

## ***In the Matter of Bronwyn Sibylla Hughes***

**Case No.** SCT/51  
**Date of Hearing:** 27 March 2002  
**Appearing Before:** Ms Clare Endicott (Chairperson)  
Mr Michael Byrom  
Ms I Vallin-Thorpe (Lay Member)  
**Penalty** Struck off

### **Charges**

1. That the practitioner is guilty of professional misconduct or unprofessional conduct or practice in that, in February 2000, the practitioner fraudulently gave a mortgage over certain real property situated at X in the State of Queensland, registered in the name of one RS, as security for an advance of \$100,000 (“the said transaction”).
2. That the practitioner is guilty of professional misconduct or alternatively unprofessional conduct or practice in that, in furtherance of the said transaction:
  - (a) On or about 23 February 2000, the practitioner did write upon the said mortgage a signature purporting to be that of the mortgagor, RS, without the authority, knowledge or consent of the said RS, thereby falsely representing that the said mortgage had been executed by the said mortgagor;
  - (b) On or about 23 February 2000, the practitioner did write upon the said mortgage a signature purporting to be that of the one AK as witnessing officer to the purported execution of the mortgage by RS, without the authority, knowledge or consent of the said AK thereby falsely representing that the said AK had been witness to RS’s purported execution of the said mortgage;
  - (c) On or about 23 February 2000, the practitioner did write upon a deed of loan a signature purporting to be that of the borrower, RS, without the authority, knowledge or consent of the said RS, thereby falsely representing that the said deed of loan had been executed by the said borrower;
  - (d) On or about 23 February 2000, the practitioner did write upon the said deed

of loan two signatures purporting to be those of the said AK as witness to the purported execution of the deed of loan by the practitioner, without the authority, knowledge or consent of the said AK, thereby falsely representing that the said AK had been witness to the execution to the deed of loan;

- (e) On or about 23 February 2000, the practitioner did write upon various other documents described hereunder, a signature purporting to be that of the said RS, without her authority, knowledge or consent, thereby falsely representing that the said documents had been executed by the said RS:
  - (i) Mortgagee’s solicitors document entitled “Authorities and Undertakings”
  - (ii) Mortgagee’s solicitors fees Authority
  - (iii) Mortgagee’s solicitors document entitled “Acknowledgment”
  - (iv) Mortgagee’s solicitors document entitled “Warranty”
  - (v) Mortgagee’s Requisitions on Title.
3. That the practitioner is guilty of professional misconduct or alternatively unprofessional conduct or practice in that, in February 2000 the practitioner produced the duly completed documentation pertaining to the said transaction, including the executed deed of loan, executed mortgage and the other documents described in charge 2(e) to the solicitors for the mortgagee, thereby representing to them that the documents had been properly executed by the mortgagor and borrower, RS, knowing that such representation was false.
4. In February 2000, the practitioner misappropriated the proceeds of the loan of \$100,000 received pursuant to the fraud referred to in charge 1 above, by applying, or substantially applying; or alternatively, by directing the application of, the same to her own use and benefit in the manner particularised in paragraphs 8 and 9 of the particulars hereunder, without the authority, knowledge of consent of the said RS.

### **Particulars**

1. In or about 1991, the practitioner acted for RS in a conveyancing transaction for the purchase

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- of a property at X in the State of Queensland (“the said property”);
2. The said purchase was financed by Metway Bank, whose loan was paid out by RS in or about 1995, at which time RS provided the Certificate of Title and release of mortgage to the practitioner, to be held by the practitioner on her behalf;
  3. Since 1996 RS has been resident in the United Kingdom, save for visits to Australia from time to time;
  4. In or about February 2000 the practitioner made application, purportedly on behalf of herself and RS as applicant borrowers, through RFG Pty Ltd, mortgage brokers, for an advance of \$130,000 to be secured against RS’s unencumbered property at X. The said loan application was made without the knowledge, authority or consent of RS;
  5. One FRP subsequently instructed his solicitors, that he was prepared to advance the sum of \$100,000 secured by registered first mortgage security over the said property, and instructed his solicitors to proceed with documentation of the loan;
  6. The loan documentation including, inter alia:
    - (a) Mortgage in duplicate;
    - (b) Deed of Loan in duplicate;
    - (c) Mortgagee’s Requisitions on title, and;
    - (d) Various other diverse authorities
 were forwarded by the mortgagee’s solicitors to the borrowers for completion and signing on or about 18 February 2000;
  7. On or about 23 February 2000 the said loan documentation was completed by the practitioner and signed by the practitioner for herself as borrower, for RS as borrower and mortgagor, and for AK, as witness, in the manner described in charge 2(a)-(e) above, and without the knowledge, authority or consent of either RS or AK, and thereafter returned to the mortgagee’s solicitors.
  8. Settlement of the said loan took place on 25 February 2000 and the said mortgage registered on 28 February 2000. On or about 25 February 2000 the loan proceeds were disbursed by the mortgagee’s solicitors generally in accordance with the practitioner’s written instructions to them that day, namely:

(a) Commonwealth Bank of Australia	\$11,295.78
(b) The X Superannuation Fund	\$55,527.73
(c) U H Ltd	\$27,097.49
(d) R Finance	\$1,000.00
(e) Mortgagee’s interest payment & inspection fee	\$925.00
(f) Incidental disbursements – costs, rates etc	\$4,154.00
	<u>\$100,000.00</u>

9. The said payment of \$11,295.78 to the Commonwealth Bank of Australia was credited to an account of the practitioner. The said payment of \$55,527.73 to the X Superannuation Fund was in repayment of a principal debt due by the practitioner to the Fund (\$50,000) together with interest (\$5,527.73). The said payment of \$27,097.49 to UH Ltd was in part repayment of a debt due by the practitioner to the company;
10. The said instructions referred to in paragraph 8 and the said payments referred to in paragraph 9 were made without the authority, knowledge or consent of RS;
11. In or about October 2000 the mortgagee, FRP issued a notice of default and intention to exercise power of sale, which notice came to the attention of RS who thereupon became aware, for the first time, of the existence of the mortgage registered over her property in favour of FRP.

### Appearances

- (a) For the Council of the Queensland Law Society Incorporated:  
Mr R G Perrett, solicitor of Clayton Utz, solicitors
- (b) For the practitioner:  
There was no appearance for the practitioner.

### Findings and Orders

1. The tribunal found that the charges set out in the notice of charge dated 29 May 2001 were proven. The tribunal found that those charges constituted professional misconduct by the practitioner.
2. The tribunal ordered that the name of Bronwyn Sibylla Hughes be struck from the Roll of Solicitors of the Supreme Court of Queensland.

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3. The tribunal ordered that Bronwyn Sibylla Hughes pay the costs of the Queensland Law Society Incorporated and of the clerk and of the recorder, those costs to be assessed by Hickey & Garrett, costs assessors and that the assessment of costs include any reserved costs made in previous orders of this tribunal in this matter.
4. The tribunal further ordered that a copy of the findings and orders of this tribunal be served on the practitioner as required by s6Y(1) of the *Queensland Law Society Act 1952* by the following means:
  - (a) sending by prepaid post a copy of these findings and orders of this tribunal made today in an envelope addressed to Bronwyn Sibylla Hughes care of AR of XX, in the State of Queensland; and
  - (b) sending by prepaid post a copy of these findings and orders of this tribunal made today in an envelope addressed to Bronwyn Sibylla Hughes care of AR of Y, in the State of Queensland; and
  - (c) sending by prepaid post a copy of these findings and orders of this tribunal made today in an envelope addressed to Bronwyn Sibylla Hughes care of PC of Z.
5. The tribunal further ordered that service in accordance with this order shall be deemed good and sufficient service of these findings and orders of this tribunal made today upon the practitioner upon the expiration of 3 months after the date of compliance with paragraphs 4(a), 4(b) and 4(c) hereof.

### Reasons

The practitioner had been charged with four counts of misconduct by the Queensland Law Society. The charges

arose from the practitioner fraudulently arranging a loan to be taken out in her name and in the name of RS for \$100,000 in February 2000.

The loan was secured over a property at Hamilton owned by RS. The loan was settled on 25 February 2000 and proceeds of the loan were disbursed on the instructions of the practitioner. The loan substantially went to pay personal debts of the practitioner.

RS gave evidence by affidavit that she had no knowledge of the loan. She had not authorised the practitioner's applying for a loan in her name. She had not authorised the giving of security by way of mortgage over her Hamilton property in relation to the loan and she had not received any benefit from the loan proceeds.

RS became aware of the mortgage over her property in October 2000 and complained to the Queensland Law Society almost immediately about the conduct of the practitioner.

The practitioner did not appear to contest the charges.

The tribunal was satisfied that notice of the charges and the notice of hearing was duly served on the practitioner in accordance with the substituted service orders made by this tribunal on 23 October 2001.

The tribunal was satisfied that the affidavit material relied on by the Queensland Law Society was served on the practitioner in accordance with the substituted service order made by this tribunal on 19 February 2002.

The tribunal accepted the uncontested evidence of the Queensland Law Society and found that the charges were proven.

The tribunal found that the charges constituted professional misconduct by the practitioner.

The misconduct proven was of such a serious and reprehensible nature that the tribunal found that the practitioner was not a fit and proper person to practise as a solicitor.