

- 43 The respondent lectured at the Leo Cussen Institute for a number of years until 2008 and lectured ambulance officers on ethics and the law until 1997. In 1997 he was sent to Hong Kong by Victoria University to lecture ambulance officer in ethics and the law.
- 44 The respondent's wife works with him in the practice.

#### **CESSATION OF THE CRUSADE**

- 45 It is clear that the correspondence which has given rise to these charges is part of a crusade undertaken by the respondent as a result of the proceedings commenced against him by the Director of Consumer Affairs. It is clear that he became obsessed. It was submitted to the Tribunal that both he and his wife want the crusade to end.

#### **PSYCHOLOGICAL COUNSELLING**

- 46 The respondent's counsel, Mr O'Bryan, informed the Tribunal that he had spoken to the respondent regarding independent counselling. He advised the Tribunal that the respondent was amenable to such a course of action. Several days after the hearing, an email from the respondent's solicitors was received by the Tribunal. This email was also copied to the applicant. No objection was raised by the applicant. Accordingly, the contents of the email are taken into consideration. This email advised that since the hearing, the respondent sought the support of a psychologist through Vic Lawyers' Health, and initiative of the Law Institute of Victoria. In the email, the respondent's solicitors also advised that the respondent had instructed them that he is committed to at least two further sessions with a psychologist to address the issues which were the subject matter of the proceeding.

#### **CONSIDERATION**

- 47 As submitted by counsel on behalf of the applicant, this is a difficult and unusual case. It is necessary for the public to have confidence in the administration of justice. This requires members of the legal profession to conduct themselves in a manner which displays respect for the courts, judges and the system of administration of justice generally. Actions such as those of the respondent have the effect of eroding this confidence and also have a detrimental affect on the dignity and reputation of the legal profession. Dispositions in proceedings such as these must be protective of these standards. Other considerations are specific and general deterrence and protection of the public. In this particular case, it must be noted that the respondent was a party to the litigation which came before Sifris J. He was not merely acting as a legal representative of a party.
- 48 I do not consider that protection of the public is a significant factor in this matter. Specific deterrence is of limited significance due to the unusual nature the respondent's actions, the fact that he has an otherwise unblemished record and by his apologies, contrition and willingness to

undertake psychological counselling. It is most unlikely that these actions will ever be repeated by the respondent.

- 49 General deterrence is satisfied by the bringing of this proceeding and the inevitable publicity that it will receive.
- 50 Most significantly, the respondent has apologised to the Chief Justice and to Sifris J. Also of significance is the seeking of psychological counselling and the acknowledgement that the crusade which gave rise to the respondent's actions is at an end.
- 51 I am satisfied that the respondent has displayed insight into his actions, has appropriately displayed contrition, not only by apologising but by pleading guilty to the charges and has taken action by way of counselling to minimise the likelihood of repetition.

#### **DISPOSITION**

- 52 I am indebted to the applicant's counsel for providing a number of authorities which deal with similar situations and their dispositions. The authority which comes closest to the one presently before the Tribunal is a matter which came before the Legal Practice Tribunal of Queensland in the matter of *Legal Services Commissioner v Turley* [2008] LPT 4. In that matter the respondent was a 66 year old solicitor who made scandalous and offensive submissions during the course of proceedings before the Magistrates' Court at Gladstone. The Tribunal, presided over by Chief Justice de Jersey, was satisfied that at the time of the events the respondent was suffering from depression and other medical problems for which he subsequently underwent proper treatment. The disposition included a reprimand and an order that the respondent pay the applicant's costs. There was also an order limiting the respondent's engagement in legal practice to one of being subject to supervision.
- 53 I do not consider that it is necessary to interfere with the respondent's practising certificate in any way in order to achieve the requisite objectives of these proceedings. Nor do I consider that a fine is necessary. I reprimand the respondent in relation to each of the two charges and point out that a reprimand is not an insignificant disposition. It signifies disapproval of the respondent's actions and is a stain carried by the respondent for the remainder of his professional life.

#### **COSTS**

- 54 The applicant and the respondent have agreed on the amount of costs to be paid by the respondent. These costs are fixed by the Tribunal in the sum of \$12,500.

Gerard Butcher  
**Senior Member**