

LEGAL PRACTICE TRIBUNAL

de JERSEY CJ

MS D PURDON

DR D DANN

No 756 of 2005

LEGAL SERVICES COMMISSIONER

Applicant

and

EDWARD PAUL WILLIAMS

Respondent

BRISBANE

..DATE 22/05/2006

REASONS

WARNING: The publication of information or details likely to lead to the identification of persons in some proceedings is a criminal offence. This is so particularly in relation to the identification of children who are involved in criminal proceedings or proceedings for their protection under the *Child Protection Act 1999*, and complainants in criminal sexual offences, but is not limited to those categories. You may wish to seek legal advice before giving others access to the details of any person named in these proceedings.

THE CHIEF JUSTICE: The respondent has admitted two charges of professional misconduct or, alternatively, unsatisfactory professional conduct.

The first is in that in breach of section 5H(1) of the Queensland Law Society Act 1952 he failed to give the council, within a stated reasonable time, an explanation in writing of a matter being investigated and failed to deliver up his client file to assist that investigation. And, second, that he failed for 14 days to comply with notices given by the council under section 5H(2) of the Act.

The problem arose from the respondent's delay in the treatment of three matters for a client, Mr Goodenough. The client complained to the Queensland Law Society in August 2002 and that complaint was resolved. But further delay provoked another complaint from the client on the 3rd of December 2003. The society forwarded that complaint to the respondent requesting an explanation under section 5G(a). The respondent eventually telephoned the society but that was considered inadequate and on the 2nd of February 2004 the society again sought a comprehensive explanation to be provided by 9th February 2004.

Again that was not forthcoming. The society then on 11 February 2004 forwarded a section 5H notice requiring a response within 14 days. The respondent responded to the society's notice by providing a copy of a letter he had sent

to his client. He did that two days after the expiration of the 14 day period. Its content, however, was perfunctory.

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Accordingly on the 2nd of March 2004 the society renewed its requirement for a proper comprehensive explanation asking that it be provided by the 10th of March 2004. It was the respondent's failure to respond to that requirement which gave rise to the first charge.

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That failure led to a section 5H notice requiring a response within 14 days. On the 29th of March 2004 the respondent replied but again inadequately, which led to a further requisition from the society on the 13th of April 2004. The respondent was to provide his explanation by the 28th of April 2004 and the file by the same date. The explanation was never given and the file was delivered eventually on the 7th of July 2004, hence the second charge.

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The respondent is a 55 year old practitioner. He was admitted in 1976. He practises in Far North Queensland. He has sworn to his embarrassment that these lapses occurred and that he has put strategies in place to ensure no recurrence. Mr Philp SC and Mr Morzone of counsel describe the misconduct as aberrant and generally support the professionalism of the respondent.

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The respondent's failure to comply with the council's requirement is professional misconduct because he had no reasonable excuse for non-compliance. See section 5H(3)(a).

The section aside, the respondent humbugged the society and practitioners generally would regard that treatment of a professional association properly going about its investigative business as dishonourable.

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The Tribunal accepts that the respondent is unlikely to re-offend in this way. His record to this point has been unblemished. The orders made should, however, reflect the importance of practitioners complying with the reasonable requirements of the council in aid of such investigations. See Legal Services Commissioner against Brown (2004) NSWADT 63 and Law Society of New South Wales and Fernie (2006) NSWADT 123.

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There will be orders as follows:

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1. The respondent is found guilty of the two charges and therefore of professional misconduct.
2. The respondent is publicly reprimanded.
3. The respondent is ordered to pay a penalty to the Legal Practitioner Interest on Trust Accounts Fund in the amount of \$1000 by the 22nd of June 2006.
4. The respondent is ordered to pay the costs of the applicant, Legal Services Commissioner, as assessed if not agreed.

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