

- (b) For the practitioner:
Mr W Francis of Counsel instructed by the practitioner.

Findings and Orders

3. The tribunal finds charges 1 and 3 proved and finds the practitioner guilty of professional misconduct, as admitted by the practitioner.
4. The tribunal orders that the practitioner pay a penalty of \$5,000.00 to the Fund.
5. The tribunal further orders that the practitioner pay the costs of the Queensland Law Society Incorporated of the proceedings including reserved costs, save for:
 - (a) the cost of drawing and engrossing the original notice of charge dated 22 June 1999; and
 - (b) the reserved costs of the tribunal hearings of 17

November 1999 and 29 March 2000;

such costs to be agreed, or in the absence of agreement, to be assessed by Hickey & Garrett, with the parties having the right to make written submissions to the assessors in relation to the assessment.

4. The tribunal further orders that the penalty be paid first at the rate of \$1,000.00 per month and that costs be then paid off at the rate of \$1,000.00 per month thereafter once they have been determined.

Reasons

The practitioner admits charges 1 and 3, and admits he is guilty of professional misconduct.

The tribunal finds these charges proved and finds the practitioner guilty of professional misconduct.

The Solicitors Complaints Tribunal

In the Matter of Robert Bruce Richard Nettleton

Case No: SCT/42
Date Of Hearing: 21 November 2000
Appearing Before: Mr T M Treston (Chairperson)
Ms G C Fox
Mrs M Green (Lay member)
Penalty: Suspended.

Charge

That the practitioner is guilty of professional misconduct or alternatively, unprofessional conduct or practice in that, in breach of his duty as a solicitor, he has failed to honour undertakings given by him, through his Counsel, to the Solicitors Complaints Tribunal on 8 September 1999.

Particulars

- (a) On 8 September 1999, on the hearing of Charge No. 18 concerning certain conduct on the part of the practitioner, the Solicitors Complaints Tribunal ("the tribunal") found the practitioner guilty of professional misconduct.

- (b) The practitioner, through his Counsel, offered certain undertakings, which undertakings were accepted by the tribunal, including, inter alia:
 1. The practitioner undertakes to refund the following amounts by 8 June 2000:
 - (i) \$25,000.00 to the Estate of EFW.
 - (ii) \$18,500.00 to HFV.
 - (iii) \$2,920.00 to the estate of RV ("underaking no.1")
- (c) Upon reliance on the undertakings given by the practitioner, including those set out in particular (b) above, the tribunal ordered that the practitioner pay a monetary penalty, rather than order a period of suspension, which, the tribunal said, in normal circumstances it would be inclined to order.
- (d) In breach of his undertaking to the tribunal, the practitioner failed to refund the amounts referred to in undertaking no. 1 by 8 June 2000, or at all.

The Council alleges that the charge constitutes professional misconduct or unprofessional

conduct or practice and in the event of such charge being proved to the satisfaction of the tribunal seeks an order that his name may be struck off the Roll of Solicitors of the Supreme Court of Queensland or that he be suspended from practice or such other orders as the tribunal may make pursuant to the *Queensland Law Society Act 1952*.

Appearances

- (a) For the Council of the Queensland Law Society Incorporated:
Mr R G Perrett, solicitor, Clayton Utz, solicitors.
- (b) For the practitioner:
The practitioner appeared in person.

Findings and Orders

1. Having noted that the practitioner pleaded guilty to the charge, the tribunal finds the allegations as set out in the notice of charge dated 21 September 2000 proved.
2. The tribunal finds, as admitted by the practitioner, that the charge constitutes professional misconduct.
3. The tribunal finds the practitioner guilty of professional misconduct.
4. The tribunal orders that the practitioner be suspended until the later of 30 June 2001 or such time as he is able to satisfy the Council of the Queensland Law Society Incorporated that he is a fit and proper person to hold a Practising Certificate.
5. Pursuant to Section 6L(4) of the *Queensland Law Society Act 1952*, the tribunal orders that the reports of Dr A dated 9 June 2000 and 30 July 1999 being

exhibits to the Affidavit of Mr Perrett sworn and filed by leave today, not be available for publication until further order.

6. The tribunal further orders that the costs of the Queensland Law Society Incorporated of and incidental to these proceedings, be paid by the practitioner, such costs to be agreed upon, or, failing agreement, to be fixed as assessed by Monsour Legal Costs Pty Ltd.

Reasons

The reasons for the penalty may be summarised as follows:

1. The tribunal takes into account both the period for which the practitioner has not held a Practising Certificate and the period for which he has not been permitted to work as a clerk.
2. The circumstances of the original charges which were determined on 8 September 1999.
3. The matters deposed to in the practitioner's affidavit.
4. The extent to which the practitioner's medical condition has been a factor.
5. The acceptance on behalf of the Queensland Law Society Incorporated that there was no evidence to show the practitioner's condition is not treatable.
6. The contents of the report of Dr A of 9 June 2000 which indicates compliance with the undertaking to pursue medical treatment and also the last paragraph of that report in which Dr A noted significant improvement in the general state of health of the practitioner.
7. Finally, in relation to supervision of practice, the tribunal notes the practitioner's compliance with that undertaking as set out in the letter from Mr C dated 9 June 2000.