

In the Matter of Practitioner X

Case No: SC/386
Date of Hearing: 4 March 1997
Appearing Before: Mr J S P O'Keefe
(Chairman)
Mr G C Fox
Mr A W Watt
Penalty: Fined, \$3,000

On 4 March 1997 the Statutory Committee heard charges laid by the Council of the Queensland Law Society by application dated 17 January 1997 against Practitioner X. The practitioner faced two charges:

1. That he borrowed the sum of \$10,000 from his client in breach of Rule 86 of the Rules of the Queensland Law Society.
2. That in doing so, he was in breach of his duty as a solicitor in that he mixed his own affairs with that of his client and preferred his own interests to those of his client. Further, that he acted in circumstances of conflict between the interests of his client and himself.

The Society was represented by a solicitor and the practitioner was represented by Counsel instructed by solicitors on the practitioner's behalf. Affidavit evidence was filed by the Society and the hearing proceeded by way of an agreed statement of facts. No evidence was called by the parties at the hearing. The solicitor for the Society and Counsel for the practitioner addressed the Committee.

The Committee found the facts as alleged in the Application and admitted by the practitioner by his acceptance of the statement of agreed facts proven and, that those facts constituted professional misconduct.

The Committee found the practitioner guilty of professional misconduct.

The Committee took into account the provisions of the statement of agreed facts, that the practitioner and the complainant (the client) had reached agreement with respect to payment of the outstanding loan, the practitioner's representations that the outstanding loan would be paid in accordance with that agreement, and the practitioner's cooperation with the Queensland Law Society in his endeavour to resolve the complaint.

The Committee fined the practitioner the sum of \$3,000 to be paid by four equal quarterly instalments of \$750 each commencing on 2 January 1998 (the date when the loan from the client is due to be repaid).

The Committee further ordered that the practitioner pay the costs of the Queensland Law Society Incorporated together with costs to the Clerk to the Statutory Committee and the shorthand writer.