

## In the Matter of Lindsay Terence Lawrence

Case No: SCT/67  
Date of Hearing: 11 June 2002  
Appearing Before: Ms C C Endicott (Chairperson)  
Mr M Conroy  
Dr J Lamont (Lay Member)  
Penalty: Fined \$5,000.00

### Charge 1 — DK

On 30 June 2000, when acting for DK, the solicitor, in breach of s8 of the *Trust Account Act 1973*, caused the sum of \$8,280 to be transferred from his client's individual trust ledger account to his firm's general account when he was not authorised by law so to do.

#### Particulars

- 1.1 At all material times the solicitor carried on legal practice as L & Associates and acted for DK ('the client') in a criminal compensation claim.
- 1.2 On 28 June 2000 the solicitor rendered to the client an account dated 16 May 2000 for costs and outlays totalling \$9,325.20 showing professional costs \$7,643.10 and outlays of \$1,682.10.
- 1.3 On 29 June 2000 the solicitor received the sum of \$52,500 on behalf of his client from the Queensland Government by way of criminal compensation which sum he deposited in his firm's general trust account to the credit of his client's individual trust ledger account.
- 1.4 The following day, 30 June 2000 the solicitor caused the sum of \$8,280 to be transferred from his client's individual trust ledger account to his firm's general account in payment of professional costs and outlays.
- 1.5 At the time of the said transfer of \$8,280 the solicitor's firm had not been authorised in writing within s8(1)(c) of the *Trust Accounts Act 1973* to effect the said transfer and was not otherwise authorised by law so to do.

### Charge 2 — DK

The solicitor, after being called upon by notice in writing dated 5 June 2001 under the hand of the secretary of

Queensland Law Society issued pursuant to s5H(2) of *Queensland Law Society Act 1952* to provide an explanation in writing of the matters the subject of the correspondence therein set out within 14 days of the date of receipt of the notice by the solicitor, failed to provide an explanation.

#### Particulars

- 2.1 At all material times the solicitor carried on legal practice as L & Associates and acted for DK (the client) in a criminal compensation claim.
- 2.2 By written complaint dated 13 July 2000 received by Queensland Law Society Inc ('the society') on 17 July 2000, the client complained about the solicitor.
- 2.3 By letter dated 19 July 2000 the society forwarded a copy of the said complaint to the solicitor and requested that he forward a sufficient and satisfactory written explanation of the complaint to the society by 9 August 2000.
- 2.4 No reply having been received by the society to its letter of 19 July, the society again wrote to the solicitor by letter dated 7 September 2000 advising that, unless a reply to its letter of 19 July 2000 was received within 7 days, a notice would be issued to him pursuant to s5H (2) of *Queensland Law Society Act 1952*.
- 2.5 On or about 18 September 2000 the solicitor contacted the society and gave an assurance that he would reply to the society's letter of 19 July 2000 by 25 September 2000.
- 2.6 Despite that assurance, the solicitor did not provide a reply to the society's letter of 19 July 2000 by 25 September 2000 and accordingly the society wrote to the solicitor again by letter dated 29 September 2000 advising him that, unless a reply was received by Friday 6 October 2000, the society would have no alternative but to issue the said s5H(2) notice.
- 2.7 No response was received by the society by 6 October 2000 as requested but by letter dated 10 October 2000 the solicitor replied to the society's letter of 19 July 2000 purporting to answer the complaint.
- 2.8 By further letter to the solicitor dated 17 November 2000 the society forwarded to him a copy of a further letter from the complainant dated 8 November 2000 detailing the respects in which

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the solicitor's letter of 10 October 2000 had failed to address the complaint forwarded to him by the society in its letter dated 17 July 2000. In that letter dated 17 November 2000 the society requested a full and satisfactory explanation of the matters raised by the complainant by 7 December 2000 failing which the society would have no alternative but to issue the said notice pursuant to s5H(2) of the *Queensland Law Society Act 1952*.

- 2.9 No response was received from the solicitor by 7 December 2000 but by letter dated 18 December 2000 the solicitor requested an extension of time until 15 January 2001 to reply to the society's letter of 17 November 2000 which extension was granted by the society by letter to the solicitor dated 2 January 2001.
- 2.10 No response was received by the society by the extended date of 15 January 2001 but by letter dated 17 January 2001 the solicitor wrote to the society purportedly addressing the matters raised in the complainant's further letter dated 8 November 2000 sent to the solicitor by the society by letter dated 17 November 2000.
- 2.11 By further letter dated 22 February 2001 to the solicitor the society forwarded a further letter dated 13 February 2001 from the complainant to the society in response to the solicitor's letter to the society dated 17 January 2001 and requested a response to the matters raised in that letter by 15 March 2001. Again the society told the solicitor that if no response was received by that date, the society would have no alternative but to issue the said s5H(2) notice.
- 2.12 No reply having been received from the solicitor to the society's letter dated 22 February 2001, by further letter dated 26 March 2001 the society again wrote to the solicitor seeking a reply within 7 days and again advising the solicitor that if no response was received in that time the society would have no alternative but to issue the said s5H(2) notice.
- 2.13 On or about 17 April 2000 the solicitor telephoned the society and sought an extension until 30 April 2001 within which to reply which extension was granted by the society by letter to the solicitor dated 18 April 2001.
- 2.14 No reply having been received from the solicitor by the extended deadline of 30 April 2001 the society again wrote to the solicitor by letter

dated 4 May 2001, seeking a response to its letter of 22 February 2001 and advised the solicitor that unless he communicated with the society by return the society would have no alternative but to issue the said s5H(2) notice.

- 2.15 No response was received from the solicitor and by further letter to him dated 15 May 2001 the society asked that he telephone it as a matter of urgency.
- 2.16 No reply having been received from the solicitor on 5 June 2001 the society forwarded to him by ordinary prepaid post addressed to him at his place of business and by facsimile transmission to his then current facsimile number a notice under s5H(2) of the *Queensland Law Society Act 1952* under the hand of the secretary of the society. That notice advised the solicitor that if his failure to answer the correspondence the subject of the notice continued for a period of 14 days after the date of receipt of the notice by him, the solicitor would be liable to be dealt with for professional misconduct unless he had a reasonable excuse for not complying with the said notice.
- 2.17 Subsequent to the service of the said notice, the society wrote again to the solicitor by letters dated 2 July 2001, 18 July 2001 and 21 August 2001 seeking a response to the relevant correspondence and notice but no response was received from the solicitor.

### Charge 3 — DK

In breach of s5H(1) of the *Queensland Law Society Act 1952* the solicitor failed to comply with a requirement of the Council of Queensland Law Society namely to provide an explanation within 21 days of 31 January 2001 of matters raised in a letter from the Queensland Law Society to the solicitor dated 31 January 2001 relating to the affairs of his client DK.

### Particulars

- 3.1 At all material times the solicitor carried on legal practice as L & Associates and acted for DK (the client) in a criminal compensation claim.
- 3.2 By letter dated 31 January 2001 the society wrote to the solicitor detailing certain matters in relation to accounts rendered by the solicitor to the client and seeking a response within 21 days.

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3.3 In breach of s5H(1) of Queensland Law Society Act the solicitor failed to respond to the society's letter of 31 January 2001.

### Charge 4 — SH

The solicitor, after being called upon by notice in writing dated 19 June 2001 under the hand of the secretary of Queensland Law Society issued pursuant to s5H(2) of the *Queensland Law Society Act* 1952 to provide an explanation in writing of the matters the subject of the correspondence therein set out within 14 days of the date of receipt of the notice by the solicitor, failed to provide an explanation.

#### Particulars

- 4.1 At all material times the solicitor carried on legal practice as L & Associates and acted for FOAK (the client) in matrimonial property proceedings against RSK.
- 4.2 By written complaint dated 20 April 2001 received by the Queensland Law Society (‘the society’) on 20 April 2001, one SH, the brother of RSK, complained about the solicitor.
- 4.3 By letter dated 2 May 2001 the society sent a copy of the said complaint to the solicitor seeking a sufficient and satisfactory written explanation of the matters referred to therein by 24 May 2001.
- 4.4 No reply having been received by the society from the solicitor to its letter dated 2 May 2001, the society again wrote to the solicitor by letter dated 29 May 2001 seeking a response to its letter of 2 May 2001 by 5 June 2001 advising that in the absence of such a response the society would have no alternative but to issue a notice pursuant to s5H(2) of the *Queensland Law Society Act* 1952.
- 4.5 No reply having been received from the solicitor to the society's letter of 29 May 2001 on 19 June 2001, the society forwarded to the solicitor by ordinary pre-paid post addressed to him at his place of business and by facsimile transmission to his then current facsimile number a notice under s5H(2) of *Queensland Law Society Act* 1952 under the hand of the secretary of the society. That notice advised the practitioner that if his failure to give an explanation in writing of the matters referred to in the complaint of SH dated 20 April 2001 continued for a period of 14 days after the

date of his receipt of the notice, he would be liable to be dealt with for professional misconduct unless he had a reasonable excuse for not complying with the said notice.

4.6 No response to the said notice has been received by the society.

#### Appearances

- (a) For the Council of the Queensland Law Society Incorporated:  
Mr DG Searles, solicitor, McCullough Robertson Lawyers.
- (b) For the practitioner:  
Mr I Dearden, solicitor, Dearden Lawyers.

#### Findings & Orders:

1. The tribunal granted leave to the applicant to amend the notice of charge dated 6 December 2001 in the following manner:  
  
In charge 2.13 in the first line by deleting “2000” and inserting “2001”.
2. The practitioner having admitted the charges set out in the notice of charge filed by the Queensland Law Society Incorporated and having admitted the particulars set out in the affidavits before this tribunal, the tribunal finds the practitioner guilty of the charges and finds that the practitioner has been guilty of professional misconduct on all 4 charges.
3. The tribunal orders that the practitioner pay a penalty of \$5,000.00 to the Fund.
4. The tribunal further orders that the Queensland Law Society Incorporated appoint a solicitor, at the practitioner's cost, to audit the files of the practitioner on 2 occasions over the next 12 months, and that reports about the practitioner's practice be supplied to the Queensland Law Society Incorporated and to the practitioner following those file audits.
5. The tribunal further orders that the practitioner pay the costs of the Queensland Law Society Incorporated of and incidental to this application including any costs of this matter previously being mentioned, the costs of the clerk and the recorder, all to be assessed by Monsour Legal Costs Pty Ltd.
6. The tribunal further orders that the practitioner be allowed 18 months to pay the monetary penalty and costs.

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### Reasons

The practitioner has been charged with four counts of misconduct. Charge 1 arises from the practitioner transferring a sum of money of \$8,280 from trust to his general ledger, when he did not have the client's authority to do so.

The practitioner submitted that he thought he had the written authority of his client to transfer the monies from trust, but he concedes before this tribunal that he could not locate the authority, and in doing so, he also concedes that his office systems at that time were inadequate.

Charges 2 to 4 arise from the failure of the practitioner to respond to correspondence from the Queensland Law Society, asking the practitioner to respond to complaints made against him.

The practitioner did not fully and finally respond to these complaints until his letter dated 6 June, 2002, which was just days before this tribunal hearing.

The practitioner has not adequately explained the delay caused in responding to these complaints, and the tribunal considers the practitioner's failure to explain adequately that delay, and the delay itself, to be most disconcerting.

The Queensland Law Society has the statutory obligation to investigate complaints against solicitors and the Society relies upon the co-operation of its members to ensure that its statutory obligations are fulfilled.

When practitioners fail to cooperate with the society, the regulatory system contained in the Queensland Law Society Act is placed at risk, and also places at risk the confidence of the public in the self-regulation of the profession by the Queensland Law Society.

The tribunal considers that the matters that are the subject of these charges are serious and finds that the practitioner has been guilty of professional misconduct on all 4 charges.

The tribunal considers that the public interest demands that the practitioner is dealt with severely for his breaches of the Act, given the fact that he has been found guilty of professional misconduct.

The tribunal accordingly orders the practitioner to pay a penalty of \$5,000 to the Fund.

The tribunal is also concerned that the evidence presented to it does raise indications that the practitioner's conduct of his practice may be inadequate. In response to this, the tribunal also orders that the Queensland Law Society appoint a solicitor at the practitioner's cost to audit the files of the practitioner on 2 occasions over the next 12 months, and that reports about the practitioner's practice be supplied to the Queensland Law Society and to the practitioner following those file audits.

## In the Matter of Gregory John Huddleston

**Case No:** SCT/71  
**Date of Hearing:** 11 June 2002  
**Appearing Before:** Ms C C Endicott (Chairperson)  
Mr P M Conroy  
Dr J Lamont (Lay Member)

### Charges

1. The practitioner misappropriated \$3,500 of client trust funds when acting for a client in Supreme Court proceedings;
2. The practitioner caused the sum of \$2,750 to be paid from his client's individual trust ledger account to pay agents fees when there were insufficient funds in the

said account, resulting in the trust account being overdrawn by \$2,693.26;

3. The practitioner misappropriated other client trust moneys by causing two amounts of \$5,000 each to be drawn on his client's individual trust ledger account when there were insufficient funds in the said account which the practitioner knew or ought to have known, resulting in the trust account being overdrawn by \$2,361.98 on the first payment and \$7,361.98 on the second payment;
4. On 19 October 2000, the practitioner, in breach of s8 of the *Trust Accounts Act 1973*, caused the sum of \$800 to be transferred from his client's individual trust ledger account to his firm's general account when he was not authorised so to do;
5. On 22 November 1999, the practitioner, in breach of s8 of the *Trust Accounts Act 1973*, caused the