

41 Holmes Street
Turramurra
New South Wales 2074
17 May 2018

The Executive Officer
Law Society of New South Wales

Dear Executive Officer

Ronald Bobroff

Mr Ronald Bobroff has asked me to write to you in connexion with an application he is making to the Law Society for the renewal of his practising certificate.

I am a barrister of the Supreme Court of New South Wales of 38 years standing. For many years I was the Director of the Law Extension Committee of the University of Sydney, where I had responsibility for administering academic courses for persons undertaking law examinations conducted by the Legal Profession Admission Board. I retired from this role in 1998, although I have continued to serve the board ever since as a member of the Legal Qualifications Committee.

During my period as Director of the Law Extension Committee, and subsequently as a member of the Legal Qualifications Committee, I have been involved almost continuously with the assessment of the qualifications of overseas lawyers who have been requalifying or are seeking to requalify for admission to the legal profession in New South Wales. It was in this context that I first met Mr Ronald Bobroff in about 1993 or 1994. He was a South African lawyer who was seeking to requalify in New South Wales, and in due course he fulfilled all the requirements of the Admission Board and was admitted as a solicitor.

It sometimes happens that I get to know persons whom I meet in an academic or professional setting somewhat better than I get to know the general run of such persons. That was the case with Mr Bobroff, and I have kept in touch with him, on a somewhat irregular basis, over the last 20 years, mainly during the times he has been visiting or living in Sydney. I have formed a high estimation of him as a person, and I continue to think well of him.

Mr Bobroff served on the Council of the Law Society of the Northern Provinces of South Africa for many years, and for some years as President. I am aware that he has recently had problems with the Law Society, and that in December 2016 he was struck off the roll of attorneys in South Africa. Some of the history of the matter is set out in the decisions of the High Court of South Africa in *Law Society of the Northern Provinces v Bobroff* [2017] ZAGPPHC 704 and *Law Society of the Northern Provinces v Bobroff* [20.07.17].

I have read these decisions. I have also had a number of discussions with Mr Bobroff about this, and he has shown me a number of background documents.

Mr Bobroff will no doubt tell you in detail what has happened, and will provide you with all the documents he has shown me, and a great many more. The matter is very complicated, but there seem to be some quite sinister aspects of it which are deserving of consideration, and may even need further investigation.

This is what Mr Bobroff has told me.

He was the senior partner of a firm of South African attorneys which had specialised in insurance matters and personal injury claims since 1974.

In the course of his practice, and while defending a client in relation to a demand made against them by a large health insurance company, Mr Bobroff uncovered what he regarded as a serious breach of the law by the insurance company, and he decided to follow the matter up. This did not go down well with the insurance company, and subsequent events caused Mr Bobroff to believe that the company had decided to make an example of him so as to discourage other lawyers from defending their clients against it.

In September 2012 an application was brought against Mr Bobroff, the Law Society and others in the Supreme Court of South Africa, seeking various orders including an order that Mr Bobroff be struck off the roll of attorneys. The application was brought by a Mr and Mrs Graham, who were disaffected former clients of Mr Bobroff's firm, and it appeared that the Grahams were acting either on behalf of, or at the behest of, the aforementioned insurance company. The essence of the complaint was that the Grahams had been overcharged in their dealings with Mr Bobroff's firm.

The striking off application was an unusual one, and was initially opposed by the Law Society. For various reasons the proceedings, and subsequent related proceedings, continued for a considerable time, but while they were underway there was a significant change in the composition of the Council of the Law Society. The change was effected following a special general meeting of the Law Society and, once again, it appeared that the aforementioned insurance company had had some involvement in the calling of the meeting and the subsequent events which led to the change in the composition of the Council. After this the Law Society largely took over the role of the Grahams in the proceedings, and the complaint against Mr Bobroff was expanded to include matters going well beyond the original complaint.

Ultimately the Court decided that Mr Bobroff should be struck off the roll of attorneys, but it is clear from the judgement that the Court made its decision largely on the basis of evidence presented by the Law Society. There was no input by the original complainants, the Grahams, but more importantly the Court did not hear what Mr Bobroff might have had to say about the various allegations which had been made against him. He had made an application, albeit late in the proceedings, for a postponement of the hearing, but his application was refused. The Court said that he had sought to delay and obstruct the proceedings in a manner unbecoming an attorney, and because of this they went on to determine the matter without him.

As I have said, this is only a brief summary of what Mr Bobroff has told me. The documents which he has shown me are consistent with what he has said.

I might make two comments about the judgement.

Firstly, it was unfortunate, at least for Mr Bobroff, that the Court did not give him a final opportunity to be heard, especially when there was no suggestion that anyone might have been prejudiced by this. Given the serious consequences to any attorney of losing their right to practice, it is hardly surprising that he should have taken various procedural points during the course of the proceedings, probably with counsel's advice, to protect his position.

Secondly, and whilst this is largely a matter of impression, it seems to me that the court has slid rather easily from its finding that Mr Bobroff's firm had failed to comply with the *Contingency Fees Act 66*, to a finding that his firm had been overreaching in relation to fees, and then to a finding that he had been misappropriating clients' funds. It goes without saying that misappropriation is a very serious matter, and it is a pity

that Mr Bobroff was not heard in relation to this.

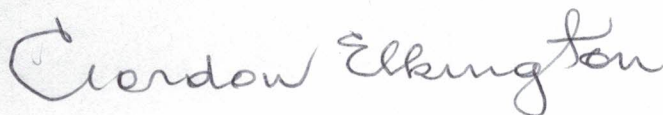
Mr Bobroff was quite an eminent person in South Africa up until the time of his recent problems. The circumstances in which he finds himself are quite exceptional, and I am sure that he will explain these to you in detail.

There are many aspects of this matter which go well beyond the matters dealt with in the striking off order, and I have suggested to Mr Bobroff that he offer to appear before the Law Society and make a personal presentation. If he does offer to appear, and I hope he does, I hope that the Law Society will give him the opportunity to present himself and answer any questions in person. I think this will help the Law Society make its own mind up about what really happened in South Africa.

Mr Bobroff has told me that he has had some fears for his personal safety, and the personal safety of members of his family, in South Africa. I have no doubt that this is the case, and that it is one of the reasons he has left South Africa.

As I have already said, I have a high personal opinion of Mr Bobroff, and I hope that the Law Society will give full weight to what he says, and not discount it just because what happened to him in South Africa could never happen in Australia.

Yours sincerely

A handwritten signature in cursive script that reads "Gordon Elkington". The signature is written in dark ink and is positioned above the typed name and qualifications.

Gordon Elkington
BSc, MSc, PhD, LLB, LLM

41 Holmes Street
Turramurra
New South Wales 2074
31 May 2018

The Executive Officer
Law Society of New South Wales

Dear Executive Officer

Darren Bobroff

Mr Darren Bobroff has asked me to write to you in connexion with an application he is making to the Law Society for the renewal of his practising certificate.

I have previously written to you in relation to a similar application which has been made to the Law Society by Mr Ronald Bobroff.

Mr Ronald Bobroff is the father of Mr Darren Bobroff. Both of the Messrs Bobroff were South African attorneys, and both requalified in New South Wales by taking some examinations through the Admission Board. At the relevant time I was the Director of the Law Extension Committee of the University of Sydney, which provides tuition for persons taking these examinations, and I met Mr Ronald Bobroff when he was a student-at-law in about 1993 or 1994. I met Mr Darren Bobroff some four or five years later in similar circumstances, and whilst I do not know him as well as I know Mr Ronald Bobroff, I know him sufficiently well that I am happy to write to you in relation to his application.

A copy of the earlier letter I wrote to you about Mr Ronald Bobroff is attached, and a lot of what I said in that letter in relation to Mr Ronald Bobroff applies, *mutatis mutandis*, in relation to Mr Darren Bobroff.

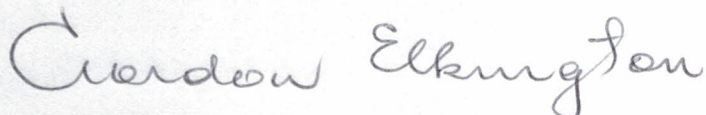
For the whole of the relevant period, Mr Ronald Bobroff and Mr Darren Bobroff were two of the partners of a South African firm of attorneys which specialised in insurance matters and personal injury claims. Mr Ronald Bobroff was the senior partner of the firm.

The problems of the Messrs Bobroff seem to have started when Mr Ronald Bobroff uncovered what he regarded as a serious breach of the law by an insurance company. It is clear that there was a subsequent dispute which gave rise to a great deal of acrimony and personal animosity between the company and Mr Ronald Bobroff, and it is hardly surprising that Mr Darren Bobroff should have got caught up in the matter at every level, given the family and business relationship between the two Messrs Bobroff. This was particularly unfortunate for Mr Darren Bobroff, and in the end he was struck off from the roll of attorneys in the same proceedings that Mr Ronald Bobroff was struck off, where the court made very similar findings against him to the findings they made against Mr Ronald Bobroff.

I have already made some comments and observations about the matter in the earlier letter I wrote in relation to Mr Ronald Bobroff, and I would ask that you take what I said there into account also in relation to Mr Darren Bobroff.

Mr Ronald Bobroff's application for a renewal of his practising certificate, and Mr Darren Bobroff's application, are unusual applications, because they require the applicants to address matters which took place in an overseas jurisdiction. It seems to me however that the circumstances are sufficiently special that the Law Society should take great care to review the whole situation on its merits, and not allow any injustice which may have been done to the Messrs Bobroff, and in particular to Mr Darren Bobroff, in South Africa to flow through as a further injustice to him in New South Wales.

Yours sincerely

A handwritten signature in cursive script that reads "Gordon Elkington". The signature is written in dark ink on a light-colored background.

Gordon Elkington
BSc, MSc, PhD, LLB, LLM