



# Department of Justice

Consumer Affairs Victoria

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27 SEP 2011

Our ref: DB/11/8832

Mr Peter Mericka  
Lawyers Real Estate Pty Ltd  
Suite 6, 3-5 Hewish Road  
CROYDON VIC 3136

Dear Mr Merika,

**Re: Consumer Complaint (Case Number: C2011/04/002003)**

I refer to the above matter and to your correspondence dated 13 September 2011 which, I note, is sent in reply to my letter of 26 May 2011.

In my letter of 26 May 2011, I requested you to forward any evidence you had concerning the non-disclosure of commission payments by licensed conveyancers. This request was made because you had claimed to have information concerning widespread and serious, criminal misconduct. Your complaint centred on the payment of commissions by conveyancers to real estate agents for client referrals.

My request has apparently given you the impression that, *'Consumer Affairs Victoria is not interested in taking any action unless someone else investigates the matter, gathers evidence of wrongdoing, and delivers it to their office'*.

I do not understand how you could have gained that impression from my request. You were not asked to investigate anything, you were simply asked to forward the information you possessed in support of your allegations of *'widespread corruption and bribery'*.

If you have any such information, you should forward it without any further delay.

Finally, I note that you have requested a written response from me with respect to your blog-posting. In that regard, I point out that Consumer Affairs Victoria does not comment on specific compliance and enforcement actions save for referring to information that is on the public record. I can, however, make some general observations. These are as follows:-

- Your blog contains some significant errors. For example, section 33 of the *Conveyancers Act* does not have the effect you assert. The section does not obviate the need for investigators to obtain sufficient evidence before launching prosecutions.



Rather the section provides a mechanism for obtaining administrative relief. The nature of that administrative relief is set out in section 34 of the Act. An inquiry under section 33 would not be initiated unless there was sufficient evidence, firstly, to substantiate that a disciplinary offence had occurred, and, secondly, to determine that the offence was of a type to warrant the form of relief set out in section 34 of the Act. VCAT can only judicially examine those facts put before it; the Tribunal cannot, and does not, *investigate* the possible commission of offences.

- You rightly note that Consumer Affairs Victoria has a number of investigative powers and that it exercises these powers through compliance monitoring programs, targeted audits and in the course of its investigations. Your assertion that CAV *'has refused to use its statutory powers'* is false.

Yours sincerely



Andrew Levens

Director