

SUPREME COURT OF QUEENSLAND

CITATION: *Re Ayobi* [2017] QSC 130

PARTIES: **IN THE MATTER OF THE *LEGAL PROFESSION ACT 2007 (QLD)* AND
THE *SUPREME COURT (ADMISSION) RULES 2004*
and
IN THE MATTER OF AN APPLICATION BY WAHID AYOBI**

FILE NO/S: BS No 2537 of 2016

DIVISION: Trial Division

PROCEEDING: Application

ORIGINATING COURT: Supreme Court at Brisbane

DELIVERED ON: 23 June 2017

DELIVERED AT: Brisbane

HEARING DATE: 30 January 2017

JUDGE: Douglas J

ORDER: **The application is adjourned to a date to be fixed for further hearing before the Court of Appeal.**

CATCHWORDS: PROFESSIONS AND TRADES – LAWYERS – QUALIFICATIONS AND ADMISSION – FIT AND PROPER PERSONS – where applicant seeks admission to the legal profession – where in 2004 and 2014 applicant had two protection orders made against him in relation to domestic violence incidents with his wife – where applicant disclosed the protection orders but provided differing and incomplete accounts of the details and circumstances surrounding the orders – where inconsistencies arose between applicant’s account and those of the complainant and police – where applicant subsequently applied for admission in Victoria and did not disclose the nature of the contested Queensland proceedings – whether applicant has met his duty of candour to the court – whether applicant is fit and proper person

Jones v Dunkel (1959) 101 CLR 298, cited
Thomas v Legal Practitioners Admissions Board [2005] 1 Qd R 331, cited

COUNSEL: M J Byrne for the applicant
K Wilson QC for the respondent

SOLICITORS: Jensen & Co for the respondent

- [1] The applicant seeks admission as a legal practitioner. His application is opposed by the Legal Practitioners Admission Board on the basis that he has not been appropriately candid in the disclosure he has made in his application. The purpose of this hearing is to make factual findings as to whether, in the course of his application, he has met his duty of candour to the court.

Background

- [2] The applicant, in his statement of eligibility and suitability for admission dated 14 March 2016, disclosed two instances of academic misconduct where he had not provided proper referencing for a paragraph of an assignment and where, on the second occasion, it was alleged he had colluded with another student. He successfully completed a misconduct tutorial session in respect of the latter event. He also disclosed some traffic fines from the time he was employed as a taxi driver between early March 1998 and December 2013.
- [3] More significantly, he also disclosed that a domestic violence order had been made against him arising out of an incident about two years before where he said:
- “Domestic Violence Order, approximately two years ago due to death of my wife’s close relative she was going through depression and psychological issues which have affected her level of tolerance and patience at the time. As a result of a small argument she called the police. Despite her direct request for not proceeding Domestic Violence against me in the presence of Magistrate the police officer didn’t not (sic) listen to her and filed Domestic Violence Order against me which will be terminated in the next two weeks.”
- [4] It should be noted that English is not the applicant’s native language but he has spoken it and taught it to others while he was living as a refugee from Afghanistan in Pakistan during the mid-1990s. He has succeeded in obtaining two degrees from Griffith University, one in criminology and justice studies and a law degree.
- [5] His affidavit of disclosure filed on 24 March 2016 exhibited a protection order issued against him dated 2 April 2014 on the application of his wife. It was said to continue in force to 1 April 2016.¹ It appears from the next document annexed to that affidavit, apparently ex K, that another order had been made on 18 June 2014 which varied the date the order was to continue in force until 16 March 2016 and then ex K effectively terminated the order on 16 March 2016. He said that he received the protection order issued 18 June 2014 for the protection of his wife “despite her refusal to commence any proceeding” against him.
- [6] In that affidavit, however, he also disclosed for the first time the making of an earlier protection order against him on 12 March 2004 for the protection of his wife “due to a verbal

¹ The document seems to be ex J although the exhibit markings are not obvious.

argument” which the police attended. He provided no further detail of that event other than the consent order made against him which he said was made without admissions although the order does not record that it was made without admissions. It did prohibit him from entering or remaining in premises where his wife was living.

[7] A further affidavit filed by him on 7 April 2016 said of the 2014 incident:

- “1. Due to an oral argument concerning our daily family matters without any physical involvement I and my wife ... on the 2 April 2014 appeared at the Holland Park Magistrate Court.
2. Despite her firm request not to proceed any Domestic Order against me initially at the police station and later in the presence of magistrate I received the order.”

[8] Then, in a further affidavit filed 13 May 2016, he exhibited the protection order application preceding the 2004 order which later, rather confusing, oral evidence from him disclosed had either been in his possession earlier at least in part or was a document that he was able to obtain a copy of from police when his lawyer suggested that he should obtain it.² That affidavit was produced after a hearing in the Court of Appeal on 9 May 2016 when the Chief Justice requested that the applicant put in an affidavit explaining more fully what had happened in relation to both domestic violence orders. Her Honour also suggested that an affidavit from his wife would be appropriate if she were willing to provide one.

[9] That exhibit to the applicant’s affidavit filed 13 May 2016 contained a number of paragraphs apparently written by an investigating police officer which said:

“19.A. Details of most recent incident (include dates if possible):

On the 5th day of March 2003³ at about 2.00pm the resp has attended the marital home Resp entered the dwelling and approached the agg. Resp verbally taunted the agg as soon as he arrived. The agg walked away from the resp to escape the taunts. The resp followed the agg to the lounge room. Resp has then kicked the agg in the back and forced her to the floor. Whilst of (sic) the floor the resp has continued to kick the agg in the chest and back. Agg raised her hands to protects (sic) her face. Resp grabbed the agg hands and moved them away from her face. The resp has then used a clenched fist and punched the agg in the right cheek (sic) and again in the left eye socket. The agg received extensive swelling to those areas. The agg was able to get up off the floor and asked for the resp to stop. F ..., the second eldest child of the agg was crying as a result of witnessing the attack. The resp has approached the child and raised his hand and appeared as though he was going to strike the child. The child was in the hands of K ..., the mother of the agg at the time. The agg’s mother was able to swing around away from the resp. The resp then punched the agg’s mother in

² See T1-15/13 to T1-16/27.

³ The parties treated this reference to 2003 as a mistake by police and agreed that it was a reference to the incident in 2004; see T1-44/45 to T1-45/8.

the right hand side of her body. The mother fell to the floor where the agg has continued his attack by kicking the agg's mother (65yrs). The resp said that he would return and kill the aggrieved and anybody else who got in his way.

19.B. Dates and details of the history of domestic violence:

Unknown date in 2000 the complainant stated that she has received similar attacks but did not report them to police.

19.C. Why do you believe that domestic violence is likely to occur again or a threat is likely to be carried out?

The resp has notified the agg's sister, agg and mother that he will return to the address and kill the aggrieved. The attack was very vicious (sic) and as a result the agg has sustained severe swelling to the facial area including a black eye. The resp stated that what has happened tonight was nothing compared to what he was going to do in the future."

[10] The applicant denied those allegations and gave his own version of the events in this form in his affidavit:

"10. On 5/03/2004 at about 2:00 pm I attended my residential house 33 Amoria Street Mansfield Qld. As I entered the house I noticed my Mother In-law K ... was also in my house where she looked very upset and sad for reasons unknown to me. I entered the house said hi to my wife and her mother but none of them responded.

11. I noticed the situation in my home was not right and looked like the tension may escalate anytime if I stayed. I went to my bed room to collect some of my necessary clothes to leave the house for the night to my sister's house ... till the tension ease (sic) and come back, as it has happened on a few occasions in the past without any issues.

12. While I was leaving the house my daughter F ..., and aged four years old at the time said 'baba' to me, which translates to 'father'. I went to hug my daughter and hold her and my mother in law pulled F ... away from me. I wanted to hug and kiss F ... before I left the house. My wife was trying to pull me away from reaching F ... while swearing and abusing me.

13. To avoid further escalation I left the house and stayed with my sister

14. I did not physically or verbally abuse my wife ... nor her mother ... to cause any threat or any form of injuries.

15. I did not breach nor attempt to breach any condition of the 2004 Order that expired 11 March 2006."

[11] He also exhibited a protection order application dated 15 February 2014 which contained the following statements under the heading "Grounds for a protection order" again, apparently completed by a police officer:

"The Aggrieved ... stated to police that her husband of 17 years, Wahid AYOBI no longer lives at her address but comes over roughly once a week and sleeps over.

At around 8:00am today (13/2/14) she woke and heard her husband having an argument with their 16yo son. The AGG has attempted to intervene and has told the RESP to stop yelling at their son. The AGG states that the RESP has told her to mind her own business which in turn has caused the AGG and the RESP to start to argue, and ending with the RESP slapping the AGG twice across the face, before kicking her in the stomach. The AGG then contacted 000 due to being in fear of her safety, however whilst doing this, the RESP has left to drop their children to school.

Police have attended and taken a version of events from the AGG. No injuries sighted and AGG refused QAS treatment. No damage to property observed. The AGG appeared upset. The AGG stated the RESP comes over roughly once a week to stay the night, and that there had not been any major issues in the past with this arrangement.

The RESP was not present on arrival, and the AGG believed he may have returned to a unit he owns at ... in the City. The AGG was unable to provide any more specific details in regards to the Resp whereabouts.

At 10:00am on the 14th of Feb, the RESP attended Coorparoo police station and spoke to police.

The RESP stated to police that he arrived at [the family home] roughly 10:30pm the night before and went to bed. The next morning he had a conversation with his son in regards to his attitude and general behaviour. During this, the AGG has yelled at the RESP to leave her son alone, and was shouting over the top of the RESP preventing him from talking to his son. The RESP has pushed the Agg away and told her to leave him alone.

The RESP states the AGG then started screaming and shouting, insulting him and his family and swearing. The RESP stated that the AGG was screaming that loudly, he knew it was impossible to keep having a conversation with his son, and decided it was best to leave the house. The AGG has still been screaming and yelling at him, and would not move out of the way to let him leave, so the RESP has again pushed the AGG aside to leave the address.

The RESP believes that the AGG's claim of being slapped and kicked is malicious and that she has only said this due to having mental health issues. The RESP states this is not the first time she has made this sort of claim and that this sort of behaviour has existed for the majority of their relationship. The RESP was however unable to state the exact nature of the AGG's mental health condition, or any medication or doctors in which she is seeing for it. The RESP states that the AGG has kept all of this information secret from him."

- [12] The applicant denied the allegations made by his wife in that extract but agreed with what the police recorded as what he said to them. He said those statements were truthful. He also said in his affidavit:

- “19. In substance, a family discussion has lead to a argument involving family affairs and children schooling issues.
20. My wife was getting louder and I decided to leave the house and drop off the kids to school to avoid further escalation of tension in my house.
21. As I was leaving the house my wife stood in front of the exit door blocking my children and I from leaving the house.
22. Without causing any harm or injury I decided to push her away from the main exit door to exit the house and go to the car.
- 23 . There was not any form of physical or abusive verbal conduct by me with the intention to hurt or harm her at all.
24. The next day my wife and I went to the Coorparoo Police Station where she directly requested the attending police officer not to proceed with any order.
25. Despite her direct request to the police officer and later in the presence of the Magistrate I received the order.”

- [13] The 2014 order, as I have indicated, was varied on 18 June 2014 to allow him and his wife to co-habit again and then, on 16 March 2016 varied to, in effect, terminate on that date.
- [14] At its meeting on 31 May 2016, the Board considered the applicant’s application further and resolved to oppose it in light of the additional information provided in his affidavit filed 13 May 2016 for reasons which included its concerns as to whether full disclosure was made to the Board when it queried on or around 5 April 2016 the circumstances which led to the police seeking the protection order in or around April 2014. The Board pointed out that at para 1 of his affidavit filed 7 April 2016 he attested that the circumstances leading to the protection order of 2 April 2014 related to an “oral argument concerning our daily family matters” but, in his response to the police to the application for the protection order extracted at [11] of these reasons, he stated on or around 14 February 2014 that he “... pushed the Agg away ...” and that he “... has again pushed the AGG aside to leave the address”.
- [15] The Board was also concerned about the conflicting circumstances surrounding the protection orders made against the applicant in March 2004 and April 2014.
- [16] In another affidavit filed by him on 18 July 2016, he provided more details of the events leading to the 2014 protection order saying that he and his wife had been arguing for some time, he needed to leave to take the children to school on time and during the argument his wife had been standing across the front door of their home preventing either him or the children from passing so he said that to allow him and the children to leave the house he used the back of his arm to move her arms and part of her body aside to allow them to pass through the door and leave the property. He said he used minimal force only sufficient to allow himself and the children to pass through the doorway without any intention to cause harm.
- [17] The applicant’s wife addressed the incident said to have occurred in 2014 in her affidavit filed 18 July 2016 by saying that at that time she was suffering from depression and anxiety arising

from a family tragedy involving her nephew. She described her husband as having physically pushed her aside while he was leaving the house on 2 April 2014 and said that she did not get hurt or physically injured as a result. She said that she attended the Coorparoo Police Station the following day requesting the dropping of any possible charges and that they not proceed with a domestic order against her husband. She said that he is not a violent person and that she does not need any protection order against him. She did not then deal with the 2004 incident.

[18] The Board, at its meeting on 27 July 2016, resolved to oppose the applicant's application for admission on the basis of the very serious conduct by him in 2004 and 2014 and because his sworn version of the events in 2004 was in direct conflict with the information provided on the court records. The application was then adjourned on the papers from 1 August 2016 to 10 October 2016.

[19] Then, the applicant, in a further affidavit filed 15 September 2016, provided more and arguably different details about the 2004 and 2014 domestic violence applications. About the 2004 application he said:

"14. At the time of this incident, I had just returned home and entered through the front door to find my wife emotional and angry and asked her what was the matter. At that moment, my mother in law who was visiting my wife came out from the kitchen and suddenly started yelling at me, complaining about why I did not know why my wife was angry and upset. I admit that I yelled back at my mother-in-law 'how on earth do I know?' I asked her and she is not telling me and instead you are here yelling and complaining at me. My mother in law retreated into the kitchen and my wife became even more furious and started yelling and swearing at me and began denigrating my sisters and my mother.

15. I was becoming angry and frustrated and yelled at my wife that I was going to stay with my sister until she and her mother calmed down. I grabbed some clothes and my car keys and asked my second born daughter for a goodbye hug or even to take her for a short drive. I picked her up and my mother in law suddenly raced toward me and pulled my daughter away from me and went into the kitchen. I then proceeded to leave. My wife followed me swearing and cursing me and my family, she was very angry. When we reached the front door, my wife suddenly grabbed my shirt from behind and began pulling me towards the living area. I reeled my shoulder so as to break my wife's grip and in so doing my wife fell backwards hitting herself in the face and as she fell to the floor yelling 'ouch my eye'.

16. At that time on my mother-in-law came out of the kitchen and thought that I had hit my wife and began yelling and swearing at me so I left so as to prevent further argument and altercation.

17. The next day I received a call from the police station, a police officer explained to me that yesterday they had a call about an incident happening at my house and according to what they were told I had used force and my wife was slightly injured.

18. The police officer asked me about my version of events. I was shocked and in despair to hear what I was accused at having done. I explained to the police officer that there must be miscommunication because my mother in law did not see how my wife might have hurt herself when she pulled my shirt and when her hand got off my shirt it hit her own face somewhere close to eye socket or so. I explained to the police officer that I did not push anyone, did not hurt anyone, did not use any kind of force but just tried to leave for few minutes or so.
19. The police officer explained to me that they were bringing a Domestic Violence Application and explained the procedure which involved multiple court appearances and would be lengthy and time-consuming but that I was able to consent to a Domestic Violence Order without making any admissions and without the necessity of putting my wife my mother-in-law and myself through a trial which could be traumatic for all of us and which would not help our domestic situation.
20. I attended the court on the first return date and consented to a Domestic Violence Order without admissions. As a result of that Order, my wife and I were lived separately for a while but soon got back together and life returned to normal as it was in the past.
21. I concede that my verbal reactions to both my wife and my mother-in-law at that time were domestically violent and regret having reacted the way I did. The Order expired without any breaches or any domestic arguments occurring.
22. My wife suffers from depression and has occurrences of sudden mood swings which can cause difficulty but I try to understand what she is going through and try to help as much as she allow me to. Of course at times she does become impulsive but I try to understand the nature of her illness.”

[20] He explained inconsistencies in his previous versions of the 2014 event in this form:

“6. By way of clarification and reconciliation of the two documents referred to in paragraph 2 above, I say that in my attempt to fully disclose all the facts matters and circumstances surrounding the Domestic Violence I used the words ‘pushed’ and ‘pushed away’ in the colloquial sense. I did not in the true sense of ‘pushing’ put my hands on my wife and ‘pushed’ or ‘shoved’ her away.

...

11. The inconsistency between my accounts of the versions in my affidavits affirmed 6 April 2016 and 13 May 2016 arises because I did not believe that leaving the house past my wife in what can be more accurately stated as ‘brushing past’ involved any intent to harm, malice or resulted in any injury to my wife although there was ‘touching’ as I brushed past. The domestic violence in my mind was the heated oral argument preceding that point in time.

12. Hence I assumed that I did not need to disclose any event or circumstances that did not carry out any elements of abuse or injury upon my wife who was attending the admission ceremony on 9 May 2016 with me to support my admission. I realize now that this assumption was in error.”

[21] A further affidavit by the applicant’s wife was filed on 15 September 2016 providing another explanation about the events of 5 March 2004 in these terms:

- “3. On that date I was and had for some time suffered from the effects of childbirth and hormonal imbalances. I was always tired and cranky and just wasn't coping very well.
4. I was having an argument with my mother who just came to visit me during early hours of morning and during her visit at my house she brought up some stories from the past which caused a heated argument with her. I was very upset.
5. My husband arrived home and upon entering our house asked me if I was Ok. On hearing that question I started yelling and swearing at him and used the nastiest words I could use. He decided to leave the house and picked up my daughter who was only a toddler at that time and headed towards the door. My mother quickly ran after him and tried to separate my daughter from him so he could not to take her out. In hindsight, I guess he did not want my daughter to see me that angry and just wanted to take her out for a drive so by the time they come back I would be a bit calmer.
6. As he was walking towards the entrance door I pulled his shirt from the back so hard trying to rip it because I was so upset but somehow his shirt slipped out of hand and my hand sprang back and hit my own face and lost balance and fell to the floor. I got even more mad at him and blamed him because I had hit myself in the face. I was really mad at the time but realising now it had nothing to do with my husband. When my face got hurt, I yelled ouch! My mum suddenly appeared in front of me and started yelling at my husband as she thought my husband actually hit me.
7. My mum run into the lounge room and started screaming call the police. Report him to the police he hurt you. I was out of my mind and not thinking straight at all and took this matter to the next level and made a report to the police.
8. While police was questioning me, the police officer asked me questions and because at that time I was a bit nervous and panicky too, I gave wrong answers and just said things to finish the interview and when the officer asked me did your husband hit you? and what happened to my face and I was a bit embarrassed to admit that my own hand sprang back and hit my own face, I told him different and I said my husband hit me and from that one wrong story it lead to another and by the time the interview finished I said many things which were not correct.

9. The next day I felt very bad and very guilty for making such awful statements about the man of my life and without him being involved in any act of violence or cruelty or anger towards myself or my mother present at the time that the incident unfolded. I still blame my emotions and my hormonal changes since I only gave birth to my third child shortly before that time. That day my husband did nothing wrong to provoke me or to hurt me in any way. I regret the whole incident.”

[22] No affidavit was filed by the applicant’s mother-in-law or by any of the police officers who investigated the allegations in 2004 and 2014.

[23] Then at its meeting on 4 October 2016, the Board resolved to oppose the application on the following bases:

- the allegations made for the protection orders were very serious and involved two assaults; one occurring in 2004 and one occurring in 2014;
- there are inconsistencies between the allegations made in the protection orders and Mr Ayobi’s sworn version of events in his affidavits, and the Board was unable to determine the true facts of the protection orders.

[24] On 10 October 2016 the Court of Appeal adjourned the application to the Trial Division for a finding as to whether the applicant had been candid in his disclosure in relation to the circumstances of the two protection orders.

[25] Apparently because he was frustrated by the slow progress of his application to be admitted in Queensland and before this hearing, the applicant took steps to seek admission in Victoria in December 2016. His disclosure statement filed in the Victorian Supreme Court merely referred to his protection order issues in these terms:⁴

“Protection Oder [sic]: Protection order issued date 12/03/2004 the order expired with no breach on 12/03/2006

Protection order issued date 02/04/2014 the order expired with no breach on 02/04/2016”

[26] He did not tell the Victorian Supreme Court of the contested proceedings on foot in this Court or provide any of the further detail sought by this Court to the Victorian Supreme Court. Nor did he tell this Court of his application in Victoria until the Board contacted his solicitor to tell him that the applicant had also applied in Victoria.

[27] In a further affidavit he explained his application in Victoria on the basis that a holiday he had spent there in the December school holiday period with his family had encouraged him to the view that there might be more opportunities for legal employment for him there than in Queensland. He believed he was merely filling in an on-line application for admission without completing all the required documents and was surprised to receive a phone call from the

⁴ See ex 3.

admitting authority in Victoria a couple of weeks after his application requesting him to complete the remaining questions and provide some requested documents. He had still not paid the application fee for admission in Victoria and was waiting on admission in Queensland to be finalised before they moved to that State.

- [28] He was told by the Victorian Legal Practitioners Board that he could not proceed with his application in two States at the same time which he said was not stated clearly on the application form he was trying to fill in for application for admission in Victoria.
- [29] At the hearing before me the applicant and his wife gave evidence. His mother-in-law was not called as a witness. Nor were any of the police officers who investigated the events in 2004 and 2014.
- [30] During his oral evidence he said for the first time in respect of the 2004 incident that his wife told police two days after that event that she did not want to proceed even though the order made 12 March 2004 by consent recorded that he was likely to commit an act of domestic violence again and was prohibited from remaining in premises where his wife was living.⁵
- [31] Mrs Ayobi's evidence was rather confusing. She appeared to have difficulty in following some of the questions but was insistent on saying that her husband did not do anything wrong to her and did not hit her in 2004 and that it was not a big argument between them in 2014. She said that she had lied to police, that she was very emotional and that what she told the police about her husband hitting her in 2004 was all untrue.
- [32] She said her husband did not prepare her affidavits for her nor tell her what she should say. She prepared her affidavits with the assistance of her daughter who typed them. She agreed that it was very important for her husband to succeed in his application for admission and that he had made her aware of that. She also agreed that she was trying to help her husband to get his admission.
- [33] She denied the version given to police in respect of the 2004 incident that her husband kicked her mother who was then aged 65 years. She also said, however, that her mother was still alive and living in Brisbane.

Submissions

- [34] Mr Wilson QC for the board drew attention to the difficulties in obtaining information from the applicant in respect of the domestic violence orders made against him. The first document from him did not refer to the 2004 domestic violence order. His affidavit filed 24 March 2016 simply exhibited documents with no explanation for them.
- [35] There were significant differences between the affidavit filed 13 May 2016 and the later affidavit filed 15 September 2016. He submitted that the probable conclusion to be drawn from the facts was that the applicant did not make full disclosure from the outset and failed to produce the applications for domestic violence orders until very late in the piece.

⁵ T1-17/1 - T1-18/27.

- [36] He submitted that the applicant's wife's evidence was quite extraordinary in its explanation of how she suffered an injury to her eye which was self-inflicted rather than under the circumstances she told police in 2004. He also submitted that I should have real doubts about her now recanting what she told the police in 2004 and 2014, bearing in mind that she had discussed the matters with her husband and was aware of the importance of the application to him. He also argued that the failure of the applicant's mother-in-law to be called to give evidence led to the inference that her evidence would not have assisted the applicant's case.⁶
- [37] Mr Wilson submitted the recent application in Victoria was curious in that there he simply stated that the two protection orders had been made without providing further information such as that his application for admission had been adjourned in this Court so that a finding of fact could be made as to his candour. That sequence of events is curious but my focus must be on his candour in respect of this application.
- [38] Mr Byrne for the applicant agreed that it was difficult to obtain information both from the applicant and his wife which he submitted might be explicable by his apparent belief that if the court or the board wanted further material they would ask for it. In his written submissions he argued that the applicant's explanations of what had occurred in the two events should be accepted as should those of his wife. Those events were now in his past and should not disentitle him to admission.

Discussion

- [39] It should have been apparent to the applicant from the outset that something more was required in his application than he provided to the Board. That a domestic violence order has been made against an applicant for admission is a serious issue. The importance of candour in the making of an application for admission is well recognised.⁷ After the initial appearance before the Court of Appeal on 9 May 2016 he obviously became aware that something more was required than he had provided the Board by then but I am not persuaded that his various explanations since then of what occurred between him, his wife and his mother-in-law in 2004 and 2014 have been candid either. I am, therefore, not persuaded that the applicant has been candid in his application for admission.
- [40] The initial failure to disclose proper detail about the domestic violence applications is concerning as is the belated disclosure of the police versions of the facts that were alleged to justify them. On the evidence it was always in his power to provide that information to the Board. Rather than doing that he obscured the relevant information until it was dragged from him and has failed to persuade me of the truth of the current versions of what occurred between him, his wife and his mother-in-law.
- [41] Nor am I persuaded that his wife's retraction of what she told police is truthful. Her current version of events, that she pulled the applicant's shirt so hard that it slipped out of her hand and her hand sprang back hitting her own face, when compared with what she told police in

⁶ See *Jones v Dunkel* (1959) 101 CLR 298, 320-321.

⁷ See *Thomas v Legal Practitioners Admissions Board* [2005] 1 Qd R 331, 333.

2004 is quite unpersuasive and, at the least, concerning as to her motives for changing her story so radically in support of her husband's application.

- [42] Police recorded their observations of her sustaining severe swelling to the facial area including a black eye in respect of the 2004 event. That was in the context of her telling them that the applicant had punched her in the right cheek and again in the left eye socket. Those observations by police are not consistent with her current explanation. In that context, the unexplained absence of evidence from the mother-in-law, who was also said to have been attacked physically by the applicant in the same event, allows me to infer that her evidence would not have assisted the applicant. I am not persuaded that the applicant's evidence and that of his wife has been candid in respect of those events.

Conclusion

- [43] I adjourn the applicant's application for admission as a legal practitioner for further hearing by the Court of Appeal on a date to be fixed.