

THE EVOLUTION OF LEIBLER'S LAW

Verdict From humble beginnings, with a predominantly Jewish client base, Arnold, Bloch Leibler has become one of the most influential law firms in the nation with an expanding clientele, writes Michael Gawenda in his new book, *The Power Broker*, an unauthorised biography of Mark Leibler.

Arnold Bloch Leibler is spread across three floors of the grand old Commercial Bank building at 333 Collins Street in central Melbourne. The white walls of the firm's reception area on the 21st floor are hung with large paintings – the sort of business art that some artists specialise in, big bold paintings that are essentially decorative and speak of success and power.

To one side of the reception is senior partner Mark Leibler's big corner office and three boardrooms. One is named after the firm's founder, Arnold Bloch, one for Ron Castan, the barrister who led the legal team in the Mabo case, and one for the former governor-general, Sir Zelman Cowen. Sliding walls enable the rooms to be opened into one large area to host lunches for up to 200 people.

Long before you arrive on the 21st floor, walking through the foyer of the building, through the arched entrance with its marble columns on either side, gives you a sense of how ABL has changed in positioning and confidence over the years.

The change reflects how its old clients, most of them Jewish and many of them Holocaust survivors, have gradually become more comfortable and recognised in business in the 60 to 70 years since they arrived in Australia.

A short walk up Collins Street is the Melbourne Club, where much of the business establishment and its lawyers gather and where Jews were not welcome until recently. Even now it is not clear whether Jews can join, as any prospective member can be anonymously blackballed, with no reason given.

Is ABL still a Jewish firm? Is there still a convergence of interests between Leibler's leadership of the Jewish community and the wealthy Jews who were ABL's base? Behind these questions are larger ones.

These clients help make ABL one of Australia's most profitable law firms. It is not large compared to Clayton UTZ, Freehills and Mallesons, for example. Some lawyers refer to it, snidely and never on the record, as a boutique firm.

While the big establishment firms have hundreds of partners and annual revenues of up to \$600 million, ABL's fees revenue in 2018 approached \$100 million. Although neither Leibler nor managing partner Henry Lanzer would divulge the exact profit, people at ABL who should know say it is over \$45 million, which is a handsome dividend and would put average earnings of partners at roughly \$1.8 million a year.

Of course, the earnings of partners vary greatly, depending on their seniority and share in the partnership, so there is no doubt that some earn much more than that average. According to an article in *Business Review Weekly* in 1988, Mark Leibler was earning over a million dollars even then. Asked about this, Leibler did not contradict that figure, but he would not disclose his current income. If his income had only kept up with inflation, it would now be close to \$3 million a year.

In 1986, five of ABL's six partners, all of them men, were Jews. In 2018, only 13 of the 33 partners – 27 men and six women – were Jewish. Aside from the partners, ABL had 92 senior and junior lawyers. Just 11 were Jewish; more than half of the 92 were women. Some of these women described Leonie Thompson, one of ABL's first female partners, who died in 2017, as an inspirational mentor for many women at the firm.

When ABL named two more boardrooms in 2018, one was named after the late Alan Goldberg QC, a Federal Court judge and one



If Leibler had not had his enormously heavy commitment to the (Jewish) community, his firm now might have been one of the top firms in Australia.

John Gandel, property magnate

of a group of barristers whom ABL lawyers regularly briefed. The other was named after Thompson. Goldberg was Jewish; Thompson, married to former Federal Court judge Ray Finkelstein, was not.

About half of ABL's clients are Jewish, although Leibler said that no-one has ever researched this because there is no reason to. Thirty-five of Australia's 200 wealthiest

individuals and families in the 2018 Financial Review Rich List are ABL clients, of these, 19 are Jewish. They include long-time clients of ABL, such as shopping centre developer John Gandel, Sussan chain owner and property developer Marc Besen, the Werdiger family and retail magnate Solomon Lew.

Some of their children – the Lews, Besens and Werdigers – have remained clients of ABL. So has the billionaire investor Alex Waitsitz, who was once married to Heloise Pratt, daughter of Dick Pratt, the international cardboard box manufacturer and long-time ABL client. Dick Pratt's son and successor at Visy, Anthony, another ABL client, topped the 2018 Rich List with an estimated fortune of \$12.9 billion.

Most of the senior partners, including Leibler, Lanzer and ABL's "celebrity lawyer" Leon Zwier, are Jewish. The sons of Leibler and Lanzer, both called Jeremy, are partners at ABL, as is Jonathan Wenig, who is married to Leibler's daughter, Simone.

In step with success: from the top of the stairs down, ABL's 'celebrity lawyer' Leon Zwier, senior partner Mark Leibler and managing partner Henry Lanzer. PHOTO: JAMES DAVIES

Zwier's daughter, Rebecca, is an associate in the firm. ABL is a small dynasty, and the connections between families, the law and the Jewish community still run deep. In 2018, Jeremy Leibler was elected president of the Zionist Federation of Australia. Colin Rubenstein's son, Paul, is ABL's managing partner in Sydney and is the New South Wales chairman of the Australia Israel & Jewish Affairs Council and also a possible successor to Leibler as AIJAC's national chairman. A transition of power from one generation to the next is in train, both at ABL and in two of the Jewish community's most influential organisations.

Some of the senior partners – and rising future leaders such as Wenig and Jeremy Leibler – have connections to the Jewish community through leadership positions in community organisations or on the boards of Jewish schools or philanthropic foundations run by ABL's wealthiest Jewish clients.

Henry Lanzer, for example, has been on the board of governors of his old school,

Mount Scopus College, since 1988. He is a board member of the TarraWarra Museum of Art, which was built and funded initially by the Besen family in the undulating hills of the Yarra Valley north-east of Melbourne. He is also honorary solicitor for the Australian Friends of Tel Aviv University, the Caulfield Hebrew congregation and the Jewish Museum of Australia. All of these roles have both a Jewish dimension and a connection to clients of ABL.

Nevertheless, most partners agree that ABL's staff and client profiles have been changing for a decade or more and that, over time, the proportion of Jewish partners and clients will continue to decline.

John Gandel, who was with ABL from the days when Arnold Bloch set himself up as a sole practitioner, has taken most of his legal work away from ABL. The property developer, who built the Chadstone Shopping Centre in Melbourne's south-east into the biggest shopping complex in the southern hemisphere, considers Leibler a close friend and has donated significantly to organisations closely linked with Leibler, such as ALJAC and the United Israel Appeal.

In spite of their friendship, Gandel moved the major part of his business legal work from ABL to Mallesons in the early 1990s. Gandel is unabashed about his reasons for doing so; in his view, ABL is too small to handle the complex legal issues of his business empire.

"I still have some of my personal legal work done at ABL but the bulk of it, not any more," said Gandel. "Still, I spend perhaps a million and a half a year with ABL. That's not nothing."

"Mark is very clever. He is a terrific lawyer. He's been very successful in the Jewish community. I think if Mark Leibler had not had his enormously heavy commitment to the community, his firm now might have been one of the top firms in Australia."

Leibler rejected the suggestion his community work had been responsible for what Gandel described as ABL's modest size. He said that ABL had never pursued growth for growth's sake. It had always focused on profitability and looking after clients.

Indeed, most Jewish billionaires have stayed with ABL, even as the bigger law firms fought for their business.

Yet some of their children are not building businesses like their parents and are not generating large legal fees.

Others have taken their business elsewhere, not wanting to be represented by the lawyers who acted for their parents.

ABL continues to attract wealthy individuals and families, but now many are not Jewish. An examination of its top 50 clients from 2014 to 2018 shows that the firm has moved beyond its base of high-net-worth individuals and families. Of ABL's top 10 revenue-earning clients over this period, an average of five were public companies. However, while ABL does represent big listed companies such as Nufarm, Slater and Gordon, BlueScope Steel, Seek and Carsales, it typically does not act for large institutional clients such as Australia's big four banks.

Asked about this, Lanzer said there had been a time when ABL did represent some big institutional companies, such as Telstra and National Australia Bank, but they turned out to be a wrong fit for the firm. The work often involved ABL joining a panel of lawyers from different firms to work collaboratively. ABL's strength is in representing clients who are entrepreneurial decision-makers looking for advice beyond black letter legal advice. Lanzer said that was why the listed companies that were clients often had a dominant shareholder who was the prime decision-maker.

A classic case is Premier Investments, whose dominant shareholder is billionaire retailer Solomon Lew, one of the first of the old Jewish entrepreneurs to float his private company on the stock exchange.

Lew has had a long, often tumultuous, at times litigious, relationship with Coles Myer, Australia's largest retail company and biggest employer. While Lew was in a battle for control of Coles Myer, which he eventually lost, Leibler was on the company's board for nine years from 1995. Today Lanzer and Jeremy Leibler handle Premier Investments' legal work, which means they often deal with Lew, and Lanzer sits on the board of Premier Investments.

In 2002 ABL opened a Sydney office on the 36th floor of the Chifley Tower Building in Chifley Square. The view of the harbour and the Sydney Opera House from most

Rich listers

The Leibler connections in business

Thirty-five of Australia's 200 wealthiest individuals and families in the 2018 Financial Review Rich List are ABL clients. They include:



Solomon Lew
Retail magnate

Alex Waislitz
Billionaire investor

John Gandel
Shopping centre developer

Marc Besen
Susan chain owner and property developer

Anthony Pratt
Dick Pratt's son and successor at Visy

SOURCE: FINANCIAL REVIEW

offices and the large windowed foyer is spectacular. The fact that ABL opened its Sydney offices so late in its history reveals how much the firm was rooted in Melbourne, and especially in its Jewish community. The Sydney opening was surprisingly modest, given that Sydney had become Australia's financial headquarters, with the head offices of most of the large banks and companies located there. Only seven of ABL's 33 partners are in Sydney.

Sydney does not have as many Jewish billionaires as Melbourne. Although businessman Sir Frank Lowy and apartment king Harry Triguboff ranked in the top 10 of the *Australian Financial Review's* 2018 Rich List, the wealth in Sydney was more widely spread in its Jewish community.

It is also growing perhaps more rapidly than in Melbourne, in large part through the business success of South African Jewish migrants, most of whom settled in Sydney and Perth from the 1970s to the 1990s. Increasingly, the new generation of Jewish entrepreneurs is based in Sydney.

He could seem remote and inaccessible, yet his door was open. If you have a problem and want to see him, Mark will see you.

Claire Tedeschi, communications adviser

The shifts at ABL reflect changes in, and perhaps attitudes to, the Jewish community. It is no longer characterised by refugees and Holocaust survivors, by people whose lives and families had been destroyed. The time when Jews felt they had to huddle together, live and do business with each other, a time when they felt alien and were still overcoming the trauma of their beginnings in Australia, is over.

Those migrants and refugees, who were excluded from the Australian business establishment and so built their fortunes with private companies and brought their business to ABL, no longer feel like newcomers. Their children and grandchildren certainly do not see themselves that way.

In a speech he gave at a 2012 ABL retreat, Lanzer captures some of the firm's transformation. The firm, he said, maintained "unrivalled" strengths in acting for private clients "in their deeply personal and important strategic transactions". Among them were "some of our largest clients, our traditional clients – such as Pratt, Lew, Besen and Alter – for whom we have acted over many years, including as control has passed to successive generations".

Some of these clients – Solomon Lew at Premier Investments and Max Beck at Becton – had grown to be controlling shareholders of listed companies. In his speech, Lanzer celebrated the work of Leon Zwiwer in the "insolvency and restructuring and distressed debt space." As a result, ABL had been central to some of Australia's biggest insolvency and restructuring cases, with the dissolution of the Ansett Australia airline

group an early example. Yet the future of ABL is no longer with the father but with the next generation, with Jeremy Leibler, and the young lawyers around him.

Jeremy Leibler is seen in the legal fraternity as a rising star, a savvy lawyer, and a marketer of ABL and of himself.

Among his clients are Solomon Lew and billionaire investor Alex Waislitz, who are Jewish, but increasingly, ABL is moving beyond its Jewish client base.

Jeremy Leibler and his brother-in-law Jonathan Wenig run a team that focuses on mergers and acquisitions, the fastest-growing part of ABL's business.

The younger Leibler embodies the changes at ABL. He is adamant that it is wrong to describe ABL as a firm of Jewish lawyers and clients, or as a firm mainly for high-net-worth individuals.

"That old generation of Jewish migrant entrepreneurs was unique," said Leibler. "Their children are often less entrepreneurial and at the same time, they don't feel as connected to the Jewish community as their parents and grandparents."

"We had to move beyond that special generation and we have done so. Yes, in part that's because Jews have felt more and more comfortable with getting involved with public companies. But only in part."

Like his father, Jeremy Leibler grew up having very little to do with non-Jews until he went to university. He went to a Jewish day school and to synagogue on Saturday mornings with his father.

When he was eight, he joined the Bnei Akiva youth group, where his parents had met. Through his teenage years, he went to his meetings most Saturday afternoons and to its camp during the summer holidays.

Also like his father, Jeremy, the youngest of Leibler's four children, won the Supreme Court Prize as the top honours law student, although he had studied at Monash University, not the University of Melbourne.

But, unlike his father, Jeremy could without question have gone to one of the big establishment law firms in Melbourne. The time of Jews not being welcome had passed.

Nevertheless, he joined ABL as an articled clerk in 2004 and was made a partner in 2011. He had worried whether he would have to live in his father's shadow, or be seen to be a beneficiary of nepotism. Yet ABL was probably always his destiny. From his childhood, he had known many of the firm's clients, and his father was a mentor.

At an ABL retreat in 2016, Jeremy Leibler, Jeremy Lanzer and another young ABL lawyer, Jason van Grieken, presented a slide show entitled *Transactions*. It was all about what made ABL unique, and how to build on these qualities. The lawyers outlined three case studies to show how the firm could continue to "differentiate ourselves in a very overcrowded, competitive and dynamic legal market."

The future was about something they called "Nirvana" – yes, named after the legendary rock group – which described the strengths that made ABL so difficult for rival firms to compete against. These strengths were about developing relationships with clients, an emphasis on "creativity and

ingenuity" and critically, on influence and power. "The combination of our high-level relationships with both sides of government and our well-known, consistent record of fierce advocacy [is] a powerful drawcard for existing and potential clients alike," it noted.

The language of the slide show reads like something from a business school manual. These three young lawyers, likely to be the future of ABL, did not mention the immigrant and refugee Jews who for so long were the bedrock clients of the firm that Bloch and Leibler had built.

Neither these clients nor even their offspring were ABL's future. ABL had to find the new generation of entrepreneurs now.

Mark Leibler has pulled back from daily legal work, to some degree. He still develops the strategy for big tax cases, but other partners and associates do the detailed work. He remains the first point of contact for long-term clients who have dealt with him directly for decades, but younger lawyers mostly take carriage of individual cases.

However, if a major case involves changes to legislation or rulings by the ATO that might adversely affect his clients, Leibler will step in. He still nourishes his contacts at the ATO's senior levels, including with the Commissioner, and his contacts with senior politicians on both sides of politics. The networking and schmoozing never stops; it's part of his DNA and he has helped to instil it in many lawyers at ABL.

Some ABL people said that Leibler could be blunt and gruff and could look right through you. He was not great at small talk.

His awkwardness could come across as arrogance. He probably had no idea who many of the people were at ABL.

But people also spoke of a quiet, confidential, caring side to Leibler, especially when anyone had a problem.

Claire Tedeschi, a former journalist who is ABL's senior communications adviser, said that when she had breast cancer 13 years ago, she felt wonderfully looked after by Leibler and by other people.

"He could seem so remote and inaccessible," she said, "yet his door was open to everyone. If you have a problem and wanted to see him, Mark will see you."

No doubt, Leibler can be blunt. At a luncheon meeting of ATO officials and representatives in an ABL boardroom in 2015, the atmosphere was friendly and polite, the questions were asked deferentially and the answers from the officials were measured and respectful.

During questions, the mood abruptly turned. Leibler got up and said that a tax change being considered by the Morrison government was a disgrace, outrageous, ridiculous and would not stand. These people, he said – referring to the Treasury officials who had put out a discussion paper on the issue – had no bloody idea what they were doing. The smiles and knowing glances that crossed the room suggested that this was Leibler in full flight: always blunt and emphatic – some might say rude – and not open to contradiction.

Leibler also does an increasing amount of pro bono work. Peter Seidel, who runs the firm's pro bono practice, has tried to keep a record of this work but Leibler often does not tell him what he is doing. Seidel thought that half of Leibler's pro bono hours might involve Indigenous issues.

Leibler still chairs the monthly partner meetings and, according to some partners, one thing he still focuses on with the same ferocity is the late payment, in some cases long-term non-payment, of fees. According to Lanzer, Leibler is not so much desperate to have the fees paid on time, but worried that late fees can be a symptom of something else: of disrespect, dissatisfaction with the service some clients are getting. That, Leibler cannot abide.

Every year, Leibler addresses the new intake of graduate lawyers and interns, and the Indigenous interns and law students that ABL mentors as part of the firm's Reconciliation Action Plan.

He gives them essentially the same messages he gave to Noel Pearson when he came to work at ABL in the mid-1990s, the same messages Bloch passed on to Leibler half a century ago: always be there for clients; nurture and grow your contacts; do not be erratic; understand power and learn how to exercise it; return calls; respond to every phone call that same day. **AFR**

This is the first of two edited extracts from *The Power Broker* by Michael Gaverda published by Monash University Publishing RRP \$39.95.

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Family ties: Rising star Jeremy Leibler, top, the son of Mark Leibler, and Jonathan Wenig, bottom, who is married to Jeremy's sister Simone, are both ABL partners.

Tomorrow Exclusive: The fight to clear Richard Pratt