

## In the Matter of Colin Richard Nantes

**Case No:** SCT/35  
**Date of Hearing:** 4 May 2000  
**Appearing Before:** Mr J S P O'Keeffe (Chairperson)  
Mr P Cooper  
Ms D A Wilson (Lay Member)  
**Penalty:** Struck off

### Charges

#### CJH

1. On or about 25 February 1999, the practitioner misappropriated the sum of \$141,930.58 belonging to his client, CJH.

#### Particulars

- 1.1 At all material times, the practitioner practised under the style name of Nantes Brennan & Watt at Mermaid Beach, Queensland.
- 1.2 At all material times, the practitioner acted for CJH (the client).
- 1.3 As at 25 February 1999, the client operated a bank account with the National Australia Bank Limited at its Albert Avenue, Broadbeach branch.
- 1.4 As at 25 February 1999, the sum of \$141,930.58 stood to the credit of the client in that said account.
- 1.5 On 25 February 1999, without the consent or knowledge of his client, the practitioner withdrew the said sum of \$141,930.58 from the client's said bank account and deposited it into the Nantes Brennan & Watt trust account to the credit of A Pty Ltd, a company of which the practitioner was then a director.
- 1.6 At no time did the client have any connection with or interest in A Pty Ltd.

#### BN Pty Ltd

2. On or about 14 July 1999, the practitioner falsely represented to his client, BN Pty Ltd, that an advance of \$60,000.00 made by it to the practitioner on or about 20 September 1994 was secured by first registered bill of mortgage when in fact that was not the case which the practitioner then well knew.

#### Particulars

- 2.1 At all material times, the practitioner practised under the style name of Nantes Brennan & Watt at Mermaid Beach, Queensland.
- 2.2 At all material times, the practitioner acted for BN Pty Ltd.
- 2.3 In or about September 1994, BN Pty Ltd instructed the practitioner in relation to an advance of \$60,000.00 by BN Pty Ltd to the practitioner and his wife, Sonja Woodrow Nantes, to be secured by a first registered bill of mortgage over a property owned by the practitioner and his wife and situated at 7 Bondi Avenue, Mermaid Beach, Queensland.
- 2.4 On or about 20 September 1994, BN Pty Ltd paid the said sum of \$60,000.00 to the practitioner for the purpose of the loan transaction.
- 2.5 On or about 14 July 1999 during a telephone conversation with M on behalf of BN Pty Ltd in relation to the loan transaction, the practitioner assured M that the loan moneys were secured by a first registered bill of mortgage over the 7 Bondi Avenue, Mermaid Beach property when that was not the case as the practitioner then well knew.
- 2.6 In fact, some three (3) months prior to that said telephone conversation, the practitioner and his wife had granted a first registered bill of mortgage number 703266239 over the 7 Bondi Avenue, Mermaid Beach property to MFH and CJH, which bill of mortgage was registered on 7 April 1999 thus preventing the practitioner from carrying out BN Pty Ltd's original instructions to provide it with first mortgage security over that said property.
- 2.7 As a result of the above conduct of the practitioner, the BN Pty Ltd loan was never secured.

#### CJH

3. On or about 30 March 1999, the practitioner misappropriated the sum of \$25,000.00 belonging to his client, CJH.

#### Particulars

- 3.1 At all material times, the practitioner practised under the style name of Nantes Brennan & Watt at Mermaid Beach, Queensland.

- 3.2 At all material times, the practitioner acted for CJH (the client).
- 3.3 As at 30 March 1999, the client operated a bank account with the Westpac Banking Corporation at its Broadbeach branch.
- 3.4 On or about 30 March 1999, acting upon the advice of the practitioner, the client signed cheque number 100097 for \$25,000.00 dated 30 March 1999 and drawn on the said Westpac Bank but blank as to payee for the purpose of investment in a Westpac annuities investment to be arranged by the practitioner.
- 3.5 Contrary to the client's instructions and without her knowledge or consent, the practitioner paid the said sum of \$25,000.00 to other clients of his, namely G & E J.

## Appearances

- (a) For the Council of the Queensland Law Society Incorporated:  
Mr D G Searles, solicitor of McCullough Robertson, solicitors.
- (b) For the practitioner:  
There was no appearance by or on behalf of the practitioner.

## Findings and Orders

1. The Tribunal found the charges as set out in the Notice of Charge dated 9 February 2000 proved and that the charges constitute professional misconduct.
2. The Tribunal ordered that the practitioner, Colin Richard Nantes, be struck from the Roll of solicitors of the Supreme Court of Queensland.
3. The Tribunal further ordered that Colin Richard Nantes pay the costs of the Queensland Law Society Incorporated as agreed between the parties, or failing agreement, as assessed by Monsour Legal Costs Pty Ltd.

## Reasons

The practitioner failed to appear at the hearing. The Tribunal was satisfied that the practitioner had been duly served with the Notice of Charge, and with all of the supporting material. The practitioner would have been aware not only of the hearing set down but also of the Law Society's evidence to support its charges.

Accordingly, the Tribunal proceeded to hear the charges in the absence of the practitioner.

There were three charges before the Tribunal. Two related to misappropriation by the practitioner of the sum of \$141,930.58 and the sum of \$25,000.00 belonging to his client, CJH.

The third alleged that the practitioner falsely represented to his client, BN Pty Ltd, that an advance of \$60,000.00 made to it by the practitioner was secured by first registered bill of mortgage when in fact that was not the case.

Members of the Tribunal felt that some of the affidavit evidence before it was deficient and unnecessarily so. Some reservations of the Tribunal were resolved by the evidence of Mr Melzer, a Law Society officer, when he was called by its solicitor.

The practitioner was aware of the serious charges against him and the supporting evidence, and had elected to not appear or to be represented.