

5. The practitioner fraudulently misappropriated trust moneys held by him as follows:

Date	Cheque No.	Amount
02/04/97	001141	\$32,500.00
09/07/97	001155	\$46,000.00

The moneys so misappropriated were applied by the practitioner:

- (a) as to the sum of \$32,500.00 by payment to the practitioner's general account;
 - (b) as to the sum of \$46,000.00 by purchase of a Jeep Cherokee motor vehicle.
6. The practitioner fraudulently misappropriated further trust moneys by:
- (a) drawing cheques upon a series of trust accounts held by him on behalf of various clients;
 - (b) entering in the cashbook/ledger incorrect details relating to the payees of such cheques; and
 - (c) paying such cheques to payees unconnected with the said clients.

Findings and Orders

1. Upon the acknowledgment of the practitioner, Mark Allan Creedon through his Counsel, for the purposes of these proceedings, that the allegations contained in the Notice of Charge are admitted, the Tribunal finds the practitioner guilty of those charges. The Tribunal finds those charges constitute professional misconduct. The Tribunal finds the practitioner guilty of professional misconduct.
2. The Tribunal orders that the name of the practitioner, Mark Allan Creedon, be struck from the Roll of the Solicitors for the Supreme Court of Queensland.
3. The Tribunal orders that the Queensland Law Society's costs of and incidental to this application be taxed and paid by Mark Allan Creedon.

Reasons

The Tribunal has found the practitioner guilty of charges of forgery and misappropriation of trust monies. Regardless of the amounts involved they are serious matters and satisfy the Tribunal that the practitioner is not a fit and proper person to remain on the Roll of Solicitors. Further in this case the practitioner's counsel has advised that he is not opposed to the striking off order.

The Solicitors Complaints Tribunal

In the Matter of Ronald James Webster

Case No. SCT/6
Date of Hearing: 3 July 1998
Appearing Before: Mr J S P O'Keeffe (Chairperson)
Mr A MacGillivray
Ms D A Wilson (Lay Member)
Penalty: Suspended for 1 year

Charges

On 3 July 1998 the Solicitors Complaints Tribunal heard the charges set out in the Notice of Charge dated 24 March 1998, as follows:

1. That in breach of Rules 82(2), 82(3) and 82(5) of the Rules of the Society, the practitioner failed to give to the Council a sufficient and satisfactory explanation of the matters referred to in the complaints set out below.

Particulars

- (a) In connection with the matter of a complaint by Mr and Mrs S and B Pty Ltd
 - i) By letter 17 October 1996 the Secretary requested the practitioner to furnish within 14 days a sufficient and satisfactory written response to a complaint dated 12 October 1996. No reply was received within that time.
 - ii) By letter 4 November 1996 the Deputy

Secretary, having received no reply to the Society's letter of 17 October 1996, requested the practitioner to forward a detailed reply within 7 days. No reply was received within that time.

- iii) By letter 22 January 1997 the Secretary requested the practitioner to provide within 14 days a response to various matters raised in a letter from the Society to the practitioner of 7 January 1997. No reply was received within that time.
 - iv) By letter 12 February 1997 the Secretary having received no replies to the Society's letters of 7 January and 22 January 1997, requested the practitioner to respond within 10 days of 12 February 1997. No reply was received within that time.
 - v) By letter 30 April 1997 the Secretary requested the practitioner, pursuant to Rule 82(5) to deliver to the Society his file in relation to the matter of Mr and Mrs S and B Pty Ltd together with the practitioner's trust and general account ledgers relating to the matter and relevant extracts from his cash book, within 10 days of 30 April 1997. No reply was received within that time.
- (b) In connection with the matter of a complaint by Messrs BG on behalf of Mr RA
- i) By letter 5 March 1997 the Secretary requested the practitioner to furnish within 14 days a sufficient and satisfactory written explanation of the matters referred to in a letter of complaint dated 28 February 1997. No reply was received within the time specified.
 - ii) By letter 26 March 1997 the Secretary, having received no reply to the letter of 5 March, requested the practitioner to respond within 10 days. No reply was received within the time specified.
- (c) In connection with the matter of a resolution by the Council of the Society on 28 August 1997
- i) By letter 4 September 1997 the Secretary requested the practitioner to provide within 10 days a sufficient and satisfactory reply to the matters reported in the Society's Section 31 Audit Report dated 8 July 1997. No reply was received within the time

specified or at all.

2. Pursuant to Rule 83(2) the practitioner was guilty of professional misconduct in that he failed to furnish sufficient and satisfactory replies in writing to requests therefor, which failures continued for a period of 14 days from the practitioner's receipt of notifications given pursuant to Rule 83(1) of the Rules of the Society, as set out below.

Particulars

- (a) In connection with the matter of the complaint by Mr and Mrs S and B Pty Ltd
- i) By Notice dated 25 February 1997, pursuant to Rule 83 of the Rules of the Society, the Secretary notified the practitioner that if he failed to furnish a satisfactory reply in writing to the matters referred to in the Notice for a period of 14 days from the date of the receipt of the notification, he would be liable to be dealt with for professional misconduct.
 - ii) By letter 11 March 1997 the practitioner replied to the aforesaid Notice but failed to furnish a sufficient and satisfactory reply to the matters referred to in the Notice.
 - iii) By Notice dated 13 May 1997 pursuant to Rule 83, the Secretary notified the practitioner that if he failed to furnish a satisfactory reply in writing to the matters referred to in the Notice for a period of 14 days from the date of receipt, he would be liable to be dealt with for professional misconduct. The practitioner failed to furnish a reply to the Notice either within 14 days or at all.
- (b) In connection with the matter of the complaint by Messrs BG on behalf of Mr RA
- i) By Notice dated 7 April 1997 pursuant to Rule 83, the Secretary notified the practitioner that if he failed to furnish a satisfactory reply in writing to the matters referred to in the Notice within 14 days from the date of receipt of the notification he would be liable to be dealt with for professional misconduct. The practitioner failed to furnish a reply to the Notice either within the 14 day period or at all.

(c) In connection with the matter of a report on an examination of accounts pursuant to Section 31

i) By Notice dated 23 September 1997 pursuant to Rule 83, the Secretary notified the practitioner that if he failed to furnish a satisfactory reply in writing to the matters referred to in the Notice within a period of 14 days from the date of receipt of the notification he would be liable to be dealt with for professional misconduct. The practitioner failed to furnish a reply to the Notice either within the 14 day period or at all.

3. That the practitioner, in breach of his duty as a solicitor, failed, within a reasonable time after being requested in writing by his client to do so, to render to the client a bill of costs covering all work for that client to which such request related and for which he had not already rendered a bill of costs.

Particulars

(a) By letter posted on or about 6 August 1996 Mr and Mrs S requested the practitioner to provide a detailed account in respect of all monies paid by them to him on account of professional fees and outlays.

(b) No account was provided by the practitioner in response to this request.

(c) By written complaint to the Society dated 12 October 1996 Mr and Mrs S complained that

i) They had requested a statement of costs from the practitioner on 6 August 1996 and received no reply and

ii) The practitioner had frequently promised to provide a bill of costs but had failed to do so.

(d) The written complaint of 12 October 1996 was forwarded to the practitioner under cover of the Society's letter of 17 October 1996.

(e) By letter to the Society 25 November 1996 the practitioner advised that he expected all files to be costed and reports provided to Mr and Mrs S by 20 December 1996.

(f) No bill of costs had been provided by the practitioner to Mr and Mrs S covering work undertaken by him on their behalf either by 20 December 1996 or at all.

Hearing

On 3 July 1998 the matter came on for hearing before the Solicitors Complaints Tribunal.

Mr RG Perrett, solicitor of Clayton Utz solicitors appeared for the Queensland Law Society Incorporated.

Mr AG Morris, QC, instructed by Gilshenan & Luton, solicitors appeared for the practitioner.

The practitioner pleaded guilty to the charges set out above and conceded that the conduct referred to in the charges constituted professional misconduct.

Summary of Submissions

For the Society

It was submitted that the conduct to which the practitioner had pleaded guilty would ordinarily result in a significant fine or a suspension. The practitioner, through his counsel, had informed the Tribunal that, as he was on the verge of bankruptcy, a fine was not an option.

There was a disturbing aspect to the complaints, namely that for almost two years Mr and Mrs S and the Society had been calling upon the practitioner to deliver his files and to deliver accounts in relation to those matters, yet, at the time of hearing none of those matters had been attended to by the practitioner, despite the fact that the Society had written to the practitioner pointing out the seriousness of the matters and calling upon him to do something. At the very least, when the proceedings were served on the practitioner in early May 1998, that should have prompted action to resolve the issues. It was a serious matter that, even as at the date of hearing, the problems had not been addressed and Mr and Mrs S were no better informed than they had been when they first sought information in August 1996.

In relation to a medical report tendered on behalf of the practitioner, the Society expressed sympathy but read the report to indicate that the practitioner had not been capable of practising as a solicitor since 1996.

In all the circumstances the practitioner should be suspended.

For the Practitioner

It was submitted that it was a tragedy that the practitioner's life had fallen into ruin in recent years and that he was a good person who had fallen on hard times. Prior to the hearing he had resolved not to attempt to continue in practice and he had undertaken medical treatment.

It was submitted that a normal suspension in this case would be three to six months. It was conceded that a fine would not be appropriate in view of the practitioner's financial circumstances. However, as the practitioner needed to work in another field it was argued that a suspension may impact adversely on his future alternative prospects and therefore the Tribunal should consider accepting from the practitioner his undertaking not to practise for a period of twelve months.

Findings and Orders

1. The Tribunal found the practitioner, Ronald James Webster, guilty of the charges set out above.
2. The Tribunal found that these charges constituted professional misconduct as admitted by the practitioner.
3. The Tribunal ordered that Ronald James Webster be suspended from practice as a solicitor of the Supreme Court of Queensland for a period of one year.

4. The Tribunal ordered that the practitioner pay the costs of the Queensland Law Society Incorporated including reserved costs, with respect to the charges set out above and by consent it ordered that those costs be reached by agreement and, failing agreement, to be assessed by Monsour Legal Costs Consultants.

Reasons

Counsel for the practitioner submitted that an adequate and appropriate penalty would be for an order that the practitioner undertake not to practise for a stipulated period of time. The Tribunal was not persuaded by the submissions made in this regard on behalf of the practitioner, having in mind particularly that it was indicated that the practitioner's present intention was never to practise again. The Tribunal was firmly of the opinion that the practitioner's conduct clearly warranted a suspension. It considered the submissions made by his counsel and the favourable references.

The Solicitors Complaints Tribunal

In the Matter of Practitioner X

Case No: SCT/10
Date of Hearing: 4 August 1998
Appearing Before: Mr J S P O'Keeffe (Chairperson)
Mr T M Treston
Mr G Campbell-Ryder (Lay Member)
Penalty: Fined \$2,000

Charges

On 4 August, 1998 the Solicitors Complaints Tribunal heard the following charges brought by the Council of the Queensland Law Society.

That the practitioner:

- 1.1 Being a trustee within the meaning of the Trusts Accounts Act 1973 ('the Act'), was in breach of s. 16(2) of the Act by failing to have audited by his auditor the accounting and other records kept by him

pursuant to s.6 of the Act and the trust account established and kept by him pursuant to s.7 of the Act, for the six months ending 30 September 1994, and by failing to lodge with the Chief Executive of the Department of Justice, an auditor's report containing the prescribed information by 30 November 1994;

- 1.2 Being a trustee within the meaning of the Trusts Accounts Act 1973 ('the Act'), was in breach of s.16(2) of the Act by failing to have audited by his auditor the accounting and other records kept by him pursuant to s.6 of the Act and the trust account established and kept by him pursuant to s.7 of the Act, for the six months ending 31 March 1995, and by failing to lodge with the Chief Executive of the Department of Justice, an auditor's report containing the prescribed information by 30 May 1995;
- 1.3 Being a trustee within the meaning of the Trusts Accounts Act 1973 ('the Act'), was in breach of s.16(2) of the Act by failing to have audited by his auditor the accounting and other records kept by him pursuant to s.6 of the Act, and the trust account established and kept by him pursuant to s.7 of the Act, for the six months ending 30 September 1995, and by failing to lodge with the Chief Executive of the