

ALPA

Association of Legal Professionals and Advocates (Cayman) Ltd
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2 December 2019

The Hon. Attorney General, Samuel W. Bulgin Q. C., J.P.
Portfolio of Legal Affairs
Office of the Attorney General
4th Floor, Government Administration Building
133 Elgin Avenue
George Town, Grand Cayman
Cayman Islands

Dear Hon. Attorney General,

Re: Legal Practitioners (Amendment) Bill, 2019 and its attempt to violate our right to Freedom of Association

Thank you for meeting with the ALPA Executive Council together with the Hon. Premier on 22 October 2019 (herein referred to as the "**Meeting**").

At that Meeting, we registered with you in person our protest and opposition to Legal Practitioners (Amendment) Bill, 2019 ("**LPL Amendment Bill**"). We must, for the record, set-out our views in writing. We do not agree to being "deemed" to be members of the Cayman Islands Legal Practitioners Association ("**CILPA**"). To many of our members, it is simply against their conscience and/or conviction to be a member of CILPA. Further, it goes against their belief that every person should enjoy the freedom to choose which associations (or persons) which they wish to associate.

It is extremely unfortunate that ALPA was not consulted prior to the gazetting of the LPL Amendment Bill especially given that we notified you in our letter dated 27 March 2019 (sent by email and hand to the Legislative Assembly) of the incorporation of our association and our

willingness to work together with your good-self and all the members of the Legislative Assembly “*and provide input on any proposed laws, draft bills or any amendment to the existing legislative framework, which may at any time impact the Cayman Islands' legal profession or Caymanian attorneys.*” Furthermore, ALPA has made it abundantly clear in its letter of 27th August 2019 to the Hon. Premier (and copied to your good self) what its position is regarding the illegitimacy and inappropriateness of the appointment of CILPA as Supervisory Authority for AML for the legal profession and CILPA’s purported creation and empowerment of CARA in that regard for the obvious purpose of creating the optical illusion that AML regulation of the legal profession is proper and legitimate. It is therefore very disturbing that as a professional association of Caymanian attorneys we were not consulted on legislation that affects the profession before it was made public in the Cayman Islands Gazette. Given this, we have been left with no alternative but to publicly express our issues and concerns.

Please find enclosed a memorandum entitled “Legal Practitioners (Amendment), 2019 (“**Memo**”) setting out our position on the law with respect to the proposed legislation / LPL Amendment Bill.

The Bill of Rights guarantees that no person shall be hindered by government in the enjoyment of his / her freedom of association or his / her right to associate with other persons or belong to other associations for the protection of his or her interests. This right ensures the concomitant right of such persons to choose who he or she does not wish to associate with. The government therefore has an obligation to protect our right to choose to not associate with CILPA, rather than forcing us to become members for the sake of AML regulation.

The LPL Amendment Bill seeks to breach our right not to associate. In our view as set-out in the Memo, if the matter came before the Court it would determine that CILPA was a private association and that section 12 of the Bill of Rights provides for the right not to associate and that includes with CILPA if we do not want to. Further, that it was not reasonably justifiable (or absolutely necessary) to permit an interference and even if it was that no specifically permitted exceptions apply in this instance.

We wish to record that we provided you, and the Government who you advise, with a simple and easy alternative which is the appointment of the Financial Reporting Authority (“**FRA**”) as a supervisor for attorneys for AML / CFT purposes, which seems to have fallen on deaf ears for some inexplicable reason.

The government has already provided the FRA with the legislative underpinning necessary to perform the role.¹ It does not even need to go back to the Legislative Assembly, all that government needs to do is a pass an order in council.

¹ See paragraph 45 of the Memo.

With the utmost respect, we kindly request a written response to our letter within seven (7) days of the date of this letter **or no later than 9 December 2019**. We also seek confirmation on whether or not, despite our letter and Memo, the intention is to continue to seek to have this bill passed by the Legislative Assembly.

It should also be borne in mind that such a legislative initiative as this LPL Amendment Bill, which in essence forces private citizens to join an organization against their will, simply for the sake of convenience or benefit of special interests, sets a very dangerous precedent for other professions and industries as well.

It is unacceptable and degrading to be “deemed” to be a member of CILPA (a private association) that is against our beliefs and what we stand for. We intend to seek that all members of the Legislative Assembly oppose this legislation should it be brought to the house.

We reserve all other rights including the commencement of legal proceedings in the unfortunate event that the bill is passed.

This attempt to stifle our rights, guaranteed by the Cayman Islands Constitution, cannot be permitted and we will not idly stand by and let our rights be crushed by the Government or allow a very dangerous precedent to be set.

Thank you for your kind care and attention.

Yours Sincerely,

ALPA

ASSOCIATION OF LEGAL PRACTITIONERS AND ADVOCATES (CAYMAN) LTD.

Cc: The Hon. Speaker of the House,
Hon. Deputy Governor,
Hon. Premier,
Hon. Leader of the Opposition,
Hon. Ministers of Cabinet,
Members of the Legislative Assembly,
Legislative Assembly, 33 Fort Street
George Town, Grand Cayman
Cayman Islands

AND Cc to: His Excellency the Governor, Martyn Roper, OBE
Chairman of Cabinet of the Cayman Islands Government

CILPA by email only info@cilpa.ky