

In the Matter of Leon Martin Gordon

Case No: SCT/3
Date of Hearing: 13 May 1998
Appearing Before: Mr G A Murphy (Presiding Member/Practitioner Member)
 Mr M Meadows (Practitioner Member)
 Ms D A Wilson (Lay Member)
In Attendance: Mr N Sartor (Legal Ombudsman)

Charges

On May 13, 1998 the Solicitors Complaints Tribunal heard the following charges brought by the Council of the Queensland Law Society:

1. That the Practitioner fraudulently misappropriated trust moneys held by him for the estate of ASB deceased. Particulars of the amounts misappropriated by the practitioner are as follows:

| Date | Trust account cheque number | Amount \$ |
|----------|--|------------|
| 21/12/95 | 489420 | 965.33 |
| 21/12/95 | 489419 | 70,000.00 |
| 11/01/96 | 489426 | 40,000.00 |
| | (being part of cheque for \$42,632.64) | |
| 02/02/96 | 489441 | 5,000.00 |
| 19/02/96 | 489448 | 10,000.00 |
| 29/02/96 | 489449 | 20,000.00 |
| 27/03/96 | 489467 | 115,000.00 |
| 02/04/96 | 489468 | 12,000.00 |
| 12/04/96 | 489470 | 35,000.00 |
| 30/04/96 | 489476 | 5,000.00 |
| 03/05/96 | 489478 | 4,850.00 |
| 09/05/96 | 489480 | 7,000.00 |
| 15/05/96 | 489481 | 5,000.00 |
| 06/06/96 | 489484 | 5,000.00 |
| 12/08/96 | 489496 | 3,500.00 |
| 19/08/96 | 489497 | 4,500.00 |

| | | |
|--------------|--------|---------------------|
| 04/09/96 | 489501 | 4,850.00 |
| 13/09/96 | 489502 | 4,500.00 |
| 27/09/96 | 489533 | 4,500.00 |
| 10/10/96 | 489536 | 60,000.00 |
| | 489495 | 2,500.00 |
| Total | | \$419,165.33 |

The moneys so misappropriated were applied by the practitioner.

- (a) as to the sum of \$88,068.55 by payment to the practitioner's general account;
 - (b) as to the sum of \$27,465.33 by payment to or on behalf of the estate of MIB (deceased);
 - (c) as to the sum of \$115,000 by payment to or on behalf of the estate of AAA (deceased);
 - (d) as to the sum of \$25,000 by payment to or on behalf of the estate of HAT (deceased);
 - (e) as to the sum of \$52,022.83 by payment to or on behalf of the estate of IIP (deceased);
 - (f) as to the sum of \$29,856.70 by payment to the Office of State Revenue;
 - (g) as to the sum of \$913.53 by payment to or on behalf of the estate of DBR (deceased);
 - (h) as to the sum of \$3,300.45 by payment to CO;
 - (i) as to the sum of \$3,872.93 by payment to the Deputy Commissioner of Taxation;
 - (j) as to the sum of \$73,665.01 to various payments to persons unknown.
2. That the practitioner forged documents purporting to be receipts signed by MWMcN, one of the executors of the estate of ASB deceased, acknowledging payments received from the practitioner as follows:

| Date of Receipt | Amount |
|-----------------|-----------|
| 21/12/95 | \$7,000 |
| 11/01/96 | \$40,000 |
| 27/03/96 | \$115,000 |
| 12/04/96 | \$35,000 |
| 10/10/96 | \$60,000 |
 3. That the practitioner forged a document purporting to be a letter addressed to the practitioner's firm from DMcN claiming expenses in the sum of \$965.33 payable to DMcN by the estate of ASB deceased.
 4. That the practitioner fraudulently misappropriated trust moneys held by him for the estate of MIB deceased. Particulars of the amounts misappropriated by the practitioner are as follows:

| Date | Trust account cheque number | Amount \$ |
|--------------|-----------------------------|-----------------|
| 10/11/95 | 489404 | 7,000 |
| 23/11/95 | 489410 | 5,000 |
| 28/11/95 | 489412 | 8,750 |
| 04/12/95 | 489414 | 3,250 |
| 08/12/95 | 489417 | 2,500 |
| Total | | \$26,500 |

The moneys so misappropriated were applied by the practitioner:

- (a) as to the sum of \$18,192.05 by payment to the practitioner's general account;
 - (b) as to the sum of \$5,000 by payment to the Deputy Commissioner of Taxation;
 - (c) as to the sum of \$3,307.95 to various payments to persons unknown.
5. (i) That the practitioner fraudulently misappropriated trust moneys held by him for the estate of AAA (deceased). Particulars of the amounts misappropriated by the practitioner are as follows:

| Date | Trust account cheque number | Amount \$ |
|--------------|-----------------------------|-----------------|
| 30/01/92 | 488878 | 50,000 |
| 12/03/92 | 488911 | 15,000 |
| 09/04/92 | 488929 | 5,000 |
| 29/05/92 | 488954 | 5,000 |
| Total | | \$75,000 |

- (ii) The practitioner further fraudulently misappropriated a cheque in the sum of \$50,000 payable to SS, FTM, SI and the practitioner received by the practitioner on or about October 17, 1991 in part payment of the purchase price in respect of an asset of the estate of AAA (deceased), being a house property.
 - (iii) The moneys misappropriated as particularised in subparagraphs (i) and (ii) were applied by the practitioner:
 - (a) as to the sum of \$25,000 by payment to the practitioner's general account;
 - (b) as to the sum of \$100,000 by payment to the practitioner and/or to persons unknown.
6. That the practitioner fraudulently misappropriated trust moneys held by him for the estate of HAT (deceased). Particulars of the amounts misappropriated by the practitioner are as follows:

| Date | Trust account cheque number | Amount \$ |
|--------------|-----------------------------|-----------------|
| 23/08/95 | 489378 | 3,644 |
| 22/09/95 | 489390 | 20,000 |
| 02/10/95 | 489395 | 5,000 |
| Total | | \$28,644 |

The moneys so misappropriated were applied by the practitioner:

- (a) as to the sum of \$8,644 to the practitioner's general account;
 - (b) as to the sum of \$20,000 to the practitioner and/or to persons unknown.
7. That the practitioner fraudulently misappropriated trust moneys held by him for the estate of LMTO (deceased) viz the sum of \$22,889.73 being the amount of trust account cheque no 489046 drawn on 10 December 1992 and applied that sum to payment to the practitioner and/or to persons unknown.
8. (i) That the practitioner fraudulently misappropriated trust moneys held by him for the estate of BAO (deceased). Particulars of the amounts misappropriated by the practitioner are as follows:

| Date | Trust account cheque number | Amount \$ |
|--------------|-----------------------------|-----------------|
| 01/12/93 | 489153 | 15,000 |
| 11/01/94 | 489162 | 2,000 |
| 16/02/94 | 489181 | 5,000 |
| Total | | \$22,000 |

- (ii) The practitioner on or about March 18, 1994 further fraudulently misappropriated a cheque in the sum of \$8,699.40 drawn by HC Ltd payable to the practitioner's trust account.
 - (iii) The moneys misappropriated as particularised in subparagraphs (i) and (ii) were paid to the practitioner's general account.
9. That the practitioner fraudulently misappropriated trust moneys held by him for the estate of IIP (deceased). Particulars of the amounts misappropriated by the practitioner are as follows:

| Date | Trust account cheque number | Amount \$ |
|----------|-----------------------------|-----------|
| 19/12/94 | 489281 | 38,272.83 |
| 04/04/95 | 489341 | 8,750.00 |
| 23/06/95 | 489357 | 5,000.00 |

| Date | Trust account cheque number | Amount \$ |
|--------------|-----------------------------|--------------------|
| 24/07/95 | 489364 | 2,000.00 |
| 24/07/95 | 489365 | 2,000.00 |
| Total | | \$56,022.83 |

The moneys so misappropriated were applied by the practitioner:

- (a) as to the sum of \$30,000 by payment to or on behalf of the estate of AAA (deceased);
 - (b) as to the sum of \$17,750 by payment to the practitioner's general account;
 - (c) as to the sum of \$8,272.83 to persons unknown.
10. That the practitioner, in breach of Section 7(1) of the *Trust Accounts Act 1973*, failed to pay into his trust account a cheque in the sum of \$3,967 drawn by DR & JTG, which cheque represented, to the extent of \$3,585, anticipated stamp duty in respect of the transfer to DRG of a property. The said cheque was on or about March 19, 1997 deposited to the practitioner's general account and the sum of \$3,585 was thereby misappropriated.
11. That the practitioner fraudulently misappropriated trust moneys held by him for the estate of JJW (deceased). Particulars of the amounts misappropriated by the practitioner are as follows:

| Date | Trust account cheque number | Amount \$ |
|--------------|-----------------------------|-----------------|
| 14/06/96 | 489486 | 15,000 |
| 01/07/96 | 489489 | 7,500 |
| 11/07/96 | 489491 | 7,500 |
| 17/07/96 | 489492 | 4,850 |
| 22/07/96 | 489493 | 6,000 |
| 31/07/96 | 489494 | 7,500 |
| 19/08/96 | 489498 | 3,000 |
| 19/08/96 | 489499 | 5,000 |
| 01/10/96 | 489534 | 3,000 |
| 07/10/96 | 489535 | 6,500 |
| 15/10/96 | 489537 | 5,000 |
| 15/10/96 | 156538 | 5,000 |
| 28/10/96 | 489543 | 5,000 |
| 28/10/96 | 489544 | 6,000 |
| Total | | \$86,850 |

The moneys so misappropriated were applied by the practitioner:

- (a) as to the sum of \$74,444.35 by payment to the practitioner or to the practitioner's general account;
 - (b) as to the sum of \$12,405.65 to various payments to persons unknown.
12. That the practitioner, in breach of Section 7(1) of the *Trust Accounts Act 1973* failed to pay in to his trust account a cheque in the sum of \$5,917.11 drawn by the ANZ Bank on or about May 30, 1994, which sum represented the balance of a bank account in the name of DBR (deceased). The said cheque was on or about June 1, 1994 deposited to the practitioner's general account and thereby misappropriated.

Appearances

- (a) For the Council of the Queensland Law Society Incorporated:
Mr B Bartley, Solicitor of Corrs Chambers Westgarth Solicitors
- (b) For the practitioner:
Mr G Mann, Solicitor of Deacons Graham & James Solicitors

Decisions and Orders

1. The practitioner having pleaded guilty to the charges, the Tribunal found the facts alleged in the Notice of Charge of the Queensland Law Society Incorporated dated March 9, 1998 proved.
2. The Tribunal found those facts constitute professional misconduct.
3. The Tribunal found the practitioner guilty of professional misconduct.
4. The Tribunal ordered that the name of Leon Martin Gordon be struck from the roll of solicitors of the Supreme Court of Queensland.
5. The Tribunal ordered that the practitioner pay the costs of the Queensland Law Society Incorporated to be taxed.

Reasons

In view of the gravity of the offences, involving fraudulent misappropriation of substantial trust funds, the Tribunal considered there was only one appropriate penalty.