



Lara GIDDINGS MP

Your Labor Member for Franklin

Hon. Matthew Groom MP
Acting Attorney General
10th Floor, Executive Building
Hobart Tas 7000

Dear acting Attorney, *Matthew,*

I have been contacted by Mr Michael Purtell regarding his experiences with the Legal Profession Board and its Tribunal in relation to a complaint he made against Mr Phil Kimber of Butler, McIntyre and Butler.

Mr Purtell lodged a complaint in 2008 against Mr Kimber, who had been acting for Mr Purtell and his partner of thirty-five years, Val Halliday, in relation to their business investments. He continued to act for both parties after their personal and business relationship ended and financial affairs were being settled. Part of the settlement involved the repaying of a loan of \$220,000, which was provided by Ms Halliday's company to Mr Purtell's company. Mr Purtell agreed to the repayment of the loan, however, the complaint arose following Mr Purtell's decision to terminate the services of Mr Kimber prior to the repayment being made.

Rather than remove himself from the entire matter when Mr Purtell severed his client relationship with Mr Kimber, Mr Kimber continued to represent Ms Halliday. In addition to this, Ms Halliday's son, Jeff Halliday, was the accountant to both Mr Purtell and Ms Halliday. He worked closely with Mr Kimber to assist in accessing the money from Mr Purtell's account and claiming unpaid interest on the loan, which amounted to over a \$100,000.

While Mr Purtell disputes the back dated interest, his main concern is that Mr Kimber, who was no longer acting on his behalf, represented himself to the Member's Equity bank in such a way that the bank thought he was acting as Mr Purtell's legal representative. As a result, the bank withdrew the \$220,000 from Mr Purtell's account without his knowledge or express authority.

Initially Mr Purtell lodged a complaint with Tasmania Police, who investigated the alleged fraud by Mr Kimber, however, I understand, they advised him that the matter would be better dealt with by the Legal Profession Board.



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Mr Purtell subsequently lodged a complaint with the Legal Profession Board alleging misconduct against Mr Kimber. The complaint was investigated by the Board and referred to the Disciplinary Tribunal for a hearing. A copy of some of the evidence compiled by the Legal Profession Board on this case is attached for your information (other evidence can be provided on request). The document quotes from the various emails that were exchanged between Mr Kimber, Mr Halliday and Member's Equity. While these emails are in my opinion are damning, the Tribunal dismissed the case and no further action was taken.

The impact of this case has been significant on Mr Purtell who feels aggrieved at the decision of the Tribunal and believes that Mr Kimber, at the very least, should have had his practicing certificate revoked. Mr Purtell feels that the Disciplinary Tribunal ignored the fact Mr Kimber acted unlawfully by presenting himself to the bank as the legal representative of Mr Purtell with the full knowledge that Mr Purtell had terminated their lawyer/client relationship.

Mr Purtell has sought legal advice at great cost over the many years since this case has been heard by the Tribunal. However, while lawyers have said his case has merit and he could appeal, all have been reluctant to take on his case, concerned about taking on a fellow legal practitioner in what is a small legal fraternity. There is now the potential difficulty of the effect of the statute of limitations on any future action in the civil courts.


Mr Purtell has attempted to seek mediation with Mr Kimber and Mr Halliday, however this failed as neither Mr Kimber nor Mr Halliday would admit any wrong doing.

Mr Purtell is becoming increasingly frustrated, angry and depressed at the difficulty he has faced over many years in his attempts to seek justice. Mr Purtell considers justice will only be achieved once Mr Kimber is held to account for his misconduct and Mr Purtell is compensated for his years of anguish which has taken a toll on his health and well-being.

I would appreciate if you would look into the circumstances of this case to advise me as to what other action could or should take place in this matter and whether the government would consider a review of the Legal Profession Tribunal process to ensure they are operating fairly, effectively and appropriately.

Thank you for your consideration of these issues,

Yours sincerely



Lara Giddings MP
Shadow Attorney-General