



PROFESSIONAL
STANDARDS
THE LAW SOCIETY
OF NEW SOUTH WALES

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07 June 2018

PRIVATE AND CONFIDENTIAL

Mr Darren Bobroff
8 Briar Street
ST IVES NSW 2075

BY REGISTERED POST

Dear Mr Bobroff

Application for a practising certificate for 2017/18

I refer to your Application for Grant of an Australian Practising Certificate for the 2017/2018 Practising Year dated 25 April 2018 (**your Application**) and received by the Law Society on 02 May 2018.

On 07 December 2016, you were struck off the roll of attorneys in South Africa.

As you will appreciate, the matters which were the subject of the Law Society of the Northern Province's investigation against you and the findings made by their Honours Justices Ranchod and Janse Van Nieuwenhuizen in their judgment dated 20 July 2017 are serious and go to your fitness to, at least, hold a Practising Certificate.

I propose to ask the Council of the Law Society of New South Wales (Council) to consider the refusal of your Application when it meets on 21 June 2018. I draw your attention to the provisions of Section 45 of the *Legal Profession Uniform Law (NSW) (Uniform Law)* and Rule 13 of the *Legal Profession Uniform General Rules 2015 (General Rules)*. Council's consideration will necessarily be based on the matters set out below under the heading background.

I invite you, by no later than **Friday 15 June 2018**, to provide to me such written submissions as you might wish the Council to take into consideration when determining whether to refuse to issue to you a Practising Certificate for the 2017/2018 Practising Year. These submissions will be in addition to your 36 page letter attached to your application.

Background

On 07 December 2016 you were struck off the roll of attorneys in South Africa.

The application to strike you from the roll of attorneys was made by The Law Society of the Northern Provinces (the Law Society) and Jennifer and Matthew Graham (the Grahams).

The Grahams lodged a complaint against you with the Law Society in June 2011.

PROFESSIONAL STANDARDS DEPARTMENT

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07.06.2018

V/A
JUST to P20 B9 DSK
see letters to
CAMPBELL & STICK
12/2018
TO GRAHAM'S

The complaint related to overreaching. The Grahams furnished the report of Vince Farris to the Law Society. Mr Faris determined that the financial transactions recorded in the ledger accounts of Ronald Bobroff and Associates did not accord with the accounting statements provided to the Grahams. Mr Faris was of the opinion that the records he reviewed evidenced contraventions of the Income Tax Act, the VAT Act, the Companies Act, the Attorneys Act and the rules of the Law Society.

The Grahams became concerned with the drag of the Law Society's investigation and commenced proceedings in the High Court of South Africa – Gauteng Division, Pretoria (the High Court).

The Law Society was also involved in those proceedings.

The Law Society provided two investigative accounting reports in the proceedings dated 12 December 2014 and 27 January 2017 (the reports).

The reports detailed contraventions of the Attorneys Act as well as the Law Society Rules including:

- i) Overreaching;
- ii) Misappropriation of trust funds;
- iii) the failure to record fees in the accounting records;
- iv) the failure to keep proper books of account; and
- v) probable evasion of VAT and income tax

At no time did you provide a response to the serious allegations of misconduct either during the Law Society investigation or the Court proceedings.

On 07 February 2017 Her Honour Justice Janse Van Nieuwenhuizen stated;

"Notwithstanding the fact that the applicants were acutely aware from at least 2011 that their firm's accounting system is the subject of serious scrutiny, they have to date not dealt with a single transaction relating to their alleged misconduct."

and

"Another factor that vitiates against the granting of a postponement is the applicant's absolute silence in respect to the prospects of success in opposing the applications."

You were suspended from the practise of law in South Africa on 16 April 2016.

You were struck from the roll of attorneys in South Africa on 07 December 2016.

Pursuant to the *Legal Profession Uniform Law 2015 NSW* you are a disqualified person.

Your conduct during the legal proceedings has been commented upon by numerous members of the South African Judiciary including the following:

Matojane J 04 June 2015

"I am inclined to agree with the Grahams that the grounds of appeal are contrived and application for Leave to Appeal is intended for the sole purpose of delaying an inspection of the respondent's (the Solicitor) computer work.

It would seem it is a deliberate strategy which is employed by the Bobroff's to delay for as long as they can the investigation of their financial affairs in the face of serious allegations of impropriety that are being made against them."

Mothle J 15 June 2014

"The Bobroff's application for leave to appeal is intended to delay an inspection of their books of accounts and for no other purpose. In my view the numerous grounds of the application for leave to appeal as stated in the application are contrived and based on self serving misinterpretation of paragraph 3 and 5 of the Court orders."

Murphy J 26 August 2015

"I agree with Counsel for the Grahams on the probabilities this application was resorted to as a calculated decision by the respondents to delay the disciplinary and investigative process. Sight must not be lost of the prior litigation involving the respondents and the fact that they are officers of this court. As attorneys, they should be playing open cards with the court and the Law Society. It seems to me that the most prudent course for them at this point in time would be one of co operation and transparency."

Janse Van Nieuwenhuizen J 07 February 2017

" In requesting a further postponement, the applicants are perpetuating the very conduct the Court has, on at least three previous occasions, found to be irreconcilable with their profession.

The application for postponement is not made bona fide. It is evidently a further delaying tactic."

and

The applicant's departure to Australia shortly after Mr Zimmerman received the 2016 application, effectively prevented the Law Society from effecting service in terms of provisions of rule 4. The applicants, being attorneys possessing specialised knowledge of the rules of Court were, no doubt, acutely aware that their conduct resulted in the Law Society being incapable of serving the application in strict compliance with the provisions of rule 4.

In my view, the conduct of the applicants was mala fide to the extreme. I am aware that the rules of the Court apply equally to any litigant. In an application of this nature, one can however, not ignore the fact that the applicants are officers of the Court, who at all relevant times, should at with the utmost good faith in matters affecting the very essence of their profession.

The applicants utilised their knowledge of Court procedure to effectively prevent the Court from examining their alleged misconduct. In endorsing this kind of behaviour, by officers of the Court would bring the legal profession into disrepute"

Matojane J held you in Contempt of Court on 17 March 2015.

His Honour Justice Ranchod stated on 20 July 2017:

"In so far as the Bobroffs are concerned the only appropriate sanction was to strike their names from the roll of attorneys...despite repeated admonitions from several judges...together with Darren Bobroff persisted in using every possible avenue to delay, frustrate and avoid facing up to the serious charges of a practice wide conduct of overreaching clients, contravening the Contingency Fee Act by relying on unlawful common law contingency fee arrangements, making clients sign several different fee agreements with a view to using the one that was most advantageous to the firm, and other unprofessional, dishonourable and even fraudulent conduct."

Judge Ranchod also stated in his judgment removing you from the roll that:

"The profession of an attorney is an honourable one and as such demands complete honesty, reliability and integrity from its members. It is required of an officer of this Court to act with scrupulous integrity and honesty (Law Society, Cape v Randell 2013(3) SA 437). The nature and scale of the contraventions identified by the inspectors showed that as far as the Bobroffs are concerned they were not fit and proper to practice as attorneys."

I note you state that Graham complaint is fabricated and that both judgments (February 2017 and July 2017 – Justices Ranchod and Janse Van Nieuwenhuizen) were one sided and based on wholly untested allegations by persons intimately connected with Discovery and/or bribed and is replete with unfounded allegations of misconduct which are not substantiated by the facts.

As a result of conduct as detailed in the reports as well as Mr Farris' report and your conduct during the High Court proceedings and the commentary from numerous South African Judges, and moreover, the fact that you have been struck from the roll of attorneys in South Africa, Council will be asked to consider passing a resolution to give effect to the following:

1. refusing your application for a practising certificate [see s 45 of the *Uniform Law*] on the following reasons;

- i. The nature and seriousness of the complaints made against the solicitor;
- ii. The matters raised in Mr Faris report;
- iii. The matters raised in the Law Society reports;
- iv. Failure by the solicitor to provide a response to the allegations which formed the basis of the Law Society investigation and therefore not co-operate with the investigation;
- v. The conduct of the solicitor during the High Court proceedings which spanned a four year period and the South African judiciary's comments in relation to same.
- vi. The suspension followed by the striking of the solicitor from the roll of attorneys in South Africa.

The purpose of this letter is to formally invite you to make such submissions as you may wish Council to consider on the above proposed resolutions and/or any other matters which you believe would assist Council in considering the matters raised.

Again, you should ensure that your submissions are received no later than by 5 pm on **Friday 15 June 2018** as the Council presently proposes to meet on 21 June 2018.

Should you have any question in relation to this correspondence, please telephone me on 9926 0307.

Yours faithfully



ANNE-MARIE FOORD
Director
Professional Standards