of my business and my personal reputation.
- Mr Ussher was aware that allegations of Misleading and Deceptive conduct would cause severe damage to my business and to my personal reputation.
- Mr Ussher was aware that no consumers had ever been misled or deceived by any material appearing on my website or in other material published or distributed by me.
- Mr Ussher was aware that CAV had received no complaints from consumers about my real estate sales business model or business practices, and that the only complaints received by CAV had come from real estate agents who felt that their monopoly was under threat.
- Mr Ussher was aware that any allegation of Misleading and Deceptive conduct would be based on a technicality, and that model litigant rules and CAV's own charter prevented his use of such a technicality in the circumstances.
- Mr Usher became aware of a change in the law by which my firm ceased to be a "legal practitioner", losing the exemption applicable to legal practitioners under the *Legal Profession Act*. He deliberately withheld this information from me, so as to ensure that I would remain oblivious to the issue, and be rendered non-compliant. Mr Ussher then used this technicality against me in Supreme Court proceedings.

- Mr Ussher deliberately and maliciously ignored or otherwise avoided observation of the model litigant rules and CAV's charter when making decisions regarding the seeking of orders through the Supreme Court of Victoria and the use of technicalities in proceedings.
- Mr Ussher was aware that the publication of Court ordered advertisements would cause severe damage to my business and to my personal reputation.
- Mr Ussher acted maliciously and improperly when he insisted that Court ordered advertisements had to be published **before** the appeal period had ended, and it was his intention that my reputation and business should be severely damaged regardless of the outcome of any appeal.
- Mr Ussher committed the criminal offence of blackmail when he wrote a letter making an unwarranted demand that I should undertake to purchase unnecessary and expensive additional newspaper advertisements.
- Mr Ussher acted improperly and unprofessionally when he telephoned my lawyer, Mr Tim Dixon, in a fit of pique and informed him that he would do things to crush me and damage my business.
- Mr Ussher compounded his improper conduct when he falsely stated that he had not telephoned Mr Tim Dixon and threatened to crush me and damage my business.
- Mr Ussher acted improperly when he refused to relinquish his carriage of matters involving me and my law firm when he was aware that serious complaints regarding his conduct had been made.
- Mr Ussher acted improperly when he contributed to false and misleading statements being published on the CAV website, implying that I had been pursued by CAV over a long period of time and "finally put in check".
- I believe that Mr Ussher was instrumental in having an article published about me in my local newspaper and providing false information to a CAV spokesperson who is quoted as saying, "*All allegations made by Mr Mericka are false*", when in fact my allegations are well founded.

The above points are just some of elements of Mr Ussher's campaign of bullying and harassment over a number of years.

I submit that Mr Ussher's campaign has been well planned and researched. Mr Ussher's strategy was to ensure that I would continue to rely on CAV's assurances that I would not be prosecuted, while he surreptitiously explored the means by which I could be entrapped in a legal process against which I would have limited opportunity to defend myself.

I further submit that Mr Ussher's conduct constituted not only a denial of Natural Justice, but also professional misconduct, misconduct in public office, criminal blackmail and stalking.

Doubts about Mr Ussher's mental health are highlighted by the fact that, despite the inevitability of his conduct being called into question by a re-opening of this matter, he has continued to pursue me

and has taken the extraordinary step of attempting to have the Legal Services Commissioner investigate his spurious complaints.

I request that this submission be accepted as a formal complaint against Mr Ussher, and that an investigation be undertaken to determine how one man could have wielded such unfettered power and control over something that was, from the very outset, the subject of numerous complaints. As requested above, Mr Ussher's involvement in the publication adverse to me in the Maroondah Leader newspaper on 27 January, 2015 should form part of this investigation.

I further request that the Legal Services Commissioner should consult other relevant law enforcement bodies, including the office of the Auditor General (regarding Mr Ussher's failure to follow proper processes and prosecutorial guidelines), the Office of Public Prosecutions, Victoria Police, Ombudsman Victoria and IBAC to ensure that problems that arose in the Munt Case do not arise in relation to this matter.

Cara, I conclude by referring to your request that I should respond to Mr Ussher's complaint by way of a general response. It is my view that Mr Ussher's complaint is simply one more step in his interminable stalking of me, and that it should be treated as such. However, I am quite prepared to address each and every element of Mr Ussher's complaint if you wish me to do so.



Peter Mericka  
Legal Practitioner