

15 August 2024

The Law Society of New South Wales

Attn: NSW Law Society President, Law Council and Licensing & Registry

170 Phillip Street

Sydney NSW 2000

By Email: The Law Society of NSW President Mr Brett McGrath President@lawsociety.com.au

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Director, Licensing and Registry, The Law Society of NSW Ms Nadya Haddad registry@lawsociety.com.au

Copied: PSD psd@lawsociety.com.au and OLSC olsc@justice.nsw.gov.au

Dear NSW Law Society President, Law Council members and Director of Licensing and Registry.

RE: Ms Valerie Griswold Director, Legal Regulation of NSW Law Society Professional Standard Department (PSD). Cases of M.Odtojan PSD2023_57155 and A.Bryl PSD2023_57157.

Ms Griswold/PSD unfounded statement of facts: findings of misconduct, prior misconduct and non-disclosure of prior misconduct in the application for renewal of practising certificate.

1. We refer to the above matter and bring to your urgent attention our **enclosed** letters to the NSW Law Society Professional Standards Department (PSD) by Ms Marie Odtojan (**Ms Odtojan**) dated 13 August 2024 (**MOLtrPSD**) and Mr Artem Bryl (**Mr Bryl**) dated 13 August 2024 (**ABLtrPSD**) in response to Ms Valarie Griswold's (**Ms Griswold**) PSD letters to Ms Odtojan dated 8 July 2024 (**PSDLtrMO**) and to Mr Bryl dated 17 July 2024 (**PSDLtrAB**) (**PSD letters**), also **enclosed**.
2. We raise serious concerns of Ms Griswold's conduct, legal practitioner, officer and Director of PSD, as set out in our said letters and briefly herein, where Ms Griswold has recorded unfounded statements of facts of a serious nature, of misconduct/prior misconduct¹ against two legal practitioners under her office and letterhead of PSD where it appears that she has used her position, authority and delegated powers to influence the Law Council/Licensing and Registry Office (communications which are not made transparent to us), to affect and interfere with the legitimate renewal application of our practising certificates (**certificates**), based on false premises that there is a misconduct/prior misconduct by us.
3. We are concerned that there are representations being made by Ms Griswold, PSD Director to the Law Council or other members/staff of NSW Law Society regarding misconduct by us, where Ms Griswold would be aware that such representations are untrue and without basis, as there are no findings of misconduct against either of us. There are no determinations of misconduct by the designated tribunal, NSW Civil and Administrative Tribunal (**NCAT**).
4. Ms Griswold's PSD letters to us were the first letters we received from PSD. Upon receipt of Ms Griswold's PSD letters, we were notified for the first time, only after the act has been done by Ms Griswold, that the first action taken by her was to arbitrarily affect our practising certificates (**certificates**)

¹ PSD Letter [5] 8, 4 '*serious past misconduct*' in *Thomas v Legal Practitioners Admissions Board* [2004] QCA 407 [2005] 1; An unfounded statement of fact constitutes a fabricated fact. Black's Law Dictionary, 2nd Ed. 'A fact that is not founded on a truth'.

by interfering with the their renewal/approval, which appears to be based on Ms Griswold's unfounded statements of facts of misconduct and non-disclosure of misconduct. This act was done without prior notice to us. We were not heard on the matter, and neither were we afforded due process and procedural fairness pursuant to the established process under the *Legal Professional Uniform Law (NSW) 2014 (LPUL)*. We were denied natural justice.²

5. The result of Ms Griswold's conduct, based on her created facts of prior misconduct,³ has unlawfully affected our applications for the renewal of our certificates where they are neither 'approved or refused', and are 'taken to continue in force on and from 1 July 2024',⁴ until Ms Griswold has her next private meeting with the Council where she stated 'I intend to ask Council... to consider whether to grant or refuse your application dated 15 May 2024'.⁵
6. The matters before PSD to assess/investigate were from a NSW Court of Appeal (**NSWCA**) referral of papers.⁶ The OLSC clearly states in its complaint process that a referral by a judicial officer is a 'source of information'.⁷ The Council of the Law Society has delegated its powers to PSD for independent assessment/ investigation of the NSWCA referral of papers.
7. Based on the first PSD letter we each received, steps were already taken by Ms Griswold to notify the Law Council and/or the Licensing Registry office to prevent the renewal of our certificates. This act was done prior to us being notified and receiving the PSD letters,⁸ and where there was non compliance with the NSWCA referral of papers orders. There appears to be no independent assessment/investigation conducted by Ms Griswold/PSD as she did not have in her possession all the court documents pursuant to the NSWCA orders,⁹ where the substantial missing documents were Ms Odtojan's court documents, including all the court transcripts.¹⁰
8. Ms Griswold is alleged to have circumvented and contravened the well-established process under the LPUL. The complaint process and procedures for determining an alleged misconduct are clearly set out under the LPUL, and by the OLSC and NSW Law Society in their respective websites.¹¹
9. Professional misconduct, as Ms Griswold would be aware in her position as PSD Director, is determined by the designated tribunal, NCAT, under s 300(1)(b) of the LPUL.
10. Professional misconduct is the most serious finding by NCAT against a legal practitioner. Ms Griswold has made unfounded statements of facts that we have findings of misconduct/prior misconduct when she would be aware such statements are untrue.
11. Ms Griswold had also sought to obtain admissions from each of us regarding misconduct, stating 'Council will, however, need to consider whether since that time you have taken steps to address the prior misconduct'.¹² There is no such misconduct by us. Ms Griswold failed to provide any particulars, the paragraphs and to quote the excerpts of findings of misconduct in the orders/judgments she vaguely and generally referred to in her PSD Letters.
12. It appears Ms Griswold has used the NSWCA referral of papers to initiate her/PSD's own case against us, using her office to search Ms Odtojan's personal civil cases (where Ms Odtojan was not acting in professional capacity of a legal practitioner), listing those civil cases in her PSD letter to Ms Odtojan, and

² *Kioa v West* (1985) 159 CLR 550, 563, quoting Mason J in *FAI Insurances Ltd v Winneke* (1982) 151 CLR 342, 360.

³ PSDLtrMO 4, [3]-[7] 8; PSDLtrAB 4, [3]-[7] 6.

⁴ PSDLtrMO [1]-[3] 1; PSDLtrAB [1]-[3] 1.

⁵ PSDLtrMO [5] 8; PSDLtrAB [5] 6.

⁶ See MOLtrPSD 'C. NSWCA Referral of papers' 6-7 and [2].

⁷ Relying on which the OLSC may initiate a complaint, conduct initial assessments and may undertake investigations if it proceeds to pursue the complaint; OLSC, LSC Initiated Complaint:

<https://olsc.nsw.gov.au/complaints/information-about-complaints-for-the-profession/olsc-initiated-complaints.html>

⁸ PSD.LtrMO [1]-[4] 1; PSD.LtrAB [1]-[4] 1.

⁹ See [15.d] below.

¹⁰ See MOLtrPSD [30]-[31].

¹¹ See Complaints Process Information brochure:

https://www.lawsociety.com.au/sites/default/files/2020-04/2020_Complaints-process-information.pdf; Professional Standards Annual Report 2022, Complaints Investigation Process 7:

https://www.lawsociety.com.au/sites/default/files/2023-01/LSNSW_PSD_AR2022_web_2022-12-19.pdf

¹² PSDLtrMO [5] 8; PSDLtrAB [4] 6.

listing the NSWCA of referral of paper orders in her PSD letter Mr Bryl, alluding that those orders/judgments are findings of misconduct in her PSD letters to us. These issues are separate matters to the NSWCA of referral of papers. There appears to be an agenda to target our practising certificates based on false premises of misconduct and non-disclosure of misconduct, with the intent to affect our ability to practise law.

13. It is noted that Ms Griswold has omitted relevant reports made to OLSC/PSD from the period 2016 to date, which are relevant as Ms Griswold has listed Ms Odtojan's personal civil cases in her PSD letter, and has alleged that PSD is unaware of the facts and circumstances of Ms Odtojan's civil cases where PSD and OLSC has received multiple reports from Ms Odtojan in relation to the civil cases listed by Ms Griswold¹³. OLSC/PSD has a duty to report suspected offences under s 465 *Legal Professional Uniform Law (NSW) 2014 (LPUL)*.
14. It appears from Ms Griswold's PSD letters that the status of our practising certificates, whether they will be renewed or refused, and our ability to continue to practise law, which Ms Odtojan has been practising for 14 years with years of undertaking extensive legal education and training, and Mr Bryl with 2 years of legal practise with extensive training/education including overseas training/education, all comes down to Ms Griswold's arbitrary decision in her next private meeting with the Law Council.¹⁴
15. For convenience, the background of the matters we have raised with Ms Griswold/PSD are set out in our said letters to PSD, (MOLrtrPSD and ABLtrPSD), and we refer to them, as follows:
 - a. 'A.1 Communications - OLSC/PSD' - MOLrtrPSD p.1 and ABLtrPSD pp.1-2;
 - b. 'A.2 Ms Griswold, Director of PSD, unfounded statement of fact - findings of 'misconduct'/'prior misconduct' and interference with the approval/renewal of practising certificate.' See MOLrtrPSD pp.2-5 and ABLtrPSD pp.2-5;
 - c. 'B. Notice/Next Action' - See MOLrtrPSD pp.5-6 and ABLtrPSD p.5;
 - d. 'C. NSWCA Referral of Papers' - See MOLrtrPSD pp.6-7 and ABLtrPSD p.6;
 - e. 'D.1 NSWCA Judgments' - See MOLrtrPSD pp.7-9 and ABLtrPSD pp.6-8;
 - f. 'D.2 Your/PSD Alleged Conduct Issues' - See MOLrtrPSD pp.9-13 and ABLtrPSD pp.8-11;
 - g. 'E. Reports to OLSC/PSD' - See MOLrtrPSD pp.13-15;
 - h. 'F. Notice/Public Importance' - See MOLrtrPSD pp.16-17 and ABLtrPSD pp.11-12.
 - i. The documents referred to in our said letters to PSD are made available and can be accessed via the Google Drive link in our said email to you enclosing our said letters.
16. Based on Ms Griswold's PSD letter to us, there is a failure to provide what jurisdiction and powers were invoked by PSD/Law Council to prevent the legitimate renewal of our practising certificates.
17. There is no basis for PSD/The Law Council to withhold/prevent our practising certificates from being issued for the year 2024/2025 as there are no findings of misconduct against either of us.
18. If PSD and/or the Law Council is of the opinion that there is an alleged misconduct and/or non-disclosure by either of us, then the Law Council is to afford us the proper due process that all legal practitioners are afforded, under the LPUL, where such matters are to be impartially and independently assessed/investigated and to be determined by the tribunal, NCAT.¹⁵ Notwithstanding, the Law Council has no basis to withhold/prevent the renewal of our practising certificates even if such a process is undertaken, until the matter is determined by the Tribunal.
19. The conduct of making a false statement recorded under the PSD letterhead is a very serious matter which requires the urgent attention and action by the Law Council and the Law Society President where

¹³ See MOLrtrPSD [12.h], 'E. Reports to OLSC/PSD' 13-15. Allegations of fraud and collusion are already known to the OLSC/PSD being similar allegations raised in the Ms Odtojan's report dated 27 June 2018 made against Piper Alderman lawyers which include the conduct of Ms Odtojan's former legal representatives Mr Ford, Mr Glynn and Mr Condon SC, and impersonation of legal practitioners by Piper Alderman employees; See Mr Bryl's email enclosing this letter - G.Drive links: See document numbers 15 to 17.

¹⁴ Ibid.

¹⁵ S 300 LPUL; Findings of misconduct are recorded by OLSC under S 152 *Legal Profession Uniform Law Application Act 2014 (LPUL Application Act)*. *A Solicitor v Council of the Law Society of New South Wales* [2004] HCA 1; 216 CLR 253; 78 ALJR 310; 204 ALR 8.

- the Director of PSD (Certificate IV in Investigations), in the position of authority over legal practitioners, has made unfounded statements of misconduct against two legal practitioners.
20. The alleged conduct of Ms Griswold reasonably raises serious questions of her fitness as a legal practitioner and Director, Legal Regulation, of PSD of the Law Society of NSW, where she has a wide range of delegate powers having authority over 40,000+ NSW legal practitioners. Ms Griswold has demonstrated in our case, that she has used her position to make unfounded statements of facts of misconduct and has acted on those false premises to prevent the legitimate process of the renewal of our practising certificates.
 21. Ms Griswold's alleged conduct is capable of greatly undermining the legal profession and diminishing the public confidence in the legal profession, the legal regulatory body, OLSC, and the Law Society of NSW.
 22. NSW lawyers, solicitors, and the public are to be protected from unjust, oppressive conduct and abuses of power by an officer of PSD. A legal practitioner should never receive a letter from PSD/regulatory body with false recordings of any kind. In this instance, Ms Griswold recorded a statement of fact of misconduct against two legal practitioners and has caused great distress, damages and detriment.¹⁶
 23. The conduct of Ms Griswold requires great effort from her to go against her duties, obligations, and the established process under the LPUL, which demonstrates her intent to do such acts to affect our practising certificates.¹⁷
 24. Ms Griswold's recordings of unfounded statements of facts in her position of authority which cause detriment to a person are capable of constituting offences under Part 4AA of the *Crimes Act 1900* (NSW).
 25. In relation to the serious matters raised herein, as set out in our letters to PSD, we call for the Law Council to consider the following actions¹⁸:
 - a. For the Law Council to remove Ms Griswold from the PSD cases of Ms Odtojan and Mr Bryl;
 - b. For the Law Council to investigate Ms Griswold's conduct of making and recording unfounded statements of facts of misconduct against two legal legal practitioners and interfering with the legal practitioners' practising certificates based on those false premises. An act done in her position of authority having a wide range of delegated powers where she has authority over legal practitioners.
 - c. In reference to the [16]-[18] above, the Law Council is to immediately notify/direct the Registry office to issue the renewal of the practising certificates of Mr Bryl and me for the year 2024/2025 as PSD/The Law Council has provided no basis to withhold and/or prevent our practising certificates from being issued for the year 2024/2025. Should PSD continue to withhold/affect the renewal of our practising certificates, without legal basis, it will constitute an ongoing unlawful withholding of our certificates.
 - d. The Law Council is to make enquiries and investigate the conduct of PSD in relation to Ms Odtojan's reports made to OLSC/PSD as listed in her letter to PSD¹⁹ where the said reports have been systematically closed without investigation. The various alleged reported conduct involves fraud/improprieties including impersonations of legal practitioners, and administration of justice offences. There is a duty of the regulatory bodies to report suspected offences under s 465 LPUL.
 26. We will rely on this letter giving notice to the Law Council on the above matters.

Kind regards,

Marie Odtojan

Ms Marie Odtojan

Artem Bryl

Mr Artem Bryl

¹⁶ MOLtrPSD [21].

¹⁷ Ibid [5]-[16], [30]-[31],[44]-[45],[50],[56]-[60].

¹⁸ Ibid 'B. Notice/Next Action' [68], 5-6.

¹⁹ n 13.