

Media Release

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Solicitor banned after 'flagrant disregard' of obligations to clients

Pascoe Vale solicitor, **Mr Nicholas Logan**, has been banned from legal practice for two years after he breached an undertaking he gave to the legal regulator – a fortnight after he gave it.

The Victorian Civil and Administrative Tribunal handed down its decision Tuesday 21 February, after Mr Logan pleaded guilty to seven charges of professional misconduct brought against him by the regulator, the Victorian Legal Services Commissioner.

Mr Logan ran several law practices, including Express Legal, which dealt in legal work associated with motor vehicle accident repairs. Express Legal obtained some clients through an association with motor vehicle repairers, who encouraged owners of damaged motor vehicles to sign a repair authorisation document. Unknown to the vehicle owner, the document also included an authorisation for Express Legal to take legal action on behalf of the vehicle owner to recover any losses incurred as a result of the accident.

Commissioner, Michael McGarvie, said consumers had a right to know if legal work was being carried out in their name.

'Concerns have been expressed by car crash victims that some crash repair businesses work alongside lawyers to sue or defend suits without getting informed permission from the party involved in the crash. This is unlawful,' Mr McGarvie said.

In 2012 the Commissioner took action against Mr Logan for acting on behalf of several clients without having first sought their instructions. At the time Mr Logan gave the Commissioner an undertaking that for all future matters he and his law practices would seek written instructions from his clients before acting for them.

VCAT heard that two weeks after giving the Commissioner the undertaking, Express Legal again acted for a client without first seeking instructions.

In the decision, Her Honour Judge Jenkins said that Mr Logan's dishonest behaviour demonstrated contempt for the legal regulator and that his misconduct was seriously aggravated by the fact that he had been previously dealt with for similar offending.

Mr Logan pleaded guilty to four charges of professional misconduct for acting without authority and failing to advise his clients, one charge for making false and misleading statements and two charges of willful failure to comply with an Undertaking.

VCAT ordered Mr Logan be suspended from legal practice for two years, after which time he may only practice as an employee under the supervision of another solicitor for a further 18 months. Mr Logan was also ordered to pay the Commissioner's costs.

The Commissioner had also taken action against Mr Logan for other conduct issues in [June 2014](#), [April 2016](#) and [November 2016](#).

For further information, [download the VCAT decision](#).

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Further quotes attributable to Michael McGarvie, Victorian Legal Services Commissioner:

'The crucial lesson from this decision is that practitioners representing the interests of a person must receive authority from that person before they can speak on their behalf or respond for them. In this case Mr Logan had ignored this most fundamental responsibility of a lawyer.'

'In Victoria we have found that of our 20,000 plus practitioners, approximately 4% account for 52% of all complaints we receive.'

'Where someone has made a simple, one-off mistake, we generally deal with it in a more pastoral way, however where the practitioner demonstrates repeated violations of the profession's own standards, as has happened in this case, we will take stronger action to protect the public and the reputation of the profession.'

Ends