

## ***In the Matter of Paul John Crowley***

**Case No:** SC/383  
**Date of Hearing:** 10 December 1996  
**Appearing Before:** Mr J Vandeleur (Acting  
Chairman)  
Mr G C Fox  
Ms C C Endicott

**Penalty:** Suspended – 6 months

On 17 October 1996, the Council of the Queensland Law Society laid the following charges against **PAUL JOHN CROWLEY** ('the practitioner').

- 1A. That the practitioner fraudulently converted to his own use, and to the use of third parties, sums totalling \$19,900 received and held by him in trust for a client.
- 1B. In the alternative to paragraph 1A, the \$19,900 referred to in paragraph 1A constituted a withdrawal of moneys by the practitioner from his trust account to make payment to himself and to third parties in circumstances other than those set out in Section 8(1) of the *Trust Accounts Act 1973* and in breach of that Section.
2. That the practitioner breached his undertaking given by letter dated 25 March 1996 to the solicitor acting for Company X, that he would not disburse from his trust account without the written authority of Company X, the sum of \$20,000 to be paid into the practitioner's trust account by Company X, in that the payment referred to in charge 1A above was made without Company X having provided any authority to the practitioner.
3. The practitioner falsely represented to an auditor appointed by the Queensland Law Society that he (the practitioner) then held in his trust account the sum of \$20,000 received by the practitioner from Company X when in fact, as the practitioner well knew, the sum of \$19,900 of the said sum of \$20,000 had already been paid out from the practitioner's trust account and the sum of \$100 only remained in the practitioner's trust account.
- 4A. That the practitioner fraudulently converted to the use of Company X the sum of \$19,900 held by him in trust for clients other than Company X.
- 4B. In the alternative, the payment referred to in charge 4A constituted a withdrawal of moneys by the practitioner from his trust account to make payment to Company X in circumstances other than those set out in Section 8(1) of the *Trust Accounts Act 1973* and in breach of that section.
- 5A. (Omitted)

- 5B. That the practitioner paid \$20,000 from moneys held in his trust account on behalf of Company B to his general account which constituted a withdrawal of moneys by the practitioner from his trust account to make payment to himself in circumstances other than those set out in Section 8(1) of the *Trust Accounts Act 1973* and in breach of that section.
6. That in breach of Regulation 5(c) of the *Trust Accounts Regulations 1973*, the practitioner failed at the end of the months of December 1995 and January 1996 to balance and reconcile his trust account cashbook with his trust account ledger.
7. That in breach of Regulation 5(c) of the *Trust Accounts Regulations 1973*, the practitioner failed to enter forthwith in his trust account cashbook particulars of money received and particulars of money paid in every transaction.
8. That in breach of Regulation 5(a) of the *Trust Accounts Regulation 1973*, the practitioner failed to keep or cause to be kept at all times a register of trust account receipt forms, in that no register was kept by the practitioner as at 12 September 1994 or as at 16 February 1996.
9. That the practitioner withdrew moneys from his trust account without ensuring that the amounts of such trust moneys were held on behalf of the client in question and without ensuring that the amounts of such withdrawals were no more than the amounts of such trust moneys.
10. (Omitted)
11. (Omitted)
12. That the practitioner caused moneys to be withdrawn from his trust account and transferred to his general account, which withdrawal was not made for a purpose authorised by Section 8(1) of the *Trust Accounts Act 1973* in that on 5 June 1995 in relation to a particular file, the practitioner transferred from his trust account to his general account the sum of \$780 for professional costs and outlays without authorisation by the client and without having first sent an account of his professional costs and disbursements.
13. That on or about 3 August 1995, the practitioner borrowed the sum of \$25,000 from a client in breach of Rule 86 of the Rules of the Queensland Law Society Incorporated which client was not a member of any of the classes of clients excepted from the operation of Rule 86.
14. In relation to the transaction referred to in charge 13, the practitioner preferred his own interests to those of the client in that the said loan was unsecured and not the subject of any agreement in writing.

Prior to the hearing, the Society amended its application and omitted charges SA, 10 and 11 from the charges heard by the Statutory Committee.

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## Findings and Orders:

The practitioner, through his Counsel, pleaded guilty to charges 6, 7, 8, 9 and 13 and, on a qualified basis, pleaded guilty to charge 3 in that although he made the statement to the auditor as alleged, he did not know at the time that the statement was not factual.

The Statutory Committee found those charges proven and that the matters constituted professional misconduct.

The Statutory Committee also found the matters alleged in charges 3, 4A and 5B proven and that those matters constituted professional misconduct.

The Statutory Committee did not find charges 1A, 2 and 14 to be proven and made no finding in respect of charge 12.

Upon the undertaking of the practitioner that he would not apply for a Principal Level Practising Certificate before 31 December 1999, the Statutory Committee ordered:

- (i) that the practitioner be suspended from practice until 11 June 1997;
- (ii) that the practitioner be fined the sum of \$5,000 to be paid on or before 31 December 1999; and
- (iii) that the practitioner pay the costs of the Queensland Law Society, including the costs of the shorthand writers and the Clerk to the Statutory Committee.

When making its orders, the Statutory Committee took into consideration the practitioner's relevant youth, the character references provided, and the pressures to which the practitioner subjected himself in running a sole practice. The Committee also took into account that in relation to charge 4A, there was no immediate financial gain accruing to the practitioner.