

DENIED ACTIVITY
DENIED ASSISTANCE



THE LAW SOCIETY
OF SOUTH AUSTRALIA

ETHICS AND PRACTICE

Postal Address: GPO Box 2066, Adelaide SA 5001 • DX 333, Adelaide

T: [REDACTED]

E: [REDACTED]

• www.lawsociety.sa.asn.au

Level 10, Terrace Towers, 178 North Terrace, Adelaide SA 5000

23 March 2017

Our ref: WWW:LAE:J Pearce

Ms Jacqueline Pearce
[REDACTED]

Dear Ms Pearce

Complaints against practitioners Heidi Salvemini, Lachlan McAuliffe, Bill Otham, Michael Wood, Eugenia Matthews, David Prendergast, Heather Mack, Dino Di Rosa, John James Johnson

I confirm receiving your letter with annexure dated 1 March 2017, directed to the Society regarding your complaint against the above mentioned practitioners.

Complaints against legal practitioners in South Australia fall within the jurisdiction of the Legal Profession Conduct Commissioner. It appears from your documents that you are aware of this and so I remind you that the Commissioner can be contacted at:

Level 10
30 Currie Street
Adelaide. SA 5000
Telephone: [REDACTED]

I attach your correspondence and annexure and request that you forward it to the Commissioner directly.

Please note that with regard to complaints against Magistrates I would suggest that you contact the Courts Administration Authority to establish the correct process. They can be contacted at:

20 Main Road
Port Pirie, South Australia, 5540

Postal Address:
The Registrar
Port Pirie Magistrates Court
PO Box 583
Port Pirie SA 5540

EFTA00266486

For complaints against Police Officers you should contact the Office of the Police Ombudsman on [REDACTED].

Yours sincerely,



Werner van Wyk

LEGAL OFFICER (ETHICS AND PRACTICE)

Telephone: [REDACTED]

Facsimile: [REDACTED]

Email: [REDACTED]

COPY

**DETERMINATION AS TO CONDUCT
BY
THE LEGAL PROFESSION CONDUCT COMMISSIONER
UNDER SUBDIVISION 3 OF DIVISION 2 OF PART 6 OF THE ACT**

**IN RELATION TO
HEIDI SALVEMINI
LPCC File No. 201603112X**

1 SEPTEMBER 2016

**Greg May
Legal Profession Conduct Commissioner**



Level 10, 30 Currie Street, Adelaide SA 5000
GPO Box 230 Adelaide SA 5001

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www.lpcc.sa.gov.au

EFTA00266488

OUR REF:NL:Rk:201603112X



**conduct
commissioner**

Level 10, 30 Currie Street,
Adelaide SA 5000
GPO Box 230
Adelaide SA 5001

* 2 September 2016

Ms Jacqueline Pearce
[REDACTED]

Dear Ms Pearce

* Your Complaint against Ms Heidi Salvemini

I refer to our previous correspondence regarding your Complaint about Ms Heidi Salvemini (Practitioner).

* We have now completed our investigation, and the Commissioner has considered the outcome of that investigation.

The Commissioner is satisfied that it is appropriate that he make a determination that there is no misconduct by the Practitioner. I have *enclosed a copy of the Determination as to Conduct in that respect, which sets out the reasons for the Commissioner making that Determination.

While section 77K of the *Legal Practitioners Act* provides the right to appeal to the Legal Practitioners Disciplinary Tribunal against some types of decisions by the Commissioner, the Act does not provide any right of appeal against a determination by the Commissioner to that there is no misconduct by the practitioner.

* The Tribunal has previously decided that it does not have any jurisdiction to hear such an appeal.

Even if you are dissatisfied with the Commissioner's Determination, there is no further assistance that the Commissioner or his office can provide to you. We are not able to give you any advice about any other rights you may have, whether under the Act or otherwise.

We will now be closing our file.

Yours sincerely

NADINE LAMBERT

Solicitor

Email: [REDACTED]

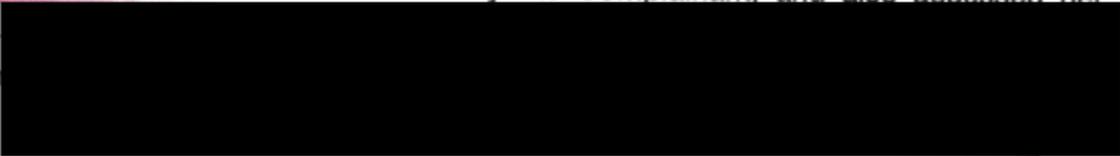
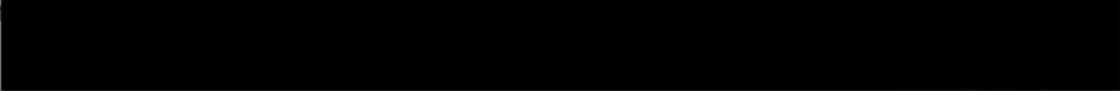
*enclosure

1. Copy of Determination

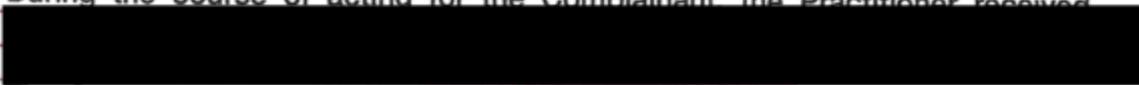
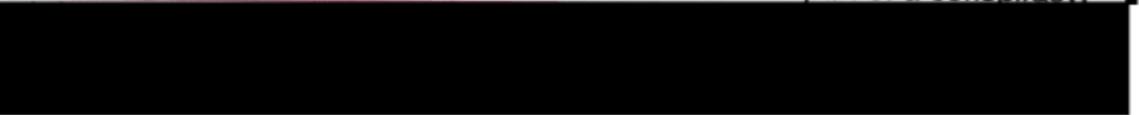
INTERPRETATION

1. In this Determination, unless otherwise provided:
 - Act means the *Legal Practitioners Act 1981 (as amended)*;
 - Complainant means Jacqueline Pearce;
 - Complaint means the complaint I received from the Complainant in relation to the Practitioner;
 - Practitioner means Heidi Salvemini;
 - CLCA means the *Criminal Law Consolidation Act 1935*;
 - any term used that is defined in the Act has the same meaning in this Determination as it has in the Act;
 - references to sections are references to sections of the Act.

GENERAL

2. This Determination relates to the conduct of the Practitioner, and it follows an investigation into that conduct. In very general terms, the Complaint is about the following circumstances:
 - (a) The Practitioner acted for the Complainant in relation to criminal matters before the Port Pirie Magistrates Court.
 - * (b) The Complainant subsequently sought to terminate the Practitioner's instructions.
 - * (c) She alleged that thereafter the Practitioner continued to act for her (despite the termination of her instructions by the Complainant) and also accessed her

 - * (d) 
3. The conduct complained of occurred after 1 July 2014. Accordingly, I have considered the Practitioner's conduct by reference to the misconduct definitions in sections 68 and 69.
4. The investigation into the Practitioner's conduct included the following:
 - (a) considering all of the issues of concern raised in the Complaint, including a detailed review of all of the materials provided by the Complainant;
 - (b) considering the responses received from the Practitioner once the alleged conduct had been published to her, including a detailed review of all of the materials provided by the Practitioner's lawyer;

* DECISION AS TO CONDUCT

5. I am satisfied that there is no unsatisfactory professional conduct or professional misconduct by the Practitioner, for the following reasons:
 - (a) During the course of acting for the Complainant, the Practitioner received

 - (b) The Complainant's behaviour, in particular her comments in relation to Police forcing her into prostitution and that the Practitioner was part of a conspiracy.


- (c) The Practitioner expressly turned her mind to the provisions of section 269W of the CLCA. It is my view that the Practitioner's conduct in Court on the 11 March 2016 was entirely appropriate.
- (d) On that day, the Practitioner advised the Court that she appeared for the Complainant and expressly drew the Court's attention to section 269W of the CLCA. She sought to tender the medical notes as the best available medical evidence to support the well founded concerns that [REDACTED]
- (e) [REDACTED]
- (f) I have no doubt that the Practitioner genuinely believed that she was authorised by the relevant provisions of the CLCA to act for the Complainant and to exercise her independent discretion in what she believed to be her client's best interests, notwithstanding the purported termination of her instructions by the Complainant. It is also evident that the Court was satisfied [REDACTED]
- (g) It is my view that the Practitioner acted entirely appropriately and in her client's best interests. The Practitioner gave very serious consideration to her ethical duties to both her client and to the Court in what were clearly very difficult circumstances. She appropriately sought the advice, guidance, and assistance of both the Law Society and a senior member of the Bar.

Dated 1 September 2016



* Greg May
Legal Profession Conduct Commissioner



legal profession
**conduct
commissioner**

Level 10, 30 Currie Street,
Adelaide SA 5000

GPO Box 230
Adelaide SA 5001

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www.lpcc.sa.gov.au

OUR REF:NL:RH:201603112X

* 14 April 2016

Ms Jacqueline Pearce
[REDACTED]

Dear Ms Pearce

* Your Complaint about Ms Heidi Salvemini

* I confirm receipt of your two emails of the 6 April 2016.

As per my letter to you of the 30 March 2016, the Commissioner's office cannot investigate the conduct of the Police, doctors or other medical staff.

I note your request that the Commissioner contact the Court and have the Order for a [REDACTED]

* I again advise that the Commissioner does not have the power to interfere with, or alter, decisions made by a Court. The order for the evaluation has been made by a Court and the Commissioner cannot intervene in relation to the ordering [REDACTED]

Yours sincerely

* NADINE LAMBERT

Solicitor

Email: [REDACTED]

EFTA00266492

COURT RECORDS STATE - HEIDI SALVEMINI - REPRESENTATION
REPRESENTATION HAD BEEN WITHDRAWN FEBRUARY 2016.
HEIDI SALVEMINI SAT OUT OF VIEW

COPY

COPY

E-MAILED
11-5-16

OF THE CAMERA DURING THE
COURT APPEARANCE DURING
THIS EVENT



ILES SELLEY
lawyers

Our Ref: TE SAL 003-001

STRICTLY PRIVATE & CONFIDENTIAL

11 May 2016

13 MAY 2016

Legal Profession Conduct Commissioner
Level 10,
30 Currie Street
ADELAIDE SA 5000

13227

Attention: Ms Nadine Lambert

By e-mail: [REDACTED]

Dear Madam

RE COMPLAINT BY MS JACQUELINE PEARCE

* We act for Ms Heidi Salvemini ("the practitioner") and have to hand your letter of 30 March 2016.

The Legal Profession Conduct Commissioner seeks the practitioner's written response to two allegations made by the complainant, Ms Jacqueline Pearce ("Ms Pearce"):

1. The practitioner purported to act for Ms Pearce in circumstances where Ms Pearce had previously terminated the instructions of the practitioner;
2. The practitioner accessed Ms Pearce's [REDACTED] records in circumstances where Ms Pearce had withdrawn the practitioner's authority to do so.

In our submission the practitioner has not engaged in unsatisfactory or unprofessional conduct.

She has at all times responded diligently to requests made by Ms Pearce. The practitioner has attended to all necessary matters. As explained below, the practitioner was entitled to act as she did pursuant to s269W *Criminal Law Consolidation Act 1935 (SA)* ("CLCA").

In our submission there is no evidence the practitioner has accessed Ms Pearce's [REDACTED] records in circumstances where Ms Pearce had withdrawn the practitioner's authority to do so.

* [REDACTED]

Iles Selley Lawyers

ABN 97 756 091 591

LEVEL 4 333 KING WILLIAM STREET ADELAIDE SA 5000

POSTAL ADDRESS: GPO BOX 2860 ADELAIDE SA 5001

PHONE [REDACTED]

EMAIL [REDACTED]

EFTA00266493

This was material that had come into the possession of the practitioner pursuant to an express request by Ms Pearce to forward such material to the practitioner. It is the only [REDACTED]

We now set out the chronological history of Ms Pearce's file and the practitioner's contact with her.

1. 24 September 2015: Ms Pearce attended an appointment, for an initial interview, with the practitioner's colleague, Ashlee Rebuli, at the Port Pirie office of Westside Lawyers. The practitioner was based in the Adelaide office of Westside Lawyers.
2. 6 October 2015: a letter of offer to assist was sent to Ms Pearce by Ms Rebuli.
3. 15 October 2015: Ms Pearce signed a retainer agreement.
- * 4. 22 October 2015: a file was opened for Ms Pearce. It was assigned to the practitioner. The practitioner was provided with some initial documents from Ms Rebuli. These comprised the following:
 - Court attendance form x 3
 - Letter from Legal Aid advising cannot assist.
 - Notice of Motor Vehicle Impounding or Clamping x 2
 - Driver Direction Notice
 - Written Notice for section 47K(2a)(a) *Road Traffic Act 1961* (SA)
 - Statement in Writing
 - Police Apprehension Report 15/R92716
 - Complaint and Summons 15/R92716
 - Letter from Fines Enforcement and Recovery Unit dated 23/10/15
 - Letter from DPTI re Notice of Licence Disqualification dated 19/8/15
 - Offender History Report
 - Notice of Licence Disqualification or Suspension
 - Bail Agreement 16/S47035
 - Police Apprehension Report 16/S46998
 - Complaint 16/S46998
 - Notes from Ms Pearce (in case file in loose sleeve)
 - Phone bills from Optus

EVIDENCE OF FRAUDULENT AND ILLEGAL ACTIVITY
OF TARGETING

- Note from 'Joe'.
5. 22 October: the practitioner rang the Courts Administration Authority ("CAA") to obtain the date of the next court hearing. She sent an email to the CAA seeking the Certificate of Record for files MCP1R-15-1036 and MCP1R-15-1712. The CAA responded the same day.
 6. 28 October 2015: the practitioner rang the CAA to reschedule the hearing. She called Ms Pearce to advise she was attempting to reschedule the hearing. The practitioner instructs us that she observed Ms Pearce to be speaking lucidly and she appeared to follow what was being discussed during their conversation. The practitioner wrote to the CAA requesting the matter be relisted. After receiving confirmation from CAA that the matter had been relisted, the practitioner rang Ms Pearce to so advise her.
 7. 29 October 2015: the practitioner appeared before Mr Fisher SM in the Port Pirie Magistrates Court. His Honour and the practitioner were both in the Port Adelaide Court and appeared by AVL into the Port Pirie Court. Ms Pearce was present in the Port Pirie Court. The matter was adjourned for instructions.
 8. 6 November 2015: Ms Pearce collected her original documents from the Port Pirie office.
 9. 12 November 2015: the practitioner received a message of a missed telephone call from Ms Pearce.
 10. 13 November 2015: the practitioner telephoned Ms Pearce who wanted to discuss a bill she had received from the Fines Payments and Recovery Unit. Later that day the practitioner emailed the CAA in relation to the fine enquiry.
 11. 16 November 2015: the practitioner received a message from the Port Pirie office to contact Ms Pearce. She rang Ms Pearce who wanted to discuss her account from Westside Lawyers.
 12. 17 November 2015: the practitioner received a response from the CAA in relation to the earlier fine enquiry.
 13. 30 November 2015: the practitioner received a message from the Port Pirie office to call Ms Pearce.
 14. 3 December 2015: the practitioner rang Ms Pearce to discuss her matter and to obtain instructions. After obtaining instructions, the practitioner wrote to the Police Prosecution Unit at Port Pirie to advise that matter 16/S46998 was to be contested. She sought disclosure of the full brief of evidence.
 15. 7 December 2015: the Prosecution provided the following disclosure by email:
 - Affidavit of Officer [REDACTED]
 - Notes of Officer [REDACTED]
 - Affidavit of Kathy [REDACTED]
 - Oral advice form
 16. 9 December 2015: the practitioner wrote to Ms Pearce providing her with a copy of the material from the Prosecution. She sought further instructions from Ms Pearce.

17. 8 January 2016: the practitioner rang the Prosecution seeking a copy of any visual recording of the arrest of Ms Pearce.
18. Later that day the practitioner rang Ms Pearce, provided her with some advice and obtained additional instructions. Ms Pearce advised the practitioner she believed the police were luring her into prostitution. - SEXUAL TARGETING FILE - STAGE 2A
19. 11 January 2016: the practitioner received further notes of instructions from Ms Pearce which had been delivered to the Port Pirie office.
20. 12 January 2016: the practitioner received a call from Ms Pearce in which she requested that the practitioner seek additional evidence from the Prosecution.
21. Later that day the practitioner appeared before Mr Fisher SM in the Port Pirie Magistrates Court. His Honour was in Port Pirie. The practitioner appeared by AVL from Pt Adelaide. Ms Pearce was in the Port Pirie Court. The matter was referred to a PTC.
22. 15 January 2016: the practitioner received more notes and instructions from Ms Pearce that had been delivered to the Port Pirie office. These were in large piles of handwritten notes and other documents. They were posted from the Port Pirie to the practitioner.
- * 23. FABRICATED - NO [REDACTED] RECORDS CONTAINING THIS HISTORY.
20 January 2016: the practitioner rang Ms Pearce and spoke to her about her [REDACTED]
[REDACTED]
24. 27 January 2016: the practitioner received an email from her Port Pirie office to advise that Ms Pearce had not yet attended to complete the written authority. The practitioner rang Ms Pearce who informed the practitioner that could not get to the office because she did not have transport.
25. 3 February 2016: Ms Pearce attended the Port Pirie office and signed an authority to release information. Ms Pearce also delivered further written instructions to the staff at the Port Pirie office. These were subsequently posted to the practitioner in Adelaide.
26. On the same day the practitioner wrote to [REDACTED]
[REDACTED] The request was sent by fax and attached the relevant authority.
27. 9 February 2016: the practitioner received an email from Ms Pearce. It attached 3 photos of her arm. These photos were said to show the injuries she suffered when handcuffed by the police.
28. [REDACTED]
29. 16 February 2016: Ms Pearce rang the practitioner's office and spoke to Michael Bayne, a colleague of the practitioner. Ms Pearce told Mr Bayne that she no longer wanted to be represented by Westside Lawyers.

30. 17 February 2016: the practitioner rang Ms Pearce to discuss her terminating her instructions. Ms Pearce told the practitioner she believed the practitioner was corrupt and colluding with the authorities against her. The practitioner tried to reassure Ms Pearce that she was not corrupt, nor that she was working against her.

* (31)

[REDACTED]

- THREAT OF DETAINMENT - PRESENTED IN COURT AS REPRESENTING .11/03/2016.

* (32)

32. 18 February 2016: the practitioner was contacted by staff at the Port Pirie office to advise that Ms Pearce had provided a written termination and had also withdrawn authority to obtain [REDACTED] from that point forward.

33. On the same day, the practitioner received an email from Leanne at the Port Pirie office to advise that the arrest footage which had been delivered by the Prosecution to a drop box at the Court, had not yet been collected by the office staff, because they did not previously know it had been delivered. The staff did collect it and posted it to the practitioner.

34. The practitioner viewed the footage. It showed Ms Pearce behaving in a disrespectful, provocative and aggressive manner towards the police. It indicated she was not complying with any of the directions given to her by the police. She tried to walk away from the police.

[REDACTED]

- FEARFUL - CONTINUOUS TARGETING -

- FEARFUL - VAL STEVENS STATEMENT.

35. The practitioner turned her mind to Part 8A of the CLCA. In particular, she considered s269W which provided:

269W—Counsel to have independent discretion

- (1) If the defendant is unable to instruct counsel on questions relevant to an investigation under this Part, the counsel may act, in the exercise of an independent discretion, in what he or she genuinely believes to be the defendant's best interests.
- (2) If the counsel for the defendant in criminal proceedings (apart from proceedings under this Part) has reason to believe that the defendant is unable, because of mental impairment, to give rational instructions on questions relevant to the proceedings (including whether to be tried by judge alone), the counsel may act, in the exercise of an independent discretion, in what the counsel genuinely believes to be the defendant's best interests.

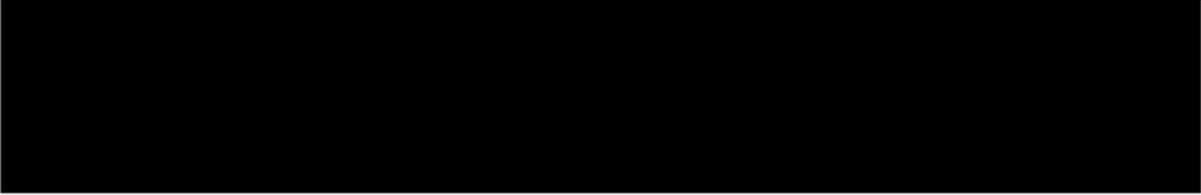
36. The practitioner was concerned about the welfare of Ms Pearce. She did not think Ms Pearce [REDACTED] She instructs she genuinely believed she had an independent discretion to continue to act for Ms Pearce based on the wording of that section. She instructs she has always only wanted to do what was in the best interests of Ms Pearce.

37. [REDACTED]

38. The practitioner reviewed all of the disclosed evidence. She undertook research in order to consider the issue of whether it was such that Ms Pearce could be objectively convicted of these offences. The practitioner had received the requested vision of the arrest from the Port Pirie office sometime between 18 February and 4 March 2016. She viewed this material when considering her opinion.
- * 39. 11 March 2016: the matter was listed in court on this day. When the practitioner contacted the Port Pirie Magistrates Court, the Sherriff Officer, Barb, advised the practitioner that Ms Pearce had told her she was unrepresented and would be pleading not guilty. The practitioner advised Barb that she was acting for Ms Pearce under section 269W of the CLCA.
WITHDRAWN REPRESENTATION - COURT RECORD - SUBMITTED DOC
40. The practitioner appeared before Mr Grasso SM. His Honour and the practitioner were both in Port Adelaide. There was an audio visual link (AVL) to Pt Pirie where Ms Pearce was present.
41. Ms Pearce did not object to the appearance of the practitioner. The practitioner advised his Honour that she acted under section 269W. She asked his Honour to consider obtaining a report as to whether Ms Pearce [REDACTED]

269X—Power of court to deal with defendant before proceedings completed

- (1) If there is to be an investigation into a defendant's mental competence to commit an offence, or mental fitness to stand trial, or a court conducting a preliminary examination reserves the question whether there should be such an investigation for consideration by the court of trial, the court by which the investigation is to be conducted, or the court reserving the question for consideration, may—
- (a) release the defendant on bail to appear later for the purposes of the investigation; or
 - (b) commit the defendant to an appropriate form of custody (but not a prison unless the court is satisfied that there is, in the circumstances, no practicable alternative) until the conclusion of the investigation.
- (2) If a court declares a defendant to be liable to supervision under this Part, but unresolved questions remain about how the court is to deal with the defendant, the court may—
- (a) release the defendant on bail to appear subsequently to be dealt with by the court; or
 - (b) commit the defendant to some appropriate form of custody (but not a prison unless the court is satisfied that there is, in the circumstances of the case, no practicable alternative) until some subsequent date when the defendant is to be brought again before the court.
42. [REDACTED]
43. Ms Pearce then asked the court for her driver's licence back. Her licence had been immediately disqualified upon her arrest. His Honour directed Ms Pearce to put in a written application.

44. After the court hearing the practitioner rang Ms Pearce to ask if she wanted any assistance with getting her licence back. Ms Pearce refused such assistance and hung up on the practitioner.
45. Later this day, the practitioner rang the Law Society's Ethics and Practice Unit to get advice on whether s 269W did enable her to continue to act, even though Ms Pearce was trying to terminate her services. She was given the names of 3 barristers who she could contact for advice. She rang the chambers of one barrister and was asked to ring back after the long weekend.
46. She did, but he was not available to speak with her. She then rang Anthony Crocker at Jeffcott Chambers. He made a time to see her on 17 March 2016.
47. Mr Crocker advised that the practitioner should prepare a letter to Ms Pearce which he would settle. This letter was to explain why she was concerned about the welfare of Ms Pearce and why she had acted as she did.
48. The practitioner prepared such a draft letter and sent it to Mr Crocker on 22 March 2016.
49. 
50. 23 March 2016: the practitioner received a response from Mr Crocker and an amended draft letter. It became apparent from the amendments made by Mr Crocker that he was under the impression that Ms Pearce was expressing a wish to terminate instructions (rather than having done so) and that the concern of the practitioner was whether she could do so, notwithstanding the concerns raised by the GP. That draft letter was never sent because other events intervened.
51. () FABRICATED - FALSIFIED - IN LINE WITH POLICE FALSIFIED STATEMENTS
24 March 2016: the practitioner received an abusive phone call from Ms Pearce who referred to her as a "cunt" and a "dog" for 
() WORD NOT USED/FABRICATED  Ms Pearce advised the practitioner she had been contacted by a third party who said the practitioner was her lawyer when she wasn't anymore. Ms Pearce verbally abused the practitioner again and then hung up the phone.
52. The practitioner then called Mr Crocker and told him about the phone call. She also provided him with additional information to be included in the draft letter.
53. 29 March 2016: Nadine Lambert from the Legal Profession Conduct Commissioner rang the practitioner to advise her that Ms Pearce had made a complaint. The practitioner rang Mr Crocker and told him about the complaint. The practitioner spoke to David Bulloch, Managing Solicitor of Westside Lawyers, and advised him of the complaint.
54. 31 March 2016: the practitioner received a missed call message from Holly at the CAA. The practitioner received an email from the Port Pirie office with attachments of Ms Pearce's complaint to the Commissioner. Ms Pearce had dropped her complaint off to the office, to forward to the practitioner.
55. 1 April 2016: the practitioner rang Holly at the CAA who advised she needed to change the court listing date. The practitioner asked Holly to contact Ms Pearce directly because she

would no longer be acting. The practitioner received an email from the CAA to advise her of the new court date. [REDACTED]

[REDACTED] The practitioner advised she was no longer representing Ms Pearce.

[REDACTED] - REFER TO FILE DR KAJA
ILLEGAL ACTIVITY EVIDENCE / FALSIFIED DIAGNOSIS.

That concern was reinforced on 17 February 2016 when the practitioner telephoned Ms Pearce to discuss the message she had left the previous day about wishing to terminate the practitioner's services. The explanation proffered by Ms Pearce to the practitioner did nothing but heighten those earlier concerns in the practitioner's mind.

When the matter was called on in Court on 11 March 2016 before Mr Grasso SM, the practitioner was in the Port Adelaide Magistrates Court. His Honour was in the Port Adelaide Magistrates Court. Ms Pearce was in the Port Pirie Magistrates Court.

The practitioner advised his Honour that she appeared for Ms Pearce and expressly drew his Honour's attention to s.269W of the CLCA.

The practitioner tendered to his Honour the case note provided to her by [REDACTED] on 10 February 2016. She did so because it was the best available [REDACTED] practitioner was raising with his Honour. Those concerns were well founded. His Honour formed the view that it would be appropriate for the Court to order an assessment.

The practitioner raised with his Honour whether it was appropriate that the Court utilise the power in s.269X of the CLCA.

His Honour spoke directly to Ms Pearce. [REDACTED]

[REDACTED]

In our submission the information available to the practitioner as to the rationality or otherwise of what Ms Pearce was purporting to do; clearly engaged s269W(2) of the CLCA. The practitioner was entitled to do what she did.

The practitioner was counsel for the defendant in criminal proceedings (and she had) reason to believe that the defendant (was) unable [REDACTED] on questions relevant to the proceedings. In these circumstances counsel may act, in the exercise of an independent discretion, in what the counsel genuinely believes to be the defendant's best interests.

The underlined words above come directly from s269W(2) of the CLCA. There can be no doubt the practitioner genuinely held her belief. There is objective evidence to support the belief she held. The practitioner advised Mr Grasso SM when she appeared on 11 March 2016 that she was acting pursuant to s269W of the CLCA.

It is clear his Honour was satisfied that it was appropriate to undertake an investigation under Part 8A of the CLCA because he ordered Ms Pearce to [REDACTED]



We trust that this letter has explained what the practitioner did and why she was entitled under the legislation to do so.

We hope it has also explained that the practitioner did not access any medical records of Ms Pearce without her consent. The case note tendered to Mr Grasso SM on 11 March 2016 had been sent to the practitioner, by the GP, upon the express request of Ms Pearce.

Yours faithfully
ILES SELLEY

Per:

A handwritten signature in black ink, appearing to read 'Tom Evans', written over the 'Per:' label.

Tom Evans
Senior Associate

Direct Line:

Direct Fax:

Direct e-mail:



Enc.

ADVICE TO CONTACT JOHNSON LAWYERS - JOHN JAMES
INTELLECTUAL PROPERTY - MEDICAL BUSINESS PLAN MAY &
DENIED ROGER KIRCHNER'S INVOLVEMENT IN APPLIED FUN
DENIED THE BUSINESS PLAN WAS IN
ROGER KIRCHNER'S POSSESSION AFTER
SUPPLYING LETTER OF INVOLVEMENT/EVIDENCE
ROGER KIRCHNER / SA HEALTH / GOVERNMENT,



legal profession
**conduct
commissioner**

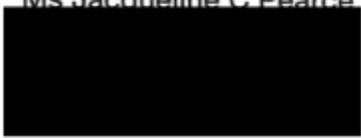
Level 10, 30 Currie Street,
Adelaide SA 5000
GPO Box 230
Adelaide SA 5001



www.lpcc.sa.gov.au

OUR REF:EJM:RMH: Ack-letter

10 June 2016

Ms Jacqueline C Pearce


Dear Ms Pearce

Heather Mack, Dino Di Rosa and John James

I acknowledge receipt of your correspondence on 10 June 2016.

This is a formal acknowledgement and one of the Commissioner's officers will contact you shortly.

For your records I *enclose a copy of your complaint without the enclosures. The original complaint with the enclosures will be kept by us and form part of the file.

Yours sincerely

for **ELIZABETH MANOS**
Principal Legal Officer

*Enclosure
1. Copy of complaint

COMMISSIONER

Please attach copies of relevant documentation to support your complaint. If there are witnesses who can provide independent information that will help us deal with your complaint, please provide their names and full contact details and say why you think they could help.



Please tell us about:

- the events that have led to your complaint
- what you say the lawyer did or did not do

ADVISED BY HEATHER MACK, WESTSIDE LAWYERS NOW INVOLVED IN ILLEGAL REPRESENTATION, THIS OFFICE TO [REDACTED]

LAWYERS - SUSPICION OF A SET UP INVOLVING THE INTELLECTUAL PROPERTY. REFER ATTACHED.

ADVISED BY DINO DI ROSA TO CONTACT JOHNSON LAWYERS - SUSPICION OF INVOLVEMENT - INTELLECTUAL PROPERTY - WITHHOLDING INFORMATION - SET UP

CONTACT WITH JOHNSON LAWYERS - WITHHOLDING INFORMATION - SUSPICION OF INVOLVEMENT, INTELLECTUAL PROPERTY - EXCLUSION, ROGER KIRCHNER AFTER RECEIVING EVIDENCE OF HIS INVOLVEMENT IN THE INTELLECTUAL PROPERTY, INCLUDING JEMMA SALVE EXECUTIVE ASSISTANT TO ROGER KIRCHNER, JEMMA SALVEMINI - HEIDI SALVEMINI REFER TO ATTACHED.

COMMISSIONER

Why are you making this complaint?

- To resolve my dispute with the lawyer
- To improve communication with the lawyer
- To have my documents/files transferred to another lawyer
- To improve the service provided by the lawyer
- To receive an apology
- To get the work re-done properly
- X To have the lawyer disciplined
- To resolve a costs dispute with the lawyer's firm

Other (give details)

QUESTIONED IN RELATION TO THE COMPLAINT
CHARGED IN RELATION TO THE COMPLAINT
AN INVESTIGATION INTO THE COMPLAINT AN
CONNECTIONS WITH HEIDI SALVEMINI, WESTS
LAWYERS AND INTELLECTUAL PROPERTY -
KNOWLEDGE - SET UP - COVER UP.

Have you tried to resolve the complaint with the lawyer?

(NO)

Yes, please give details of the efforts you have made and the result



legal profession
**conduct
commissioner**

OUR REF:NL:RD: 201606057X

* 4 July 2016

Level 10, 30 Currie Street,
Adelaide SA 5000
GPO Box 230
Adelaide SA 5001

Ms Jacqueline Pearce
[REDACTED]

www.ipcc.sa.gov.au

AND via email: [REDACTED]

E-MAILED
12:58 pm

Dear Ms Pearce

* Your Complaint about Ms Heather Mack (Practitioner)

I refer to our previous correspondence regarding your complaint about Ms Heather Mack (Practitioner).

The Commissioner is satisfied that, in accordance with section 77C of the *Legal Practitioners Act*, your Complaint should be closed. I have *enclosed a copy of the Determination in that respect, which sets out the reasons for the Commissioner making that Determination.

While section 77K of the Act provides the right to appeal to the Legal Practitioners Disciplinary Tribunal against some types of decisions by the Commissioner, the Act does not provide any right of appeal against a determination by the Commissioner to close a complaint under section 77C.

* The Tribunal has previously decided that it does not have any jurisdiction to hear such an appeal.

Even if you are dissatisfied with the Commissioner's Determination, there is no further assistance that the Commissioner or his office can provide to you. We are not able to give you any advice about any other rights you may have, whether under the Act or otherwise.

We will now be closing our file.

Yours sincerely

NADINE LAMBERT

Solicitor

Email: [REDACTED]

*enclosure - copy Determination dated 29 June 2016

ADVICE TO CONTACT JOHNSON LAWYERS - INTELLECTUAL PRO
DENIED ROGER KIRCHINERS INVOLVEMENT 2013

OUR REF:NL:RH:201606058X



legal profession
**conduct
commissioner**

Level 10, 30 Currie Street,
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GPO Box 230
Adelaide SA 5001

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F
E

www.lpcc.sa.gov.au

1 July 2016

Ms Jacqueline Pearce
[REDACTED]

Dear Ms Pearce

* Your Complaint about Mr Di Rosa

I refer to our previous correspondence regarding your complaint about Mr Di Rosa (Practitioner).

The Commissioner is satisfied that, in accordance with section 77C of the *Legal Practitioners Act*, your Complaint should be closed. I have attached a copy of the Determination in that respect, which sets out the reasons for the Commissioner making that Determination.

While section 77K of the Act provides the right to appeal to the Legal Practitioners Disciplinary Tribunal against some types of decisions by the Commissioner, the Act does not provide any right of appeal against a determination by the Commissioner to close a complaint under section 77C.

The Tribunal has previously decided that it does not have any jurisdiction to hear such an appeal.

Even if you are dissatisfied with the Commissioner's Determination, there is no further assistance that the Commissioner or his office can provide to you. We are not able to give you any advice about any other rights you may have, whether under the Act or otherwise.

We will now be closing our file.

Yours sincerely


NADINE LAMBERT
Solicitor

Email: [REDACTED]

*enclosure

1. Copy Determination

EFTA00266506

UNRECORDED KUIEK KIRCHNER INVOLVEMENT AFTER SUPPLYING DOCUMENTED EVIDENCE, LETTER OF INVOLVEMENT MAY 2013 GEMMA SALVEMINI, EXECUTIVE ASSISTANT - FUNDING MEDICAL BUSINESS PLAN.

OUR REF:NL:RH:201606059X



legal profession
**conduct
commissioner**

Level 10, 30 Currie Street,
Adelaide SA 5000
GPO Box 230
Adelaide SA 5001

www.lpcc.sa.gov.au

* 1 July 2016

Ms Jacqueline Pearce
[REDACTED]

Dear Ms Pearce

* Your Complaint about Mr John James

I refer to our previous correspondence regarding your Complaint about Mr James (Practitioner).

The Commissioner is satisfied that, in accordance with section 77C of the *Legal Practitioners Act*, your complaint should be closed. I have attached a copy of the Determination in that respect, which sets out the reasons for the Commissioner making that Determination.

While section 77K of the Act provides the right to appeal to the Legal Practitioners Disciplinary Tribunal against some types of decisions by the Commissioner, the Act does not provide any right of appeal against a determination by the Commissioner to close a complaint under section 77C.

* The Tribunal has previously decided that it does not have any jurisdiction to hear such an appeal.

Even if you are dissatisfied with the Commissioner's Determination, there is no further assistance that the Commissioner or his office can provide to you. We are not able to give you any advice about any other rights you may have, whether under the Act or otherwise.

We will now be closing our file.

Yours sincerely



* NADINE LAMBERT

Solicitor

Email: [REDACTED]

*enclosure

1. Copy Determination

EFTA00266507

* SEXUAL ADVANCES - PET DOGS NAME "RUBY" ON FLASHDRIVE
AFTER SUSPECTED RAPE BY A HUMAN - RSPCA.
REFER TO SEXUAL TARGETING - STAGE 2A

ADMITTED TO INAPPROPRIATE CONDUCT - COMMENTS,
SEXUAL ORIENTATION ABOUT RELATIONSHIPS.

OUR REF:NL:RH:201604116X

1 July 2016

Ms Jacqueline Pearce
[REDACTED]



legal profession
**conduct
commissioner**

Level 10, 30 Currie Street,
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T
F
E
[REDACTED]
www.lpcó.sa.gov.au

Dear Ms Pearce

* Your Complaint about Mr David Prendergast - KADINA

I refer to our previous correspondence regarding your Complaint about Mr David Prendergast (Practitioner).

We have now completed our investigation, and the Commissioner has considered the outcome of that investigation.

The Commissioner is satisfied that it is appropriate that he make a determination that there is no misconduct by the Practitioner. I have attached a copy of the Determination as to Conduct in that respect, which sets out the reasons for the Commissioner making that Determination.

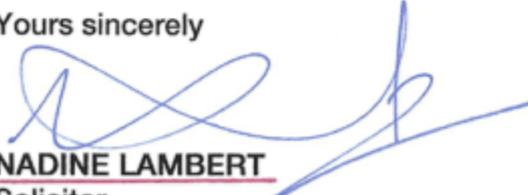
While section 77K of the *Legal Practitioners Act* provides the right to appeal to the Legal Practitioners Disciplinary Tribunal against some types of decisions by the Commissioner, the Act does not provide any right of appeal against a determination by the Commissioner to that there is no misconduct by the practitioner.

* The Tribunal has previously decided that it does not have any jurisdiction to hear such an appeal.

Even if you are dissatisfied with the Commissioner's Determination, there is no further assistance that the Commissioner or his office can provide to you. We are not able to give you any advice about any other rights you may have, whether under the Act or otherwise.

We will now be closing our file.

Yours sincerely


* NADINE LAMBERT

Solicitor

Email: [REDACTED]

*enclosure

1. Copy Determination

EFTA00266508

INTERPRETATION

1. In this Determination, unless otherwise provided:
 - Act means the *Legal Practitioners Act 1981 (as amended)*;
 - Complainant means Jacqueline Pearce;
 - Complaint means the complaint I received from the Complainant in relation to the Practitioner;
 - Practitioner means David Laurence Prendergast;
 - any term used that is defined in the Act has the same meaning in this Determination as it has in the Act;
 - references to sections are references to sections of the Act.

* GENERAL - ADMISSION - MIS CONDUCT

2. This Determination relates to the conduct of the Practitioner, and it follows an investigation into that conduct. In very general terms, the Complaint is about the following circumstances:
 - (a) The Complainant saw the Practitioner for a first free advice appointment in relation to criminal charges she had before the Port Pirie Magistrates Court.
 - * (b) The Complainant alleged that the Practitioner asked the Complainant personal questions about her past relationships with men and made inappropriate comments towards her. - HAS NO RELEVANCE TO LEGAL PROCEEDINGS
 - (c) The Complainant made further allegations which were very difficult to follow in relation to information purportedly stored upon a USB. - RUBY/RSPCA.
3. The conduct complained of occurred after 1 July 2014. Accordingly, I have considered the Practitioner's conduct by reference to the misconduct definitions in sections 68 and 69.
4. The investigation into the Practitioner's conduct included the following:
 - (a) considering all of the issues of concern raised in the Complaint, including a detailed review of all of the materials provided by the Complainant;
 - (b) considering the response received from the Practitioner once the alleged conduct had been published to him.

* DECISION AS TO CONDUCT - ADMISSION OF INAPPROPRIATE COMMENTS

5. I am satisfied that there is no unsatisfactory professional conduct or professional misconduct by the Practitioner, for the following reasons:
 - * (a) The Practitioner did not deny that he made comments similar in nature to what was alleged by the Complainant, however, he denied making comments in the context alleged by the Complainant.
 - * (b) The Practitioner provided a cogent explanation as to the context in which he made the comments with which the Complainant was concerned.
 - (c) The Practitioner stated, and I accept, that he did not intend his comments to cause offence.
 - * (d) I accept the Practitioner's version of events and agree that his comments, in the circumstances, were not objectively offensive and were not intended to cause offence.