

Media Release

13 April 2016

Solicitor Alex Lewenberg reprimanded, suspended from legal practice for 15 months

The Victorian Civil and Administrative Tribunal yesterday handed down its penalty against solicitor, Mr Alex Lewenberg, after earlier finding him [guilty of two counts of professional misconduct](#).

Mr Lewenberg had been charged with professional misconduct by the Victorian Legal Services Commissioner for statements he made suggesting that Jewish people should not assist authorities in the criminal prosecution of other Jewish people.

VCAT heard that in September 2011, Mr Lewenberg appeared at a bail hearing on behalf of David Cyprys, who was charged with, and was subsequently convicted of, a number of sexual offences against children from the Orthodox Jewish community. Victoria Police had been assisted in their investigation of the accused by a member of that community, who is known by the pseudonym AVB.

During the hearing in the Melbourne Magistrates' Court, Mr Lewenberg expressed to the accused's father his disappointment that a Jew had assisted the authorities in the prosecution of another Jew.

VCAT was told that soon after the bail hearing, AVB became the subject of rumours implying that he was a 'maser', a derogatory term referring to a Jew who impermissibly assists secular authorities in the prosecution of other Jews. These rumours put AVB under pressure from within his community, affected his ability to work and socialise, and caused considerable distress to his family.

VCAT heard that AVB telephoned Mr Lewenberg to determine whether Mr Lewenberg was the source of the rumours. In the conversation, which AVB recorded, Mr Lewenberg reiterated the comments he had made during the bail hearing.

Mr Lewenberg told VCAT his comments were made on the basis of a misunderstanding because he believed that AVB was giving false information about his client to the prosecutor. VCAT rejected this submission.

In finding that Mr Lewenberg had engaged in professional misconduct, VCAT Acting President, the Honourable Judge Pamela Jenkins, said:

'Members of the public look to the administration of justice to afford some protection to witnesses or those rendering assistance to police not to be subjected to expressions of disapproval about their assisting the police. The administration of justice in this State depends on participation and co-operation of all members of the public. The expression of a view by a legal practitioner indicating that some members of the public should not participate as complainants or witnesses in the criminal process runs counter to the fundamentals of the criminal justice system in Victoria...'

'For the Respondent, as a legal practitioner, to suggest that members of the Jewish community or indeed any community or religious affiliation, should close ranks and decline to assist in the prosecution of charges of this nature is truly shocking.'

On the impact that Mr Lewenberg's comments had on AVB, her Honour said:

Bradley Roberts, Communications Advisor | broberts@lsbc.vic.gov.au
03 9679 8008 | 0448 502 616

'... [Mr Lewenberg] was well aware of the devastating impact upon AVB's personal and professional life, within his orthodox community, and that his words were in effect endorsing community condemnation [of AVB].'

Her Honour found Mr Lewenberg guilty of two counts of professional misconduct for breaching the Professional Conduct and Practice Rules by making statements that were prejudicial to the administration of justice and/or would diminish public confidence in the administration of justice.

Following a penalty hearing on 6 April 2016, her Honour yesterday ordered that Mr Lewenberg be reprimanded, that his practising certificate be suspended for 15 months, commencing 1 June 2016, and that Mr Lewenberg complete further training in legal ethics and professional responsibility as directed by the Commissioner. He was also ordered to pay the Commissioner's costs in the amount of \$55,455.41.

VCAT also found that Mr Lewenberg had not demonstrated genuine remorse for his conduct, had shown a 'cavalier disregard for his duties as a legal practitioner' and failed to respond to the regulator in a frank and meaningful way.

Victorian Legal Services Commissioner Michael McGarvie welcomed the outcome.

'Mr Lewenberg's endorsement of outmoded and inappropriate religious principles directly conflicted with his duties as an officer of the Court and the strict ethical obligations and conduct rules all lawyers must adhere to', Mr McGarvie said.

'When a lawyer is wrong they are expected to be candid, capable of acknowledging their error and willing to express appropriate remorse for any harm done. Continuing to deny wrongdoing and accusing investigators of improper motives, then finally apologising before the court, reveals a flawed understanding of a lawyer's duty of candour and honesty,' Mr McGarvie said.

Mr McGarvie said lawyers who refuse to accept they have made a mistake, even despite the weight of evidence against them, would not be able to bully the Commissioner into backing down.

'Mr Lewenberg hid behind bluff and bluster throughout the majority of our investigation. As VCAT itself found, his responses to my officers' enquiries were largely combative and disrespectful, including unfair claims that they were 'anti-Jewish'. In the end his behaviour towards the regulator contributed to VCAT's recognition of Mr Lewenberg's lack of genuine remorse.'

Mr Lewenberg has 28 days to appeal the penalty.

Ends