

In the Matter of Eleanor Marsden

Case No SCT/17
Date of Hearing: 10 August, 1999
Appearing Before: Mr J S P O’Keeffe (Chairperson)
Ms C C Endicott
Mr G Campbell-Ryder (Lay Member)
Penalty: Struck off

Charge

The practitioner stole \$565,326.63 (“the monies”) of which she was trustee on 20 May, 1996 from RLW (“the Complainant”).

Particulars

- A. From 1987 onwards the Complainant retained the practitioner as her solicitor to manage her affairs;
- B. Between 1987 and 1996 the practitioner received into her trust account on behalf of the Complainant monies representing the Complainant’s interest in a deceased estate;
- C. On 15 May, 1996 the practitioner received into her trust account for the benefit of the Complainant a deposit of \$601,015.90 as the final distribution of the estate;
- D. On 20 May, 1996 the practitioner paid out the monies from her trust account to the ANZ Bank for the telegraphic transfer of \$450,000.00US to an organisation called “VGI” in Nassau, the Bahamas;
- E. The withdrawal of the monies by the practitioner was not in accordance with the directions or authority (written or otherwise) of the Complainant;
- F. The monies have not been recovered;
- G. On or about 2 November, 1998 an ex-officio indictment was presented to the District Court of Queensland at Southport informing the Court “ELEANOR MARSDEN stole \$565,326.63, the property of RLW, which money had then lately been received by the said Eleanor

Marsden with a direction that the same should be paid into her trust account and disbursed on the instructions of the said RLW”;

- H. On 9 November, 1998 the practitioner entered a plea of guilty to the indictment;
- I. On 19 March, 1999 the practitioner was convicted and sentenced to imprisonment for four (4) years with a recommendation to be eligible for release on parole after serving twelve (12) months of the sentence imposed.

Appearances

- (a) For the Council of the Queensland Law Society Incorporated:
Mr P Ryan, solicitor of Biggs & Biggs, Solicitors
- (b) The practitioner did not appear.

Findings and Orders

1. Pursuant to Section 6I of the Queensland Law Society Act 1952 the Tribunal ordered that the Notice of Charge be heard in the absence of the Practitioner.
2. The Tribunal found the facts particularised in the Notice of Charge proved and that those facts constitute professional misconduct.
3. The Tribunal found the practitioner guilty of professional misconduct.
4. The Tribunal ordered that the name of the practitioner, Eleanor Marsden be struck from the Roll of Solicitors of the Supreme Court of Queensland.
5. The Tribunal further ordered the costs in respect of the charge and to this hearing and incidental thereto be taxed and be paid by Eleanor Marsden.
6. The Tribunal accepted the letter (Exhibit 4), which is a claim for compensation pursuant to Section 5E of the Queensland Law Society Act. The Tribunal was satisfied pursuant to Section 6R(4) that the Complainant RLW had suffered pecuniary loss because of the professional misconduct of Eleanor Marsden.
7. The Tribunal ordered pursuant to Section 6R(1)(d) of the Queensland Law Society Act that the said Eleanor Marsden pay the Complainant, RLW, by way of compensation the sum of Seven Thousand Dollars (\$7,000.00).