

RE: Recusal of Judge Ian Gray

From: peter@lawyerslegal.com.au

Sent: Sunday 18 July, 2021 12:09 pm


To: <ilg3182@gmail.com>

CC: <pdocherty@liv.asn.au>

Subject: RE: Recusal of Judge Ian Gray

Attachments:

Associations: LAW INSTITUTE OF VICTORIA [1793]

 This email was sent as High priority

Dear Judge Gray,

Mr Scott's surprise resignation on Friday, followed by an extremely upsetting weekend of family discussion and examination of what has occurred to date, and what can be expected in the future, has led to some very serious decisions about the future of my firm, my staff and my family.

You will recall that I had asked you to allow me at least 2 weeks to discuss the situation with my family and staff and to make plans, and I took some relief from your reply indicating that I had until Thursday 19 June 2021 (which I believed was a mistake, and that you had intended to allow me until Thursday 19 August, 2021) to work through the situation. However, you then followed up to tell me that you were allowing me no time at all, and that I should participate in a Zoom meeting with you tomorrow, Monday 19 July, 2021. I will not be participating in a Zoom meeting tomorrow.

I have told you that I have been left with no alternative but to close my business, and this decision has now been made. The stress and upset that you, Mr Docherty, the LIV Council and Ms Fiona McLeay have caused through the withholding of my Practising Certificate, and the sham "investigation" you have been conducting, has become utterly unbearable, particularly for my wife and family.

You have consistently ignored the elephant in the room, namely the serious corruption allegations against the VLSC and members of her staff, and the failure/refusal of those in positions of authority to take any initiative to have these matters investigated.

When I read your email below I was astounded by the 'spin' placed on your inability to identify any basis for the withholding of my Practising Certificate (PC). Your statement, "...it is not strictly accurate to say that your PC has been "withheld"; a decision has not yet been made as to the renewal of your PC..." is utterly absurd. It does, however, indicate what I am up against when the "investigator" is prepared to resort to such verbal sleight of hand. Indeed, I would go so far as to say that this amazing statement is not merely an example of Orwellian doublespeak; it also a form of gaslighting, and it conveys a contempt for the party to whom it is addressed, as well as the subtle message that the individual has no chance against a party powerful enough to be in a position to use it.

It is always incumbent upon any investigator to consider the reasons behind his or her being appointed to conduct an investigation. In this case, a competent investigator would have looked a little further into the appointment/delegation, and realised that a supposed "*desire to remove any perception of VLSC bias*" is no more than an attempt to mask an underlying motive.

The very fact that you had been appointed to "investigate" should have prompted you to ask why this step was necessary. I would suggest two very obvious possibilities:

1. The VLSC was aware that if she were to renew my PC as per the normal process, someone - perhaps Blair Ussher, perhaps Luke Priday, or a VLSC staff member - might object, and the VLSC would have to justify renewing my PC despite objections (I am not aware of any complaints against me that would justify a disruption to the normally automatic process of PC renewal); or
2. The VLSC was aware that if she were to fail to renew my PC as per the normal process, I would object on the basis that she and members of her staff stood accused of corrupt and criminal conduct, and that the failure to renew was motivated by self-interest. (I would suggest that this is the more obvious of the two.)

Even if the above were not immediately obvious to a competent investigator, any reasonable person would query the necessity for a simple PC renewal to be delegated to the LIV Council, with a former Judge being appointed as an "independent" investigator.

You admit that you have accepted your appointment as "*independent*" investigator with knowledge of "...the background of recent website publications in which you have made a number of allegations and criticisms of the VLSC and its officers". You then state that the only inference you were able to glean from the delegation is a desire to avoid bias. However, there is a further, but unstated inference that is indicated by the manner in which you have conducted your "

investigation" ; you have inferred that the allegations I have made are baseless, unfounded, vexatious or otherwise untrue. This observation is based on the fact that you have never discussed or examined the truth of the allegations, nor considered referring the entire matter to IBAC for a proper corruption investigation.

I note that you have been "fed" material by the VLSC instead of undertaking your own research into matters, and you appear to have accepted the material you have received as probative and helpful to the extent that you have not had to delve beneath the surface. I refer, in particular, to the VLSC website publication stating that my allegations are unfounded and vexatious.

You have advised me that you have received "*additional information from the VLSC*", and you have provided your very brief overview of each. However, you have then informed me, "*...my review of the files summarised above has not affected the conclusions I reached for my initial report and will not influence my recommendations.*"

It appears to me that the VLSC has "cherry-picked" the material she has presented to you. Each of the items provided to you by the VLSC requires an in-depth and critical analysis. Receiving this material merely as examples of complaints made by me, or against me has the propensity to mislead and deceive, by conveying little more than the fact that complaints have been made and received. By way of example, the matter of Luke Priday is glossed over as a complaint against me, when in fact Mr Priday has committed serious criminal offences including Perjury and Perverting the Course of Justice, of which there is an abundance of admissible evidence.

I am also sceptical of your claim that the documents do not affect your conclusions or influence your recommendations, particularly given your failure/refusal to provide me with a copy of your interim report and recommendations of 22 July, 2021.

As stated previously, when I first became aware that you had been appointed as an "independent" investigator my initial reaction was to dismiss you as just another acolyte of Ms Fiona McLeay, assuming that your appointment was merely an attempt to give the appearance of a fair process. Mr Lynn convinced me that the appointment of an eminent Judge and pillar of the Victorian justice system was precisely what was needed in the circumstances, and that I should be relieved that finally an impartial and in-depth investigation into to my corruption complaints against the VLSC and her staff would become a reality. I will not even attempt to describe my disappointment in you and your conduct in this matter.

I conclude by confirming that you have irreversibly changed everything for me, my law firm, my staff and my family.

I have stated this previously, and I now address this to you directly: I insist that you recuse yourself. I regard you as a biased and incompetent investigator. I further insist that you should immediately refer this matter to IBAC, to be investigated as part of a greater investigation into corruption within the office of the Victorian Legal Services Board and Commissioner.

Regards,



Peter Mericka B.A., LL.B

Australian Legal Practitioner & Authorised Principal
Pursuant to the *Legal Profession Uniform Law Application Act 2014*

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