

LEGAL PRACTICE COMMITTEE OF QUEENSLAND

REGISTRY: Brisbane
NUMBER: 003/10

Applicant: LEGAL SERVICES COMMISSIONER

AND

Respondent: ROLAND EDWARD TAYLOR

ORDER

Before: Mr Peter Cooper (Chairperson), Mr Martin Conroy (Solicitor member) Ms P Frampton (Lay member)

Date: 24 January 2011

Basis for Judgment: Discipline application filed on 29 September 2010

THE ORDER, FINDINGS AND REASONS OF THE COMMITTEE:

The respondent was born on 9 October 1968 and is currently aged 42 years. He was admitted as a solicitor of the Supreme Court of Queensland on 1 February 1993. The respondent is an Australian legal practitioner within the meaning of section 6 of the *Legal Professions Act 2007*.

The charges brought by the Legal Service Commissioner against the respondent are:
(1) the respondent acted on behalf of clients whose interests were in conflict with each other; and
(2) the respondent between 8 November 2007 and 20 February 2008 breached rule 8.5 of the Legal Profession (Solicitors) rule 207.

The respondent acted for a client as vendor of a property situated in Emerald. The contract was dated 12 October 2007. Originally, the purchasers were represented by

P. Cooper

ORDER
Filed on behalf of the Applicant
Form 59rr661

RECEIVED
04 FEB 2011

by
LEGAL PRACTICE COMMITTEE

Legal Services Commission
Level 25, 307 Queen Street
Brisbane Qld 4000
Telephone: (07) 3406 7737
Facsimile: (07) 3406 7749

Anne Murray and Associates but this firm subsequently withdrew from acting on her behalf.

On 9 November 2007, the respondent accepted instructions to act for the purchasers. As from this date, the respondent was acting for all parties in the conveyance. It was agreed between the parties that the purchasers would take early possession and pay rent. Different conveyancing clerks attended to the work for the vendor and purchasers. The respondent was responsible for the supervision of both conveyancing clerks. During the course of the conveyance there developed a dispute regarding the payment of the rent which was the subject of correspondence of 5 and 6 February 2008. On 7 February 2008 it was agreed that the contract be terminated but the question of the unpaid rent was not resolved. By correspondence dated 13 and 14 February 2007, the parties attempted to resolve the outstanding issues concerning the terms of redelivery of possession unsuccessfully.

On 20 February 2008, the respondent informed the parties that he was unable to continue to act.

There has been filed a statement of agreed facts in which:

- (a) the respondent acknowledges that it ought to have become apparent to the conveyancing clerks and to himself that the clients' interests were in conflict from 13 February 2008;
- (b) the respondent admitted that he failed to properly supervise the conveyancing clerks so as to ensure that he ceased to act for both parties immediately upon the conflict arising;
- (c) the respondent admitted that he breached rule 8.5 of the Legal Profession (Solicitors) rule 207 in that he failed to provide information to the parties in writing and failed to obtain written acknowledgement from the parties that he was acting on behalf of both parties with respect to the conveyance.

It is accepted that both parties were informed orally and provided oral acknowledgment of the fact. The Commissioner concedes that the practitioner's omission in failing to secure a written acknowledgement from both parties is a technical breach.

The committee finds the conduct complained of amounts to unsatisfactory professional conduct and finds the respondent guilty of unsatisfactory professional conduct. In determining penalty, the committee has taken into account the following:

- The respondent has never appeared in any disciplinary matter.
- The respondent has cooperated with Legal Service Commissioner.

P. Sawyer

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- The matter is categorised as a technical breach of short duration.

As to penalty, the committee hereby publicly reprimands the respondent which is hereby given.

The committee does not impose a monetary penalty.

The committee orders :

1. the respondent to pay the Legal Service Commissioner's costs agreed between the parties as \$1000.00 within 30 days of today's hearing.
2. that this matter be published on its website.

As to the claim for compensation, the committee does not think that the alleged losses flow from the charges . They may be pursued in another jurisdiction if the party wishes. Accordingly, the committee does not exercise its discretion to make an order as to compensation.

P. Bouyer
Chairperson

31. 1. 11
Date

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