

Judge Ian Gray: [inaudible 00:00:02].

Speaker 1: Sorry, my apologies.

Judge Ian Gray: That's all right. We'll start again?

Speaker 1: We'll start again.

Judge Ian Gray: We'll start again? Okay. I started a little quickly. So, commencing now the meeting, this morning, here at the Law Institute, the 18th of May. Judge Ian Grey, retired Judge Ian Grey is my name. I'm working on an investigation and review in respect of Mr Peter Mericka's renewal of practising certificate application. This morning I'm assisted by Peter Docherty, head of Professional Standards [00:00:30] and Quality Insurance, at The Law Institute Victoria. He will be in and out of the meeting. He won't be here for the whole meeting. It's essentially for that technical assistance that he's here.

You've now been advised as to where the facilities are within the building. And they are the introductions, we've done them, I don't think we need anymore. We know why we're here. It's to consider the question, Mr. Mericka, of your renewal of your Practising Certificate, essentially having regard to the question [00:01:00] of fit and proper person. That particular application, that criterion, and part of that criterion is to determine the matter of character. Now, and I've sent you some dot point topics, and you've told me already that you've prepared some answers in writing to those.

So that's the ground we're going to cover this morning. As I said a few minutes ago, I don't expect that we go beyond 12:30. I think we should aim, and I'll be aiming to [00:01:30] bring the matter, discussion to a close by 12:30. I want the discussion to be with you directly, Mr Mericka. I'm clearly happy, of course, for you to be here, Mr. Lynn, and of course you Mr. Docherty, as well. But the discussion is with Mr. Mericka.

I intend, this is not a formal court hearing, of course. The evidence is not on oath. It's an inquisitorial process. I'm informing myself in a way that I would consider [00:02:00] fair and thorough. I expect that ultimately where I'm able to reach conclusions based on what I've read, and what I've been told. We'll go through questions on that matter. And so it's really effectively something that you're aware of it, Mr Mericka, on the civil standard that I would raise that to [inaudible 00:02:22] because of the importance of the certificate to you as a practitioner, and to the community because of the critical importance of professional standards and comment.

So that's the procedure, so [00:02:30] it's really a series of questions from me to you. And we've got the topics already set out in my email to you on the 15th of June, which you've gave responses to. So what I think, yes, the most effective thing to do, and thank you for preparing them, and you've got some pages here.

So I think the most effective thing to do is to ask you to read the document you've prepared for today, please.

And [00:03:00] I take it that it will address the dot point issues that I have listed in my list. And if it doesn't cover any of those we can go back to those to finish with, and at the end of that I'll invite you to say anything else in addition to what you've said in the document that you'll be reading from, which I haven't yet read, but I will read as you read it. So healthy procedure.

All of this is being recorded. And of course, in respect of the recording [00:03:30] you will of course have access to it, if you wish to have that access. And I will have that access of course straight after this so that I can conclude a preparation of report. All right, so is that all clear?

Thank you. Well, Mr Mericka, over to you. I've got your history. I know when you commenced practise, I've seen that. You've had practise [inaudible 00:03:53] renewed. I know when you've commenced practise. I know essentially what the nature of your practise is, and [00:04:00] there's no need for a discussion about that, and where you work. So I've got a sense of context of the nature of your practise, how long you've been in the profession and broadly, your history in the profession. And the focus is absolutely on the dot points, not on any other history.

Peter Mericka: Right.

Judge Ian Gray: All right? But I should say, obviously I've read the DCAT case from 2014 which arose from matters in 2012. [00:04:30] I've read that, and I ultimately might say something about that, but that is not the determinant of this matter. The determinant in this matter is the conduct that I've reflected on in the dot points. That is the website publications. That is the focus, that is the essence, of the conduct, to use that word that I'm focused on at the moment.

So it's the assessment on that, that will ultimately determine my [00:05:00] view about your fitness for a renewal. Understood?

Peter Mericka: Understood.

Judge Ian Gray: Now, for the recording, we are all wearing masks in this meeting this morning. It makes it much harder for people, I'm aware of it. I think you can hear me clearly, Mr Mericka? Good, I can hear you clearly. We can pause whenever you want to for a cup a water, or use the bathroom if you wish. So, it's a flexible morning, and it's difficult because of the constraint of masks.

Having said all of that, unless there's any questions [00:05:30] you want to ask me at the beginning, then we'll start with your responses to, or your comments on my dot pots in my email, on the 15th of June. I'll read into the record that the dot points I raised, so that you don't have to read them out each time.

Peter Mericka: And I'll respond to them.

Judge Ian Gray: Well, I think we can do it that way, yes, because that's what's you've done, isn't it? You've responded directly heading by heading, in response to the documents? All right. So the first [00:06:00] dot point, and therefore Mr Mericka's first heading is, the approach you have taken to raising allegations of corruption against the VLSC and commissioner McClay, that is by publication on your website. Over to you Mr Mericka.

Peter Mericka: Well, the approach I've taken raising allegations of corruption against the Victorian Legal Services Commissioner is extraordinary. I should never have been put in a position of making public disclosures as the only option left to me. It was always my preference [00:06:30] that government departments and other legal professional stakeholders, will take the initiative to deal with the improper conduct VLSC and others.

I was left with no alternative, as all of my attempts to use proper channels either were rebuffed or thwarted. My first avenue of redress in relation to corruption issues has always been the Law Institute of Victoria, as my professional association. I approached Mr Michael Greg- [00:07:00] Young many years ago, but was told that the LIV could not assist. I've also approached the LIV ethics section, only to be told that corruption is not an ethical issue within the sections purview.

I was recently delighted when I received an unsolicited telephone call from LIV, inquiring about my satisfaction with LIV services. I complained about the lack of interest in my ongoing problems with VLSC corruption, [00:07:30] and was told that this was exactly the kind of feedback the LIV was seeking. I provided details of the corruption issues, and provided Mr. Lynn's details as a person who would corroborate my complaints. I was told that Mr Lynn would be contacted, and the matter would be escalated to a higher ranking officer in the LIV for further attention.

Despite follow up calls and emails, I heard nothing further from the LIV, [00:08:00] nor did Mr. Lynn ever contacted. It was only recently that I was informed that the LIV had now become the delegate of the VLSC, and it was obvious to me that my professional association was unable to offer me any assistance. If a lawyer's own professional association cannot or will not support or assist, and all other complaint authorities are unwilling to take any meaningful action, a lawyer who seeks assistance [00:08:30] in dealing with serious corruption must resort to extraordinary means.

Judge Ian Gray: Thank you, so that's topic one. And as we go through the topics, so Mr. Mericka, I think it's probably more convenient for me to ask you questions that arise, rather than do that at the end. So I'll ask you a couple of questions that arise now from that topic, and continue in that fashion. Does what you've just read out refer to, and I'm going to your dot point four, [00:09:00] your attempts to

use proper channels? Is there anything else you want to say about your attempts to use proper channels to raise your complaints in improper conduct about the VLSC? You've referred to them, sorry. I'll just say you've referred to the Institute, and you've gone on to refer to the Institute and what you've done in respect of it.

Have there been any other attempts to use what you call in that dot point, proper channels?

Peter Mericka: Yes, there are. So I-

Judge Ian Gray: And you'll come to that later?

Peter Mericka: ... come to those later.

Judge Ian Gray: Thank you, great. Well that's that. And [00:09:30] I assume that your answer is the same in respect of the last dot point, where you refer to all lower complaint authorities? You'll come back to that and tell me what you mean by that, which authorities you're talking about? Good, and was it your wish today to ask Mr. Lynn to contribute anything at all? It's not part of what I expect to be doing, but he's here. He's, and you mention him in your second last sub dot point. I've [00:10:00] provided details of corruption issues, and provided Mr. Lynn's details as a person who would corroborate my complaints.

I'll just ask you, I'll ask both you Mr. Mericka, and you Mr. Lynn. Has Mr. Lynn provided what you describe as corroborative material about your complaints to the Institute?

Peter Mericka: No, Mr. Lynn knows the entire history of everything that's gone on.

Judge Ian Gray: Yes, have you asked him to, or has he [00:10:30] been asked to provide what you've called here, corroboration of your complaints to the Institute or to anybody else?

Peter Mericka: No, I don't think they even contacted-

Maurice Lynn: No, they didn't.

Judge Ian Gray: So that's never been done? All right. And Mr. Lynn, can I ask you, have you ever committed to writing your, what Mr. Mericka's calling, your corroboration of what he is talking about.

Maurice Lynn: We'll get into that. I actually represented him at the VCAT-

Judge Ian Gray: I see.

Maurice Lynn: ... in relation to a professional misconduct charge.

Judge Ian Gray: [00:11:00] You represented him there? I've read the [crosstalk 00:11:03].

Maurice Lynn: Excuse me. This is not COVID, I've got a medication that's causing a dry cough.

Judge Ian Gray: Understood.

Maurice Lynn: In particular, Mr. Mericka did, as a result of perjury which was given during that hearing by the LSC investigator, reported at Victoria Police.

Judge Ian Gray: I see.

Maurice Lynn: But the transcript stands basically. So you've read the transcript from-

Judge Ian Gray: Yeah, all right. So in that regard, you're talking about the transcript of the VCAT case? [00:11:30] Yes, understood. And are you a legal practitioner? I didn't ask you about that, I should, I mention it. You are a legal practitioner. You're here today though as I understood it, as a colleague, rather than as a legal representative of Mr. Mericka, to be clear. Thank you.

All right, so then thanks, that's clear. They're the points I wanted to raise about that. I may raise some more when we complete your narrative, but let's continue. [00:12:00] Dot point two, which was my second dot point too, which I had called your reasons for taking that approach.

Peter Mericka: I was left with no genuine alternative, with regard to the VLSC, I had made every effort to complain to individuals about their misconduct, and then to their superiors. Lodged formal complaints, only to be told that the VLSC is statute barred, that's my terminology there, from investigating her own staff. And [00:12:30] this appears to include conduct that constitutes serious criminal offences. I requested that the VLSC referred my complaints to IBAC, but this was refused despite the VLSC having a legislative duty to report suspected corruption to IBAC.

A complaint was lodged against the lawyer whose conduct was the catalyst for my being charged with professional misconduct, but that complaint was not acted upon. It was never investigated, and there was no outcome at [00:13:00] all. I again approached the Law Institute of Victoria but was told that no assistance was available. My decision to publicise corruption in the office of the VLSC was made after a telephone conversation with Ms. Daniela Iocono, the officer who brokered the deal by which 80000 dollars in legal costs was waived.

During the telephone conversation, I said to Ms. Iocono something similar to, Daniela, do you believe that your office has treated me fairly in all [00:13:30] of this? Ms. Iocono did not want to answer that question, instead she told me something similar to, I don't want to deal with the past, I want to look to the future. This was a clear acknowledgement that I had not been treated fairly, but I did not matter.

My article on my website regarding Ms. locono was the first, and I used it to gauge the response of the VLSC. There was no meaningful response, and there was no further communication with the VLSC.

Judge Ian Gray: [00:14:00] Yes, take a little pause.

Peter Mericka: Just take a little breather, because the mask.

Judge Ian Gray: Pause, yeah, pause whenever you need to.

Peter Mericka: No, it's just the mask.

Judge Ian Gray: Have some water. That actually does help when you wear the mask. So pause to do that.

Peter Mericka: Actually we'll take the opportunity to take the mask off.

Judge Ian Gray: I'll do the same thing.

Speaker 2: Sit down and drink.

Judge Ian Gray: Yes, you are permitted to do that. [00:14:30] And ready when you are. Take your time, you right?

Peter Mericka: The trouble is, these bifocals take up the mask.

Judge Ian Gray: I know, I've got exactly the... I can say for the record that Mr. Mericka's wearing glasses. I am also wearing glasses, so sorry Mr. Lynn, and it does make the actual function more [00:15:00] difficult. But continue, please.

Peter Mericka: Yeah, there was no further communication with VLSC. I was satisfied that so long as I told the truth, and that I could support the truth with admissible evidence, make the legal community and the public at large aware that there was a serious cultural corruption problem in the office of the VLSC. The VLSC made just a couple of week attempts to frighten me into removing material from my website, but never initiated any investigation, nor sought to challenge allegations [00:15:30] I had made, other than by way of broad and unsubstantiated denials.

I maintained the website as an ongoing repository of proofs and evidence, without any serious challenge from the VLSC. It's important to note that the VLSC has attempted to counter my website by taking similar action in the form of a posting, declaring me vexatious. The difference between my postings and that [00:16:00] of the VLSC is that mine are backed up with evidence, while the VLSC's is a truly baseless and defamatory, retaliatory attack on my reputation.

The reason I created my website, and I maintain it, is that it remains the only way that I can continue to blow the whistle on corruption in the office of the VLSC, in the hope that my whistle blasts will be heard and acted upon.

Judge Ian Gray: Okay, thank you, that's [00:16:30] the last dot point under that heading, and I've got a couple of matters to raise with you. Go back to dot point four on page one, I requested the VLSC reveal my complaints to IBAC. This was refused. Have you got the correspondence, if it is correspondence, that relates to that request?

Peter Mericka: Yes, I believe it's on my computer, sir.

Judge Ian Gray: Right, [00:17:00] so that's a request. You say that's a written request to the VLSC to refer your complaints to IBAC? When was that?

Peter Mericka: Some years ago now. I can't recall exactly, it was some years ago.

Judge Ian Gray: Are you certain that you made that request? And what was the response?

Peter Mericka: I think they told me that I should report it to IBAC.

Judge Ian Gray: Yes, and do you have a copy of their response?

Peter Mericka: I'm sure that I do, yes.

Judge Ian Gray: Are you able to locate those, both that request and that response?

Peter Mericka: [00:17:30] Yes, I'll do that.

Judge Ian Gray: Would you be able to do that when you get back to your office this afternoon?

Peter Mericka: Yes, I shall indeed.

Judge Ian Gray: In that event, could you send that material, if you can find it, to me, a copy to Mr. Docherty, please. Yeah, all right.

Speaker 2: Do you have Mr. Docherty's email?

Judge Ian Gray: You do? It's a good question, you do? Now, all right. So [00:18:00] that's that point. You talk, and then going onto the next page, which is the dot point four, in the centre of the next page. I was satisfied that so long as I told the truth, and that I could support the truth with admissible evidence, I could make the legal community and the public at large aware and so on. The admissible evidence, what are you referring to there?

Peter Mericka: Everything on my website is supported [00:18:30] by evidence. I have documents, I have a couple of audio recordings, letters and emails.

Judge Ian Gray: Have you ever provided that, what you describe as admissible evidence to any, firstly to the Law Institute, the VLSC, or any other authority or entity or agency?

Peter Mericka: I don't think I've got that far, sir.

Judge Ian Gray: Right. All right, well that's the second last dot point. The second [00:19:00] to last sentence, the difference between my postings and that of the VLSC is that mine are backed up with evidence, and I take it your answer is the same, is it? So that means, and you say you've got evidence in your files, or whatever the better description is, that back up what you say are these legitimate allegations?

Peter Mericka: Not only this, the Victorian Legal Services Commissioner also has that material [00:19:30] in the form of emails and letters and documents.

Judge Ian Gray: I see.

Peter Mericka: They have pretty well everything that I've got.

Judge Ian Gray: Everything. (silence). All right, the next points I've got to go to your next topic, or the next topic. So, I'll go to that now, [00:20:00] and I may come back to some of these points before. So topic three, is the next one. Your reasons for not referring your corruption allegations to IBAC or the ombudsman.

Peter Mericka: Yes, I had previously reported corrupt conduct on the part of VLSC to the Victorian ombudsman, and that experience demonstrated to me that the two offices enjoy too close a relationship. Consequently, I have no confidence at all in the office of the Victorian ombudsman. IBAC is extremely [00:20:30] limited in its ability to deal with complaints. I was aware that IBAC is underfunded and overwhelmed, and that complaints seem to be triaged. Complaints against police are probably the most serious, and yet these are referred back to Victoria Police for investigation.

Former IBAC CEO, Mr. Alistair Maclean warned that IBAC would struggle to keep meeting community expectations, unless the government beefed up its resources. He made the following observation. [00:21:00] At present, only two percent of all complaints about police misconduct, including excessive force fall within the purview of IBAC, with most allegations referred to professional standards command where police are investigating their colleagues.

I believe that if an individual in my position lodges a complaint to IBAC, it will be referred to the VLSC for investigation, and the VLSC will simply dismiss it on spurious grounds. Once this happens, [00:21:30] the matter cannot be reopened. IBAC's website states under the heading, "what happens to your complaint?" That two of the options are, one, refer your complaint to another agency, which in my case would be the VLSC, or two, take no further action.



The decision to take no further action may be based on, A, there is not enough information to assess the complaint, or B, the alleged corruption [00:22:00] is more than a year old, and there isn't a valid reason for the delay. Or C, the complaint has already been investigated by another agency, and there is no new evidence. Or D, the complaint is trivial or vexatious.

Any one of these options could be used to defeat my complaints, either by further misconduct on the part of the VLSC, for example, falsely claiming a prior investigation has revealed no offence disclosed. [00:22:30] Withholding the information or evidence as privileged, or declaring the complaint is vexatious, as the VLSC has already done without any basis. Or, by IBAC deciding that there's not enough information, or that the misconduct is more than 12 months old.

IBAC has a further power of investigation, being the own motion investigation. According to the IBAC website, although IBAC [00:23:00] has certain options regarding the disposing of complaints, matter are also brought to IBAC's attention in other ways. One of these ways is through social media, which would include my website. IBAC's website further states, IBAC can start an own motion investigation at any time, in relation to any matter which falls within its jurisdiction.

It is my hope and expectation that I could ensure that IBAC would commence an own [00:23:30] motion investigation if I could bring corruption matters to IBAC's attention, through my website and social media. The purpose of my website is to present a full description as the corrupt and criminal conduct perpetrated by officers of the VLSC with links to various documents and supporting evidence such that it would not be possible for IBAC to ignore it.

I expect that in time, my website, social media postings and [00:24:00] publications of articles describing the corrupt conduct of VLSC officers, will generate sufficient interest for IBAC to launch an own motion investigation, or that the champion as I've described in the first paragraph of my article, [inaudible 00:24:16] civil service is worth the risk, will take the matter to IBAC.

Judge Ian Gray: Okay, thank you. That's the text under that dot point. Now, going back to the beginning of that dot point, Mr. [00:24:30] Mericka, in fact it's the first dot point. When did you make the report to the Victorian ombudsman?

Peter Mericka: That was in relation to the Blair Usher matter. That was, I think it was about 2016. Might have been before that. I know that the ombudsman was conducting their investigation at the same time as Mr. Michael McGarvy [00:25:00] had withheld my practising certificate.

Judge Ian Gray: All right, and did the ombudsman conduct an investigation into your complaints of corrupt conduct at the VLSC?

Peter Mericka: They conducted an investigation. I don't know the details of it.

Judge Ian Gray: Were you involved in the investigation?

Peter Mericka: No.

Judge Ian Gray: Were you contacted?

Peter Mericka: I made a submission to them, and I was told that my complaint was basically [00:25:30] about the VLSC refusing to investigate my complaint against Usher, and suddenly dismissing it.

Judge Ian Gray: Pausing there, please. But, so when you say you reported corrupt conduct to the VLSC, you're telling me now that it related to the Mr. Usher investigation? I've read about that in some of your other material, [inaudible 00:25:55]. Have you got the correspondence which contains your [00:26:00] report to the ombudsman, and your request to complete, to investigate that matter?

Peter Mericka: I haven't got it here today sir, but I certainly have it.

Judge Ian Gray: Yes, [00:26:30] so it's a request to investigate, is it? Is that what it is?

Peter Mericka: Yes, and it sets out in detail.

Judge Ian Gray: So that was in 2016.

Peter Mericka: Yeah, I believe it was 2016.

Judge Ian Gray: Again, to give you a chance for me to see that, can you forward that to me, please, and a copy to Peter Docherty?

Peter Mericka: Yes, I will do that, sir.

Judge Ian Gray: So that's, what I'm asking you to do there is refer the correspondence in which you asked the ombudsman to investigate the VLSC in 2016, right? So that's what that question's for. Now, then you go onto say, top of the next page, third full paragraph. I believe that an individual in my position lodges a complaint to IBAC et cetera will be referred. [00:27:00] Why do you believe that? Will be referred to the VLSC for investigation?

PART 1 OF 4 ENDS [00:27:04]

Judge Ian Gray: Can you believe that? It would be referred to the VLSC for investigation.

Peter Mericka: [inaudible 00:27:06].

Judge Ian Gray: Sorry, it's the top of the next page, so the top of page three. It's the first full paragraph. I believe that a deaf individual in my position lodges a complaint to IBAC, et cetera. It'll be referred to the VLSC for investigation.

Peter Mericka: So that's-

Judge Ian Gray: What's the basis of that belief?

Peter Mericka: This document here from the IBAC website, it says complaint outcomes [00:27:30] is depending on the nature of your complaint. We may decide to, in point one, very first one is refer your complaint to another agency. Under the second heading it says, the options available, it says take no further action, and it refers there, it has already been investigated by another agency, and there is no evidence.

So my concern is that we go to IBAC. IBAC would then refer it to the appropriate, inverted [00:28:00] commas, agency, which would be the VLSC. And it's the VLSC that [inaudible 00:28:05].

Judge Ian Gray: It is the VLSC, but I'll ask you this question. This sort of goes to an important point in this discussion, and investigation. You had formed a belief for that, that IBAC may perhaps in your mind, would refer it to VLSC for further investigation. But did you actually ask IBAC to actually investigate your [00:28:30] complains of corruption against the VLSC?

Peter Mericka: No, I didn't sir.

Judge Ian Gray: And the reasons you didn't, the reasons set out in that part of your document? That is that dot point, because of what they say on their website?

Peter Mericka: Oh, no purely because of what they say on the website.

Judge Ian Gray: What other reasons are there?

Peter Mericka: My main concern was that they may just try and suddenly dismiss it under one of those headings, without investigating it. And that [00:29:00] it's much easier for them to dismiss a complaint that an individual like me would submit. But if the complaint was referred to them by the VLSC as she's supposed to do under legislation, then they're more likely to act. That's why I tried to get the law institute, also the VLSC to support me in making a complaint to IBAC, and having them make it on my behalf.

It's not that I didn't want it reported to IBAC. [00:29:30] I wanted it reported by someone that IBAC would have to listen to.

Judge Ian Gray: Yes, I understand that, but you, despite whatever views you formed about the LIV, or VLSC, or IBAC for that matter. I just want to be clear about this. You ultimately chose not to directly, yourself report this to IBAC. Yes, and that's been your position all along, has it? That you will not [00:30:00] refer this to IBAC yourself, individually?

- Peter Mericka: Yes.
- Judge Ian Gray: And that's because you believe the VLSC has a duty to do so?
- Peter Mericka: It's because I don't believe that I have sufficient title, status to ensure that IBAC would conduct an investigation, whereas the law institute or the VLSC or any other party that has a higher status than I do. [00:30:30] I think they would be able to turn IBAC's lid so to speak, and take notice.
- Judge Ian Gray: You're a [inaudible 00:30:40] lawyer, legal practitioner with a substantial practise. So why would you consider that IBAC would not pay any attention to an allegation of corruption that you made in writing to it?
- Peter Mericka: Because of experiences I've had with other departments, including the ombudsman and the VLSC. [00:31:00] I haven't been heard on any of this material. The impression I get is that no one wants to know, no one wants to take any action and the only way that I can draw attention to it is by putting it out there in public so that they can't help but pay attention to it, and perhaps get IBAC to commence an own motion investigation. There's also the issue with the time limit, [00:31:30] 12 months.
- Judge Ian Gray: And that goes to your second last paragraph. It was my hope and expectation that I could ensure that IBAC would commence an own motion investigation, if I could bring corruption now to its attentions from my website and social media. Correct? That's what you've said there. Does it follow that [00:32:00] your publications on your website are in your view, the only way you can bring it to IBAC's attention? That is your corruption allegations.
- Peter Mericka: Yes, I've tried other means, and I think that's going to be the most effective way to bring it to the attention of IBAC.
- Judge Ian Gray: But nonetheless, this is in the nature of cross question, you perhaps do some of that. Nonetheless, you've never [00:32:30] gone to IBAC, and said, I've got these corruption allegations, I want you to investigate them. Or, I've got these corruption allegations, and I want you to commence effectively on your motion, an investigation of them. So you've never sought to directly by corresponding with, or dealing with IBAC, you never sought to get them to investigate your corruption allegations directly at your behest?
- Peter Mericka: No, that's correct sir. And [00:33:00] the reason for that is because once it's dismissed, it's gone. That's my main concern. If I make that complaint, and they talk to the VLSC, or they somehow convince themselves that there's not enough information, or that it's more than a year old, or that it's already been investigated, or it's vexatious, and the VLSC has already beaten me to that one. She's already declared me vexatious, without any basis whatsoever.

[00:33:30] All of those concerns combine to make me reluctant to personally refer it to IBAC. I want some champion, as used the term in that article, to refer it to IBAC on my behalf, or for IBAC to pay attention to it themselves, and commence an own motion investigation.

Judge Ian Gray: So far, there has been no indication from IBAC that it would do that. Is that correct?

Peter Mericka: Oh, I haven't communicated with IBAC, no.

Judge Ian Gray: [00:34:00] No, in other words, there's been no response to you or reference by IBAC to your website publications, suggesting that it is looking at them, interested in them, or considering them?

Peter Mericka: No, that's correct.

Judge Ian Gray: Does that surprise you?

Peter Mericka: It does. In fact, it horrifies me that such allegations could be made. These are extremely serious allegations, and no lawyer would make those sorts of allegations [00:34:30] unless there was something to back them up. And I would've thought that IBAC, the law institute, perhaps the ombudsman would realise that and make contact with me, and ask me, has anyone tried to take action against you for these things? The answer to which is no, because it's all true.

Judge Ian Gray: All right. They're the only questions for the moment, thank you, that I've got on that topic. And then the next one is whether you believe your approach would be considered by lawyers [00:35:00] of good repute, and be acceptable? That starts at the bottom of that page.

Peter Mericka: As I have said, those who have the privilege to know, have the duty to act. This was quoted to me yesterday by Mr. Bill Potts, a former president of the Queensland Law Society when I told him about this investigation. There are some more directly relevant observations made by IBAC commissioner, Mr. Robert Redlich, in an address to the Law Institute of Victoria [00:35:30] government lawyers conference, that I wish to draw to your attention.

Discussing common behaviours, the characterised misconduct and corruption, Mr. Redlich said they included an organisational culture of denial, obfuscation and concealment, and a favour of those in positions of management and supervision be as forthcoming as they should be about this conduct. Regarding public exposure of wrongdoing, Mr. Redlich said managers are too often complicit [00:36:00] in whatever sort of coverage or hiding of what occurred. They don't express a willingness to publicly expose what has occurred in their organisation.

Mr. Redlich also stated that support should be given to those who are in a position to speak out, and make sure they get the full protection of the law in relation to being courageous. I believe that the above mentioned obligations are incumbent not only on government lawyers, but all lawyers including [00:36:30] me. I believe that all lawyers of good repute would see my approach as embodying the expectations described above.

Judge Ian Gray: To interrupt you, Mr. Mericka, the address by Mr. Redlich, I'm sorry, that you refer to, to the institute. When was that? Do you have a date for that, or a month, or even a year would be sufficient.

Peter Mericka: I think it may have been 2019.

Judge Ian Gray: Right, so it's relatively recent.

Peter Mericka: Yes, 19th of June, 2019.

Judge Ian Gray: 19/6/19.

Peter Mericka: Yes, [00:37:00] this is a reproduction of the Law Institute Journal.

Judge Ian Gray: And it's published in the LIJ Journal, is it?

Peter Mericka: Yes, that is the 20th of June, 2018.

Judge Ian Gray: 20th of June, yes. Thank you, yes, all right. So moving onto dot point two on that page.

Peter Mericka: I believe that most lawyers would consider a witness to publicly expose improper [00:37:30] conduct within the office of the VLSC to be not only acceptable, but a positive duty in line with the [inaudible 00:37:38] quotation above. I also believe that most lawyers of good repute would be horrified to know that the VLSC can publicly name a lawyer on its own website by naming and shaming that lawyer as vexatious without any complaint having been lodged, without any investigation having been undertaken, without the lawyer being given any [00:38:00] opportunity to answer such a reputation destroying assertion. And without the lawyer even being notified of the publication.

And yet this conduct was my own. I always invited the individual accused of corruption to respond to my allegations, and in most cases, I had first given them the opportunity to become a whistleblower. I believe that lawyers of good repute would also be comforted to know that one amongst them was courageous [00:38:30] enough to confront the VLSC that were engaging in the type of corrupt conduct I have described on my website, and to make it public, so as to warn other lawyers.

My beliefs were confirmed yesterday during a telephone conversation with Mr. Will Potts, a former president of the Queensland Law Society. Mr. Potts informed me that he has often sat on tribunals to determine whether a lawyer may or not be [00:39:00] a fit and proper person. Mr. Potts confirmed to me that in the circumstances described, where attempts to have action taken by regulators and authorities in relation to corruption had come to naught, I had a positive duty to, as Mr. Redlich described it, to publicly expose what has occurred within the organisation. Mr. Potts-

Judge Ian Gray: Go on.

Peter Mericka: [00:39:30] Mr. Potts stated that he would be pleased to discuss with an investigator his understanding of the views of the legal profession, regarding the approach that I have taken, and his own view that they were not only acceptable, but mandatory. Mr. Potts can be contacted on the following phone number.

Judge Ian Gray: Yes, now just in relation to him, have you had a similar conversation, or any comparable conversations with a Victorian equivalent?

Peter Mericka: [00:40:00] I spoke with Mr. Michael Fred-Young some years ago.

Judge Ian Gray: Some years ago, was that when he was the president of the LIV, or the CEO, or the president?

Peter Mericka: Yes, and I have emailed subsequent presidents, but I never get a response. I've also put comments on LIV website articles, and [00:40:30] they're always mediated out, moderated out I should say.

Judge Ian Gray: You mean they're not published?

Peter Mericka: Yeah, they're not published. I've never put anything offensive up, because I mean, it's going public, but they just won't publish it. They just don't want to know.

Judge Ian Gray: In that second last paragraph, you talk about Mr. Potts confirming to you that in circumstances described, that these were attempts to have [00:41:00] action taken by regulation authorities in relation to corruptions have come to naught, that I have a positive duty. I take it from everything you've said so far Mr. Mericka, that you don't regard part of your positive duty as including a report or a complaint to IBAC now, about what you're posting on your website? You don't regard that as a part of your positive duty?

Peter Mericka: Oh, I certainly do, but I don't-

Judge Ian Gray: You haven't done it.

Peter Mericka: ... regard it as a duty to do it [00:41:30] in this way as an individual, or reporting it to IBAC. I want to have someone like the law institute or like the VLSC, who has a positive duty to do that on the legislation, to report it to IBAC, so that IBAC will pay attention. IBAC will not pay attention to me, but IBAC is more likely to pay attention to the law institute, or to the VLSC.

Judge Ian Gray: But saying it won't pay attention to you is an untested presumption, isn't it?

Peter Mericka: It is.

Judge Ian Gray: Because you haven't tested it, because you haven't tried it.

Peter Mericka: And I really don't want to, because of the 12 month limit, [00:42:00] and also the ease with which they could dismiss it. And once it's dismissed, they wouldn't look at it again.

Judge Ian Gray: That's, in relation to the ease in which they would dismiss it point, you believe you've got coated evidence to support your allegations, don't you? And yet you at the same time believe they would simply readily dismiss it.

Peter Mericka: Well, if I can just explain that. So one [00:42:30] of the things I mention in one of those articles is the concept of dog whistling. Now, what's happened is the VLSC has published an item that says my allegations are baseless and vexatious.

Judge Ian Gray: Yes, I know.

Peter Mericka: They've even delivered that to you.

Judge Ian Gray: I saw that.

Peter Mericka: If they deliver that to IBAC, that's a very easy way for IBAC to dismiss everything.

Judge Ian Gray: Mr. Mericka, they haven't as far as you know, whether they would or wouldn't [00:43:00] deliver that to IBAC. Nonetheless, do you accept that it would give IBAC an opportunity, on the basis of a complaint you make to it, to look at what you say and what the VLSC itself says, both in correspondence, in evidence and on its website. It would give IBAC the opportunity to consider all of those matters, in response to a complaint that you would make, [00:43:30] if you'd made it. But they've never done that.

Mainly, IBAC's never had that proper basis for considering all of the material, including what the VLSC might say, because they've never had a complaint initiated to them.

Peter Mericka: Well, they've never had a complaint initiated to them by me-

Judge Ian Gray: About this corruption.



Peter Mericka: No, that's correct. But what I was expecting was that the VLSC would follow their legislative duty to report suspected corruption. I've made it quite [00:44:00] clear to the VLSC that there are corruption issues in their office, and they had a duty to report that suspected-

Judge Ian Gray: To IBAC?

Peter Mericka: ... corruption to IBAC.

Judge Ian Gray: All right, I'll just interrupt you, sorry. On that point, because it's an important point, where is it that you've said to the VLSC either publicly or publicly, either on your website or in correspondence, that it, pardon me, has a duty to report your allegations to IBAC? Where is that?

Peter Mericka: I haven't [00:44:30] told them they have a duty. They should know that. I've asked them to report it.

Judge Ian Gray: So perhaps a better question is, have you ever said publicly on your website, or privately in correspondence to the VLSC, you have a duty to report this to IBAC?

Peter Mericka: I don't think I've reminded them of their duty. I have told them that they need to report it to IBAC.

Judge Ian Gray: Where have you said that?

Peter Mericka: I don't know if it was an email or a letter, but I can certainly go through my material and print something out.

Judge Ian Gray: Do you believe that you've ever, [00:45:00] in writing, said to VLSC, you have a duty to report this to IBAC, and I expect that you will? Or words to that effect?

Peter Mericka: [crosstalk 00:45:12]. No, I've told them that I want them to report it to IBAC.

Judge Ian Gray: And when have you told them that? That's what I'm asking you now. Have you got a letter, an email, because there's nothing on your website publications that says exactly that, is there?

Peter Mericka: I can't recall.

Judge Ian Gray: Not the ones that I've been provided with, where you say, [00:45:30] VLSC, Ms. McClay, this is your duty, is to report this to IBAC.

Peter Mericka: Yeah, I don't think I've ever said that.

Judge Ian Gray: In so many words.

Peter Mericka: I've asked her to report it to IBAC, but I can certainly go through my material and pull out evidence of I having [inaudible 00:45:45]. (silence)

Judge Ian Gray: Okay, shall I [00:46:00] just keep going? Everybody, nobody needs a break? We're going for, we've only got 45 minutes at this point, so I think we'll keep going.

Speaker 3: Just a quick one.

Judge Ian Gray: Yes, go ahead.

Speaker 3: Do we want Mr. Mericka to produce that email-

Judge Ian Gray: Yes, I do. Yes I do, please. [00:46:30] Thank you. So whatever, I don't want a slew of correspondence along this. I want, if there is to declare a letter, or an email, or one or two letters, or one or two emails, which explicitly directed at, asking the VLSC to refer your corruption complaints to IBAC. I want, if they exist. And if they exist, please send them to me. If they don't, please tell me. Or if you think they exist, but can't find them, you can [00:47:00] tell me that, but that would be unsatisfactory, because you must have a complete record of everything you've dealt with, with the VLSC.

All right, so that concludes the references to what Mr. Potts said to you. Just bear with me for a moment. (silence). All right, keep going. [00:47:30] So back to, we're now on the top of page five of your document. You believe your approach would be considered acceptable by reasonable [inaudible 00:47:43] members of the general community. And you've got dot points under that.

Peter Mericka: I believe that similar to members of the legal profession, as discussed above, members of the general community would hope and expect there are some legal practitioners who have the courage to [00:48:00] call out corruption by any and all means available to them. I also believe that members of the general public are less interested in the means by which corruption is exposed, and more interested in the fact that it is exposed. I believe that like members of the legal profession, reasonable and fair minded members of the general community will applaud my actions, and encourage me to continue the use of my website and social media as Mr. Robert Redlich put it, to publicly expose [00:48:30] what has occurred.

On Wednesday night, a person who I've never previously met contacted me on LinkedIn, and we commenced chatting. This gave me the opportunity to test and confirm my belief corresponds with that of an average, reasonable fair minded person. The person I chatted with is Mr. David Eastleigh, and he indicated a willingness to discuss his views with the investigator, and Mr. Eastleigh's telephone number is provided.

Judge Ian Gray: Yeah, all [00:49:00] right. Well I don't think I've got any questions for you there. I should say, to be fair, that I don't expect that I would telephone Mr. Eastleigh on that number. He may have views about it, and I accept that you've spoke to him.

Peter Mericka: Yeah, I-

Judge Ian Gray: And I should indicate too that that is, whilst it's relevant, it's the lesser of the issues, the members of the profession [00:49:30] probably is a more important one, as I said. So that you know. The members of the community is relevant and potentially helpful, but less critical than members of the legal profession. The standards of their respective [inaudible 00:49:47]. So, they are the reasons I wouldn't necessarily contact Mr. Eastleigh, but I accept that you spoke to him.

All right, so I've got no other questions on that topic, and the next one is, what do [00:50:00] you believe are the appropriate actions for practising lawyers to take when they are to raise corruption or misconduct allegations, including allegations against the VLSC? And this does repeat in part of course, what comes out of the earlier points, but you've responded to that one. So please go ahead.

Peter Mericka: I have explained above the reasons why I'm relying on my website and social media to expose corruption in the office of the VLSC. I've also explained that my actions are the only options left to me. I believe that [00:50:30] the most appropriate actions for practising lawyers to take when they wish to raise corruption issues or misconduct allegations in Victoria, are those that I have taken. That is, to move through the available options until they're exhausted. Publication is most definitely one of the steps available.

I believe the appropriate actions are, where appropriate, questioning the conduct of the person concerned. If no satisfaction, raise the matter with the person's immediate supervisor. [00:51:00] If no satisfaction, raise the matter with the head of the department. If no satisfaction, raise the matter with the Law Institute of Victoria, and request assistance in lodging a formal complaint with the department concerned. If no satisfaction, raise the matter with an external regulator or authority. If no satisfaction, expose the conduct publicly to draw attention to the need for it to be addressed.

If no satisfaction after a reasonable period of time, seek the assistance [00:51:30] of a local member of parliament and refer the MP to the published material and supporting evidence. If no satisfaction, consider whatever other options may still be available.

Judge Ian Gray: All right, thank you. Now going through that sub dot point list. I beg your pardon, going to dot point two, then it goes about the series of options below it. But you've said there, which you... I also explained that my actions are the only options left to me, [00:52:00] which then brings us to the appropriate actions are, series of dot points. I did ask you, and I think you've indicated, I want you to

confirm that you can provide to me your request to the institute, Law Institute of Victoria, dot point for. If no satisfaction, raise the matter to Law Institute of Victoria, request assistance in the lodging of a formal complaint to the department concerned.

You've [00:52:30] told me earlier that you will provide me with that written request.

Peter Mericka: Yeah, as far as-

Judge Ian Gray: If you can find it.

Peter Mericka: With regards to the Law Institute of Victoria, that's happened over a number of years, and mainly by telephone. But I do have emails from the most recent attempt, and that was that one where I received the unsolicited call from the Law Institute, and I spoke to them about following up on this, and they were going to contact Mr. Lynn. So I can produce those emails.

Judge Ian Gray: All [00:53:00] right, please. So do that. So that's the emails, and they may well be [inaudible 00:53:04], which refer to the institute, and raising the matter with them. Then the next sub dot point is if no satisfaction, raise the matter with an external regulator or authority. So you're considering that to be an appropriate action, and you're stepping up where you're, option by option, aren't you?

Then if no satisfaction, to repeat, raise the matter with an external regulator or authority. As I understand, what you're telling me today, you haven't done that.

Peter Mericka: I've [00:53:30] had experience with making complaints with the ombudsman. I've made a complaint to Victoria Police with [inaudible 00:53:42] perjury and perverting the course of justice. But my concern there again is the dog whistling, because I got a letter back from Victoria Police saying that they'd basically conducted a desktop investigation. I mean, these offences carry penalties of 25 [00:54:00] years, and they said that-

PART 2 OF 4 ENDS [00:54:04]

Peter Mericka: ... and they said that they'd occurred prior to his moving from VLSC to Victoria Police, and so they weren't interested in investigating.

Judge Ian Gray: So that was the Victoria police matter, so it-

Peter Mericka: It was all related to the corruption aspect.

Judge Ian Gray: Yes, so going back to that subject point that if no satisfaction raised from the Victorian Regulator Authority there's been a matter which you say you were sworn to take to Victoria Police.

Peter Mericka: Yes.

Judge Ian Gray: [00:54:30] You've repeated just then that you've been to the ombudsman and you've told me that earlier on...I will just remind myself and you of this, that you've got material which you say relates to your-

Peter Mericka: Complaint.

Judge Ian Gray: Complaint to the ombudsman.

Peter Mericka: Yes.I can produce that.

Judge Ian Gray: Right. That's the 2016 matter.

Peter Mericka: Mm-hmm (affirmative).

Judge Ian Gray: You told me that you've not raised the matter [00:55:00] with the external authority, namely IBAC. You've told me that and you've told me why.

Peter Mericka: Yes. And I told the judge that's the only external authority that I haven't... I've basically been holding IBAC in reserve and I hoped that [00:55:30] we could have them commence and own motion investigation because that's not been limited by the 12 month limitation. But it's less likely to be rejected on the basis of being vexatious given the publications of the legal services commission's false speculation. Which it looks like. Can I just add Sir-

Judge Ian Gray: [00:56:00] Yes.

Peter Mericka: - that the reason why I'd say that it's a false speculation is just reiterating what I said before. I was never queried about it, there's was never an investigation, I just happened to find that by accident.

Judge Ian Gray: What are you referring to? Just to be clear.

Peter Mericka: Oh, the legal services commission's-

Judge Ian Gray: Yes.

Peter Mericka: - declaration that my material was baseless-

Judge Ian Gray: And vexatious.

Peter Mericka: - and that I was vexatious.

Judge Ian Gray: The article published on the VIC website.

Peter Mericka: Yes.

Judge Ian Gray: Yes. Where it says that the VIC considers your allegations without foundation and vexatious.

Peter Mericka: Yeah.

Judge Ian Gray: Or words to that effect.

Peter Mericka: And the title of [00:56:30] the page is 'for the record' as though it's some-

Judge Ian Gray: Yes.

Peter Mericka: Some official record. And the incorrect implications and imputations from that, that there's been some investigation conducted, which there never was, and that it's been found that my allegations are baseless, and because they're baseless I am someone who makes vexatious complaints. None [00:57:00] of that is true. There hasn't been any investigation.

Judge Ian Gray: So you reject that.

Peter Mericka: Yes Sir.

Judge Ian Gray: All right. Now. Have you ever referred your complaints about VLSC corruption to a Member of Parliament?

Peter Mericka: No, I haven't as yet. That's the next stage. I want to give IBAC plenty of opportunity to see the material on my website, because the value of putting it on the website like that is that it's very hard to simply dismiss it, if I can put hyperlinks to relevant [00:57:30] documents that confirm, for example, all the reporting and that VIC's telling me one story, which contradicts information given to the legal services commissioner at the time. A website is able to not only tell the story but also to produce the evidence.

Judge Ian Gray: Going to that now, this is important in terms of the timing and sequence, because your point [00:58:00] about IBAC is that, or one of your points, is that you want to give it the opportunity to commence an own motion investigation of your corruption allegations. Now, that's I assume, Mr Mericka, that's because you believe that it is in fact the appropriate authority that does that.

Peter Mericka: Well, I suppose.

Judge Ian Gray: It or the ombudsman.

Peter Mericka: Yeah. Yeah.

Judge Ian Gray: Is that right?

- Peter Mericka: Well, my belief is that IBAC will have the power to extract from the legal services commissioner material that the legal services commissioner would [00:58:30] otherwise declare as privileged.
- Judge Ian Gray: Well, that's perhaps a matter of opinion, but the belief that nonetheless... Is it right that you do believe that IBAC is, together with the ombudsman, the appropriate Victorian authority with which to raise allegations of corruption on the part of a public institution, in this case the VLSC?
- Peter Mericka: [00:59:00] Oh, well they're just one, I mean Victoria Police because there are criminal offences involved. That my preference would be to see Victoria Police investigate it [crosstalk 00:59:23]
- Judge Ian Gray: But the corruption that you showed. Oh, sorry to interrupt you, keep going. Victoria Police, you'd prefer to take them to the Victoria Police, but you, all right.
- Peter Mericka: I think the preference for me would be, in regards to the matter of Luke Priday, there's prima facie material there about [00:59:30] the perjury and perverting the course of justice. Now, Victoria Police investigate that, they will inevitably drag in others members of the VLSC. I think my preference would be for IBAC to supervise Victoria Police in conducting a criminal investigation.
- Judge Ian Gray: But have you ever put it that way, either to Victoria Police or to IBAC?
- Peter Mericka: Oh. My complaint about Priday was to [01:00:00] Victoria Police-
- Judge Ian Gray: Yes.
- Peter Mericka: On the basis that he was an employee, and do they want such a person as an employee of Victoria Police? I thought they'd pounce on that and be able to [inaudible 01:00:11] investigate it, but reading between the lines, my belief is that they've seen material that the VLSC has published and so they just did a, as I say, a desktop investigation and dismissed it.
- Judge Ian Gray: They reported [01:00:30] back to you that it was dismissed.
- Peter Mericka: Not dismissed, but that they weren't going to investigate. I wrote to them a second time and told them about my background, and they said well, if you've got material, send it to us and we'll look into it, but by that time, I have mentioned in one of these articles, I just didn't trust them after that. So I would prefer IBAC to require Victoria Police to look into Priday's conduct.
- Judge Ian Gray: Well, why haven't you gone to IBAC and said, please, this is my complaint, [01:01:00] this is the history, this is the story, this is the issue, this is what I've referred to Victoria Police, I'm not satisfied with the approach they've taken, please investigate the matter, including investigate what the VLSC has done, if

anything, and investigate what Victoria Police has done, if anything. Why haven't you done that?

Peter Mericka: Because that would constitute a complaint that would have those barriers, the 12 months, vexatious, all that sort of thing.

Judge Ian Gray: Right, [01:01:30] well.

Peter Mericka: Whereas if I can get someone to convince IBAC to open an own motion investigation, there's more likely to be a positive result.

Judge Ian Gray: Well, you've told me that before. All right. I'll ask you this question then, because it arises out of this [01:02:00] now. [inaudible 01:02:01] Is your position that you are still not prepared to directly report this to IBAC yourself and ask for the necessary investigations? I understand what you say about why you have reservations about doing it, or have had, but is your position now that you're still not prepared to do that or you believe that is still the wrong option for you, for these corruption allegations, as of now?

Peter Mericka: No, I believe [01:02:30] that it's a further option, further down the track. I think my next step, if I can't convince the law institute or anyone else to report it to IBAC, I'd go to my local Member and ask my local Member to have IBAC commence an own motion investigation. And then if that fails, no satisfaction, ultimately I would report it to IBAC and just hope [01:03:00] that, despite everyone else taking no interest, IBAC would still decide to take it on board. But by that time it would be too much opportunity for the VLSC to say to IBAC, look, he's hawked this problem all over the place, no one's interested, why should you be interested? Besides, it's vexatious and baseless, just have a look at the posting on our website.

Judge Ian Gray: All right. So we'll keep [01:03:30] going and then I'll come back to a couple of points. So, we've got the last point now, on that second last page, why do you consider yourself a fit and proper person to have your practise certificate renewed in order to plead to the section in the relevant legislation?

Peter Mericka: I refer to the above explanations as evidence of my integrity, courage and commitment to the legal profession [01:04:00] and to the general community.

Judge Ian Gray: Yeah, [inaudible 01:04:02] captured in brief and you've done that, whether you consider yourself a lawyer of good fame and character, and I refer to the relevant rule, you've said you do.

Peter Mericka: Mm-hmm (affirmative).

Judge Ian Gray: Then I've said... The topic now is: other issues that arise or that you wish to raise that are relevant to the consideration of the fit and proper person test as



applied to your application, which it certainly documents and you've responded to [01:04:30] that.

Peter Mericka: Yes.

Judge Ian Gray: So, go ahead please.

Peter Mericka: This is the third time that my practice's ticket has been withheld. I was not notified that any allegations of my not being fit and proper had been raised, or by whom they had been raised. At this stage I still do not know how I'm alleged to have failed the fit and proper person test, other than it appears to be based on an assertion that the truth of my allegations of corruption is secondary to the manner in which I have exposed said corruption. It has [01:05:00] never been put to me that my allegations are false. Instead the VLSC has done what I am apparently accused of having done, which is published a false allegation that my complaints are baseless and vexatious. And there were no alternative means of dealing with such matters.

I submit that broad denial of corruption is not the same as a refutation, nor is a broad assertion the same as evidence. I submit that you [01:05:30] should find that I am indeed a fit and proper person and a person of good fame and character, and that you should recommend that my practice's ticket should be renewed forthwith. I further submit that you should recommend that the Law Institute of Victoria should approach IBAC with a view to opening an own motion investigation into the corrupt conduct I've exposed.

Judge Ian Gray: Okay. Thank you. So, again to that last point. There's inevitably some repetition in what we're covering within the questions. But, you [01:06:00] submit that the law institute should do that, but that from your last answer in the previous topic of conversation you don't agree that you yourself should do that, certainly at this point in time.

Peter Mericka: I believe that the law institute should do it first. If there's no joy there... I mean, the law institute should report it to IBAC and get IBAC to commence and own motion investigation. [01:06:30] If IBAC refuses, then it's my turn then to try and do it as an individual.

Judge Ian Gray: You're not prepared to do it now, whether the law institute would consider doing it or not. Is my understanding. That's not a criticism, necessarily.

Peter Mericka: No, no.

Judge Ian Gray: It's a question.

Peter Mericka: Yeah.

Judge Ian Gray: So, it's not something you're prepared to do at this point in time.

- Peter Mericka: That's a matter of order. I would suggest that first the VLSC should do what she's required [01:07:00] under legislation. If she won't, then the law institute should do it as my professional association, to support me in exposing the corruption. And then if I don't get any satisfaction with either of those, then there will be no alternative but for me to do it individually.
- Judge Ian Gray: If this went down on that timeline, or that overall approach Mr. Mericka, that could take a long time couldn't it?
- Peter Mericka: That could Sir.
- Judge Ian Gray: It could be a long time, theoretically, before it would be your turn, on your preferred approach, [01:07:30] to make your own direct request to IBAC to investigate your corruption allegations. It could be a long time, couldn't it?
- Peter Mericka: Oh.
- Judge Ian Gray: It could be many months.
- Peter Mericka: I don't know that I could really comment on that Sir.
- Judge Ian Gray: No, I think that's a fair response, I accept that. You couldn't necessarily. Explaining further could take some time. Then you've attached some articles which you sent to me, I think, that I did read, and I don't have any questions arising of those, thank you for attaching [01:08:00] them. Now, I want to give some clarity about a couple of timelines, in respect of your publications on your website. Bear with me for a moment. If there's anybody in need of a break, that's about an hour. If you need a break we can take 5, take 10. If there's a need. I'm perfectly happy to stop for a few minutes, [01:08:30] it's normally appropriate after about this long.
- Peter Mericka: Only if you wish to.
- Judge Ian Gray: I find that I'm fine, so Mr Mericka you're okay to continue?
- Peter Mericka: Yes.
- Judge Ian Gray: And we can probably conclude the meeting by midday I would think?
- Peter Mericka: Mm-hmm (affirmative).
- Judge Ian Gray: [inaudible 01:08:47] publications themselves, [inaudible 01:08:50] I felt that I've written on them. [01:09:00] One that's Mr. Peter Mericka, lawyer and whistleblower, that one.
- Peter Mericka: Yes. Yes Sir.

Judge Ian Gray: You're familiar with that one? That's got copyright 2021 Peter Mericka note at the very end of it, so that's a post this calendar year, 2021, is it?

Peter Mericka: I think my web fellow updates...

Judge Ian Gray: [01:09:30] This is not critical, because as far as I'm concerned they're all quite recent. But it's not utterly clear what the publication date of each one is on your website. That doesn't appear, do you agree?

Peter Mericka: Yeah. That's probably correct.

Judge Ian Gray: It doesn't appear. Yes. So that one appears to me to have been published this year, placed on your website this year, that's Peter Mericka, lawyer and whistleblower, I'm showing Mr Mericka the front page of that. Ignore my squiggly underlining on one part of it, that doesn't matter, [01:10:00] but that one.

Peter Mericka: I'm pretty sure that might have been last year.

Judge Ian Gray: You think that was 2020. All right, that's the one in which you make a reference to a couple of applicable links, and one is to another website publication, Fiona McClay, Legal Services Commissioner, where you talk about her and what you describe as metastasizing corruption.

Peter Mericka: Right. Yes.

Judge Ian Gray: It links back to that, and it [01:10:30] also links to a letter that you wrote to her that you linked to in that publication, that you wrote to her dated 16th September 2019.

Peter Mericka: Yes.

Judge Ian Gray: That appears to be published in 2020.

Peter Mericka: That might have been so.

Judge Ian Gray: That one. But it's not critical as to whether it's 2020 or 21, but it's a sense of timing, a sense of what came before what. Then there was another one here, Victoria [01:11:00] Legal Services Commissioner unable to investigate unable to investigate sexual harassment allegations. Less important than, and less relevant, other than to say it refers to a post by VLSB, 2 September 2020, that says the Victorian Legal Services Board and Commissioner are aware of allegations made against our office by Mr Peter Mericka. We consider these allegations to be unfounded and vexatious and have directed him to the independent broad-based anti-corruption commissioner and the Victorian ombudsman. [01:11:30] You've told me already that it says that.

Peter Mericka: Yes.

Judge Ian Gray: Do you have their letter or their material which backs up where they say they've directed you to IBAC or the ombudsman?

Peter Mericka: It may be an email in response to my-

Judge Ian Gray: Yes.

Peter Mericka: -asking them to report the matter to IBAC.

Judge Ian Gray: Right, I went to this earlier. [crosstalk 01:11:56] Sorry, I went to this earlier, but just to be clear, can you ... That is, [01:12:00] any email or letter which you received from the VLSC, which says we note your allegations, we note the websites, or words to that effect. Please refer them to IBAC or the ombudsman.

Peter Mericka: What was the question Sir [crosstalk 01:12:14].

Judge Ian Gray: So, have you got correspondence from the VLSC that says, please refer your allegations to IBAC?

Peter Mericka: Oh, I'm sure I've got something there, where they've asked me to refer it to IBAC.

Judge Ian Gray: Yes. Could I have it, could I see that please.

Peter Mericka: Yes, I'll have to...

Judge Ian Gray: [01:12:30] You'll have to find that. It's onerous to find that to a degree, but we'll wrap it up soon, you've got this afternoon.

Peter Mericka: Yeah. If I could just add this too.

Judge Ian Gray: Yes, certainly.

Peter Mericka: When the VLSC, who has a positive obligation to report suspected corruption to IBAC, fails to do that and wants me to do that, that causes me to suspect that there's a reason why she's refusing to do that and wanting me to do it. I think [01:13:00] it comes back to the problem that I have here, as a complainant, with the time limit and the ease with which a complaint can be dismissed. Whereas if she was to refer it to IBAC, they would have to take notice, they would have to act on it. And even if she didn't draw their attention to it as a complaint, they would open an own motion investigation. So [01:13:30] I suppose, to put it in basic terms, when the legal services commissioner told me to report it to IBAC instead of doing it herself, I could smell a rat.

[01:14:00] I'd also add, too, that to me it's just common sense that if she really wanted it to be investigated she would have initiated that investigation. And that the reason I smell a rat is because I felt that she knew more about the processes than I did and it would be advantageous to her if I was forced to report it ahead of her.

Judge Ian Gray: [01:14:30] If you're correct about her obligation, what about the proposition, and this is a hypothetical, but you both have a concurrent obligation to report it to [inaudible 01:14:45] or the VLSC, don't you?

Peter Mericka: I would say that's a matter of comparing advantage. She's got advantages over me, when it comes to that sort of thing. Because if [01:15:00] she was to ask IBAC to open an own motion investigation, or if she put in a complaint and they paid it... I think they'd pay more attention to her than they would to me. If she was to suggest to IBAC that they should commence an own motion investigation, I've got no doubt they would do that.

Judge Ian Gray: Does it follow that you say that if you made a formal allegation [01:15:30] of corruption yourself to IBAC in writing, that you don't believe they would deal with it appropriately under their process?

Peter Mericka: I'm not confident that an investigation would follow. I'm more confident that if the VLSC referred it, or the law institute referred it, it would be lead to an investigation. As I've said, as a last resort, if the VLSC was to refer it and the law institute were [01:16:00] to refer it and IBAC didn't want to investigate, then I'd go through the motions of reporting it myself, but I wouldn't be confident that they'd listen to me if they hadn't already listened to the more powerful VLSC and law institute.

Judge Ian Gray: Have you got any experience with IBAC to support your lack of confidence that it wouldn't properly or thoroughly investigate the complaint that you made?

Peter Mericka: [01:16:30] The material on the website, comments that I read in media, and also this one here was of some concern to me. At present only 2% of all complaints about police misconduct, including excessive force, fall within the purview of IBAC. That rang bells for me, because I would have [01:17:00] thought that incidents like that involving the police would certainly be within the purview of IBAC, and how most allegations are referred to professional standards, and a sort of criticism here, when police are investigated by their colleagues. So, the thought that IBAC would refer the matter back to the VLSC was of concern, but as I say, the things that I read in media, especially [inaudible 01:17:29] on IBAC from [01:17:30] the start, there's a lot of criticism about underfunding and all that sort of thing. Just caused me to not be too confident about IBAC investigating a complaint from a civilian practitioner.

Judge Ian Gray: Yes, so your lack of confidence, to be utterly clear, was not based on any direct experiences between you and IBAC.

Peter Mericka: Oh, I've never had any experience with IBAC Sir.

Maurice Lynn: [01:18:00] Your honour.

Judge Ian Gray: Yes, Mr. Lynn. Mr Lynn, yes.

Maurice Lynn: [crosstalk 01:18:01] I doubt we'll conclude.

Judge Ian Gray: Yes, go on.

Maurice Lynn: Mr Mericka may be protecting me here, but could I just digress you on some context as to why Mr Mericka feels the way he does?

Judge Ian Gray: In a moment, yes, by all means, yes.

Mr Lynn.

Maurice Lynn: Listen, I've had a number of [01:18:30] conversations, to put things in context, Mr Mericka was a police officer, for a number of years.

Judge Ian Gray: Yes, I know. Yes.

Maurice Lynn: [inaudible 01:18:35] to put into words.

Judge Ian Gray: Yes.

Maurice Lynn: Now, I made a report, recently we made a report to IBAC and this obviously is a [inaudible 01:18:49] to Mr Mericka's business. What has happened is, a member of the police force who asked me to represent him, the police union-

Judge Ian Gray: In your capacity as practitioner, local practitioner.

Maurice Lynn: Yes.

Sir, they did a raid on his house and [01:19:00] the informant was claiming that it was in relation to child pornography. It had nothing to do with child pornography. He's done a return of warrant, it's gone back to the magistrate, [inaudible 01:19:09] and the magistrate then handed all the property over to the police. Then my client spoke to me and it was, no, we can stop this because there's legally privileged material on those computers that they shouldn't be looking at. Then we went before the court and the magistrate was under the impression that it related purely to child [01:19:30] pornography. This is all on the recording from the magistrate's court. Now, as things went on though, eventually they charged my client, they didn't [inaudible 01:19:39] the charge because it was groundless.

Judge Ian Gray: Yes.

Maurice Lynn: So we made a complaint to IBAC. We put a note...

Judge Ian Gray: And your complaint was about the actions of the police?

Maurice Lynn: Correct.

Judge Ian Gray: Yes.

Maurice Lynn: About specific matters with prima facie evidence, for example, the police said to the court that-

Judge Ian Gray: Okay, okay, don't go into detail necessarily. Your point is that you say [01:20:00] you've got experience of making complaints to IBAC.

Maurice Lynn: Yes.

Judge Ian Gray: Which have led you to form view about whether that's satisfactory-

Maurice Lynn: Correct.

Judge Ian Gray: Or not.

Maurice Lynn: Yeah.

Judge Ian Gray: And how recent is this experience?

Maurice Lynn: As in, me, that report was made to IBAC in April last year.

Judge Ian Gray: April 2020?

Maurice Lynn: In April 2020.

Judge Ian Gray: And you say it wasn't handled in a way that led you to have confidence in IBAC.

Maurice Lynn: No, never, it was just all rushed. It was about Victoria Police, [01:20:30] the person who was given the investigation was a person that the supreme court had declared as an adverse witness, in the middle of the [inaudible 01:20:39] trial, they did admit to a state of case, directly to the supreme court. So you have that. Because he was a police officer, so what he'd done, he'd been accused of [inaudible 01:20:51]

Now, he was the person who was doing this investigation. He went back to IBAC and IBAC wrote a letter to my client saying that there [01:21:00] was no complaint. There was absolutely nothing wrong. So we provided specific evidence...

PART 3 OF 4 ENDS [01:21:04]

Maurice Lynn: There was no complaint. There was absolutely nothing wrong. So we provided specific evidence, screenshots of computers which showed the logs where the police had accessed it, prior to the magistrate giving them permission to do it. Not only that, we asked that the warrant affidavit be examined, because we knew that had been produced. It said there was nothing to do with child pornography. There was nothing, no child pornography anywhere, had anything to do with that. But now, it's 18 months later, and IBAC, we've requested updates, we've written to IBAC, we've asked what's happened. Absolute silence. Nothing [01:21:30] done.

Judge Ian Gray: All right. Thank you. So you're saying you've got an experience which, what you've just described to me is an experience which you're saying, it backs up Mr. Mericka's scepticism, for want of a better word, perhaps, or reservations is another word, about making a report to IBAC.

Maurice Lynn: Well, he did more than that. He asked me, and I said, "Look, don't expect to get a lot of joy from IBAC for this stuff." That's why he's decided to go this other route, to avoid it being written off and then stopped. [01:22:00] Go through the processes, and then as a last resort, he could make it doable.

Judge Ian Gray: Well, Mr. Lynn, that opens up another line of questioning, perhaps. It does come from what you have said to Mr. Mericka earlier. In other words, it's this use of the time that you're here today that Mr. Mericka has asked you, as a legal advisor to him, whether you should or should not go to IBAC, about the VLSC corruption allegations.

Maurice Lynn: He hasn't specifically asked that question. We've had discussions. We've discussed.

Judge Ian Gray: Right, okay.

Maurice Lynn: [01:22:30] But that's just one example. I've raised several with him. I've raised several examples of that.

Judge Ian Gray: Are you saying, so that I understand what your contribution is, that you've expressed to Mr. Mericka, as a legal colleague. I should ask you this, is that as a legal colleague or is that as, effectively, as his lawyer or advisor, on matters to do with complaints about the VLSC. Has he asked you for your opinion or your advice about the merits or the correctness [01:23:00] of your approach to that, or how to go about that, or is this colleague to colleague and you were simply expressing your view and opinion, based on your experience, whether it's appropriate for him to, or not to, go to IBAC with these allegations?

Maurice Lynn: Not quite that, it's a combination of both.

Judge Ian Gray: It's a combination of both?



- Maurice Lynn: Some things are but probably, something aren't completely across.
- Judge Ian Gray: Well, the advice you've given him or the opinions you've expressed to him about going to IBAC, are they [01:23:30] with you in your capacity as a colleague lawyer or as an advisor on that issue to him?
- Maurice Lynn: That would be colleague to colleague.
- Judge Ian Gray: Colleague to colleague?
- Maurice Lynn: Yes.
- Judge Ian Gray: Is the essence of it, Mr. Lynn, so that I understand it properly and to fairly summarise it, is the essence of it that you've told him about experiences of going to IBAC which have been unsatisfactory, in your opinion?
- Maurice Lynn: Yes.
- Judge Ian Gray: I'll ask you, Mr. Mericka, has what Mr. [01:24:00] Lynn has just told me about what he's spoken to you about, influenced your opinion about going to IBAC or not?
- Peter Mericka: I'd say he influenced it but it's not the only factor. There's a strategic element as well and that is to avoid the problems associated with any individual complainant, to take advantage of this investigation that's been prompted by a referral from the VLSC, in accordance with it.
- Judge Ian Gray: [01:24:30] Thank you. Mr. Lynn. Now, I should say, I didn't ask you this, in an approximate timeframe, when is it that you've expressed it to Mr. Mericka, your opinion about the merits or otherwise of going to IBAC with a complaint? When is that?
- Maurice Lynn: Well, that was the last 18 months. In the cases that would go to IBAC.
- Judge Ian Gray: So the conversations with Mr. Mericka are about that matter, that you and he [01:25:00] have had, have happened in the last 18 months. Is that right?
- Maurice Lynn: Yes. Correct.
- Judge Ian Gray: Thank you. Now, Mr. Mericka, a couple of points, there are not many, and we will conclude relatively soon. In your website publications, [01:25:30] and I'll give you a chance to speak briefly to these matters and more for you to be sure, you have said that this fellow, [Clay 01:25:41], must, to quote you, either resign or be dismissed, unquote. You gave a link to an article, which you sent to the gentleman, of corrupt conduct. The resign or be dismissed language, [01:26:00] do you consider that appropriate for a practising lawyer to use?

Peter Mericka: In the full context, in the circumstances, yes.

Judge Ian Gray: Then, I take it you'd say about the use of the language, a culture of corruption?

Peter Mericka: Yes, sir.

Judge Ian Gray: You feel that that's legitimate and justified?

Peter Mericka: Yes, sir.

Judge Ian Gray: [01:26:30] The language chastising corruption. Do you believe that's appropriate language for a practising solicitor to use about a public authority dealing with the legal practitioners?

Peter Mericka: Well, in context, sir, what I was alluding to there was that if there is a corruption problem, ignoring it just allows it to grow into new, other areas, and by way of a positive example of that, [01:27:00] they allowed a little pre-date to go to court and give perjured evidence and then later on, they allowed him to leave the office, before they even heard his commissioner, and take up a position within the Victoria police.

Judge Ian Gray: Yes.

Peter Mericka: I said, that is analogous to a cancer sending secondaries to another organ in the body. That's why I used that analogy.

Judge Ian Gray: I see, and finally, in your heading, [01:27:30] in your article headed, Still Out of Advice by the Trained Legal Services Commissioner. That, as a standard, that's published 2021, but I can't be certain. Just from the website, I can't be certain about updates or actual insertion of the article on the website. That is just not certain. It doesn't ultimately matter but you say this, you refer to [01:28:00] an astounding arrogance and hypocrisy because of an email she would have sent you. You used that language?

Peter Mericka: Yeah, I think it was prompted.

Judge Ian Gray: Yes. You refer to them, when you said, "I now put the general claims, paid invoice to her", maintaining it's quite prominent. This is from a lecture she'd been to, and by Mr. [Redlick 01:28:24], in which she quotes to you in a letter, these principles [01:28:30] as she describes them. "Maintaining public trust and confidence in the legal profession should be a key objective for us. The integrity of the legal profession is fundamental to the legitimacy of the justice system and the maintenance and protection of the rule of law. This is a shared responsibility and we all have a part to play."

So you quoted that back to her, unquote. Then you said, having read through their email, which you then referred to, Public Medical Servant, Kenneth

[Haynes 01:28:55], we see, Metro Chief, who she made reference to on the call. Having read [01:29:00] through her email, the one relating to Kenneth Haynes' address, I now look at her steely eyed and replied, "Madam, you are corrupt and you must resign." Now, do you consider that to be appropriate in content and in tone?

Peter Mericka: In the full context of everything that has occurred over the past decade, I must say so.

Judge Ian Gray: All right.

Peter Mericka: I'll just add, sir?

Judge Ian Gray: Yes.

Peter Mericka: This is why we need [01:29:30] to have a formal investigation because at the moment, the only thing that isn't being dealt with is the truth or otherwise of all the material that supports my allegations of corruption.

Judge Ian Gray: Now, in one of, in that lengthy letter that you were linked to, that you wrote to her, from the 29th, there. Do you recall that?

Peter Mericka: Is that the one that discusses read through that?

Judge Ian Gray: I think so. You [01:30:00] made reference to, yes, it's your letter of the 16th September 2019, but it's one of five dates in your letter, your report.

Peter Mericka: I think that's...

Judge Ian Gray: It's headed Office of Term, so it's a Commissioner of Corruption complaint, and it's to her, Fiona [McClay 01:30:24].

Peter Mericka: Is that where I said to her that I wouldn't keep asking her for my practising certificate, that I'd ask her successor?

Judge Ian Gray: You did say that.

Peter Mericka: I think she issued my practising [01:30:30] certificate that night.

Judge Ian Gray: Yes. That is correct. I'm not certain but that's the letter. I mention that letter because you do make references to corrupt conduct, and why you've gone public in the initial stage. You mention that in that letter to her, which you linked to it, on your website.

Peter Mericka: Mm-hmm (affirmative).

Judge Ian Gray: You listed it on the call by way of points, saying a succession of improper conduct allegations, [01:31:00] referable to what you say is her improper conduct. Do you remember that list?

Peter Mericka: Yes.

Judge Ian Gray: But earlier in the letter, on page one, you say, what follows is a basic chronology of events that demonstrate the emergence of a culture of corruption. It now taints both you and your office. I accept that it's incomplete and lacks detail but I've decided to be as brief as possible at this stage. Full details of each incident in the bullet points below will be fleshed out with concerning evidence provided [01:31:30] in due course. Do you recall saying that?

Peter Mericka: Yes.

Judge Ian Gray: Did you provide the full details and the concerning evidence?

Peter Mericka: I haven't. But she has all of that.

Judge Ian Gray: But you said that it will be fleshed out in due course.

Peter Mericka: Yes, that's correct.

Judge Ian Gray: You said there, "I accept that it's incomplete and lacks detail."

Peter Mericka: Yes.

Judge Ian Gray: Is that still your position, that those allegations that you detailed in there are incomplete and lacked detail?

Peter Mericka: Well, as it's expressed in that letter, but a full investigation would pull all of that out. That my expectation, [01:32:00] that a full investigation will reveal everything, including material that I'm not privy to, that labels Assistant Commissioner [Culls 01:32:11] in her office, and withholds from me, on the basis that it's privileged.

Judge Ian Gray: All right, [01:32:30] good. We're going to wrap up pretty shortly. There are a number of items that you've agreed to send me, if you can locate them back in your office. Are you going back to your office after we conclude here then?

Maurice Lynn: Yes.

Judge Ian Gray: If it's on your way, of course. It's correct then.

Peter Mericka: Excuse me, Maurice, if you made a list of those things...

Judge Ian Gray: Did you make a list?

Peter Mericka: ... of which...

Judge Ian Gray: Yeah, that's available, thank you. [01:33:00] I should put this to you again, I suppose, in fairness. In complete fairness, Mr. Mericka. We've been through this a couple of times, from a couple of different perspectives. You're, as we sit here today, not prepared to take your corruption allegations to IBAC, of your own motion, at this point in time.

Peter Mericka: At this point in time, sir.

Judge Ian Gray: You've told me why, but that's the position.

Peter Mericka: Yes. [01:33:30] If I can just reiterate, the reason for that is because I believe that it would be much easier for IBAC to dismiss my complaints because of the 12-month time limit and the options they have for dismissing, whereas if it's a no-motion investigation, that's prompted by the global services commissioner or the warrants chief, then it's more likely to be properly investigated so that I can be vindicated [01:34:00] on everything that I've said on my website.

Judge Ian Gray: As we sit here today, do you consider that the language you've used and the content you've employed in your website publications, that the VLSC and the commissioner are appropriate and acceptable.

Peter Mericka: And can be proven. Yes, sir.

Judge Ian Gray: Do you believe that other lawyers of high repute would consider them to be acceptable statements to make publicly [01:34:30] about the legal services commission?

Peter Mericka: In the full context and based on the material on my website being proven to be true. I've always said, in future, if a full investigation is done and it's confirmed that everything I've said on that website is true, the fact that I haven't reported it personally to IBAC, really won't matter, it's the truth [01:35:00] of the content that's paramount.

Judge Ian Gray: What I'm concerned about, with these questions is, an approach which relies on publication on a website, to raise matters, which, on one view, ought to be raised directly by you, with the corruption investigation authority, not published on a website.

Peter Mericka: I've drawn attention to that authority via [01:35:30] the website.

Judge Ian Gray: You do say you have simply hoped, as I understand it, you have hoped that the authority would respond to what you're trying to draw attention to.

Peter Mericka: Not merely hopes but expect that. I expect that eventually they will commence an investigation and will confirm everything that I've stated on that website.

Judge Ian Gray: A final question, I think, on this line of questions is that having heard what you just said, [01:36:00] however IBAC has never indicated to you that it would or might or will commence an investigation based on what it has heard of, or read or seen.

Peter Mericka: Not to date.

Judge Ian Gray: So you honestly say you hope?

Peter Mericka: It's an expectation, [01:36:30] sir.

Judge Ian Gray: To use your word, to be fair, it's an expectation.

Peter Mericka: It's an expectation. I would suggest, sir, it's a pretty simple expectation, in the circumstances, given that there's been no investigation in relation to the material I've put there. I think it speaks for itself that the legal services commissioner would publish an article on her website declaring that my allegations are baseless and vexatious when there's been no investigation to confirm that. There's been no notification [01:37:00] whatsoever, to me, about that. I just found it accidentally. I think that's the response to it.

Judge Ian Gray: By that initial, we are very close to ending now because we're going over some old ground. By that, you refer to what others have on their website, perhaps, will be able to see, to September 2020. We consider these allegations to be unfounded and vexatious and have directed them to be, I think, on this, if that's your objective?

Peter Mericka: Yes.

Judge Ian Gray: You're aware though, that we consider these allegations to be unfounded and vexatious? That's [01:37:30] the language.

Peter Mericka: [01:38:00] I would add, sir, that saying that they consider that, is meaningless. There's been no investigation, just a declaration.

Judge Ian Gray: Sorry, they're saying that we consider that this is unfounded. That's the language they've reported.

Peter Mericka: Yeah, that's their language.

Judge Ian Gray: In both of them. I don't think it intends to say we have considered the complaints and have found them to be unfounded.

Peter Mericka: Well, I think, it does say that, sir.

Judge Ian Gray: You think it does. I'm just checking.

Peter Mericka: I think it really implies that and that's a concern to me that they would provide that to you, almost as though with some sort of evidence in and of itself, and it concerns me that they may do the same with IBAC and say to IBAC, "Well look, we consider this to be vexatious and unfounded." Giving IBAC a very easy out in using one of their options here, that the complaint is trivial and vexatious.

Judge Ian Gray: Well, [01:38:30] yes. A final question, and bearing in mind what Mr. Lynn has told me about what he has said to you. You have no objective, I mean, actions or non actions by IBAC, I'm sorry. You have no objective evidence of IBAC doing or not doing anything, in response to an allegation or complaint [01:39:00] or inquiry you've ever made directly of IBAC, directly?

Peter Mericka: I can't promise that.

Judge Ian Gray: No, it's an unfairly common question. I'll ask it again, and I've asked it before. It's repetitious to a degree but I'll ask you this. Your scepticism about IBAC and your reservations about going there and bearing in mind what Mr. Lynn has told me and told you about his opinions, your [01:39:30] attitude towards taking your allegations of public corruption, or corruption in the public office, to IBAC, are not based on any direct experience of yours with IBAC.

Peter Mericka: No, they're not based on direct experience, they're based on, as I...

Judge Ian Gray: You told me.

Peter Mericka: ... loosely termed before, I could smell a rat when the VLSC failed to fulfil the heard, legislated obligation to report suspected corruption to IBAC [01:40:00] and insisted that I should do it and then, when I look at the criteria here for dismissal, it seems to me that it's possibly a strategy on the part of the legal services commissioner to have me make a complaint as an individual and acknowledge that there's a 12 months invitation there, and that she has already declared it vexatious, which implies that there's been an investigation, and [01:40:30] one of those criteria is that it's already been investigated and found to be vexatious.

I would add that I would certainly report it to IBAC personally, after the VLSC and the Law Institute have had a crack at getting IBAC to investigate, if there was no satisfaction on that front.

Judge Ian Gray: [01:41:00] If you tell me why, that's your approach? All right, well, I think that concludes the questions that I have and concludes the discussion. We've been going for [01:41:30] an hour and a half and I think that's, given the lead, the coverage that I need and the information that I need, the coverage of the issues that are being heard by me and the information that you provided in all of your responses.

So that does conclude the discussion now, I think, Mr. Mericka. Is there anything else you want to say or, I'm not saying you should, but you may have covered?

Peter Mericka: It's just that it's imperative that it should still come out. That an investigation is [01:42:00] conducted so that the truth can come out. When the truth does come out, what I have expressed there, will be vindicated [01:42:30] in full.

Judge Ian Gray: All right, [01:43:00] thank you.

Peter Mericka: Thanks, great.

Judge Ian Gray: In that case, I think, Mr. Mericka, Mr. Lynn, I think you can go. Okay.

Maurice Lynn: Yeah.

Judge Ian Gray: I'll now stop this meeting. It's now about 20 to, for the recording, it's 20 to 12. Thanks.

Maurice Lynn: Just about this issue, but Mr. Mericka has been waiting a long time to be heard. I know this.

Judge Ian Gray: Right. As you understand now, I can forward it back to my colleagues. It's dealt with there, as a question of the matter of business and problems that I know all that. But thank you very much.

Maurice Lynn: Thank you, Judge.

Judge Ian Gray: [01:43:30] Yeah. We can now conclude the recording, so those last comments were recorded. The meeting is still being recorded and I think Mr. [Dockerty 01:43:40] can come in and terminate the recording right now. We are still recording so I'll simply say, the material that you've agreed to look for and if you can find and send me a copy to Mr. Dockerty, it's very urgent. I hope you have the timelines that I'm operating on, as we approach the 1st of July, which is the due date for a certificate of renewal, if there's to be one, [01:44:00] and so it's urgent. All right?

Maurice Lynn: Understood.

Judge Ian Gray: So please, by whatever it is that you have, in response to those matters, that you said you would look for, preferably this afternoon.

Peter Mericka: Okay.

Judge Ian Gray: Thank you very much.

Peter Mericka: Thank you, sir.



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Judge Ian Gray: Thank you. I should say Monday won't be too late but it would be ideal this afternoon, so preferable, but if you need it...

Peter Mericka: Yes, if you want the material. I'll send the material. I'll certainly get onto it this afternoon.

Judge Ian Gray: Yes, I accept that you've got [01:44:30] a practise to run, however, the sooner the better. But certainly, not later than close of business Monday.

Peter Mericka: Yeah, I think it will be the weekend.

Judge Ian Gray: It looks like it may be. It looks like it. Thank you.

Peter Mericka: At least they've got power, we don't even have power up the road.

Judge Ian Gray: No, you're up there, are you?

Peter Mericka: Yeah. A couple of power problems.

Judge Ian Gray: Very difficult. All right. Thank you.

Speaker 4: Thank you.

Judge Ian Gray: Thanks, everyone.

Maurice Lynn: We'll take advantage of the time today.

Mr. Dockerty: Thank you very much. Are you finished?

Maurice Lynn: Yep.

Mr. Dockerty: Okay, thank you.

Maurice Lynn: [01:45:00] Thanks.

Mr. Dockerty: Bye-bye.

Maurice Lynn: See you.

Judge Ian Gray: Dockerty. You can now turn off the recording.

PART 4 OF 4 ENDS [01:45:29]