

**LEGAL PRACTICE COMMITTEE OF QUEENSLAND**

**OFFICE:** Brisbane  
**NUMBER:** 002/07

**Applicant:** LEGAL SERVICES COMMISSIONER

**AND**

**Respondent:** DAVID CHUN-HONG LIN

**DISCIPLINE APPLICATION**

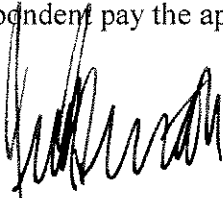
**A. DETAILS OF APPLICATION**

This application is made under section 276 of the *Legal Profession Act 2004* ("Act").

On the facts stated in the particulars of charge set out below, the applicant seeks the following orders:

1. Pursuant to section 282 of the Act that the respondent is guilty of unsatisfactory professional conduct.
2. Such further or other orders or directions as may be just.
3. The respondent pay the applicant's costs of the application.

Signed:



Description: Legal Services Commissioner

Dated:

09/02/07

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LEGAL PRACTICE COMMITTEE

## **B. PARTICULARS OF CHARGE**

The Commissioner alleges that the following charges constitute unsatisfactory professional conduct:

### ***Charge 1***

1. Between 18 August 2005 and 16 February 2006, the respondent:
  - (a) breached Section 7(3) of the *Trust Accounts Act 1973*;
  - (b) made payments from his trust account in breach of section 8(1) of the *Trust Accounts Act 1973*;
  - (c) made payments from his trust account in breach of Section 10 of the *Trust Accounts Regulation 1999*;
  - (d) failed to operate his trust account in a diligent and competent manner.

### **Particulars**

- 1.1 At all material times, the respondent:
  - (a) was an Australian legal practitioner as defined in the Act;
  - (b) was the principal of the law practice, Davellin Lawyers;
  - (c) was a trustee as defined by the *Trust Accounts Act 1973*;
  - (d) maintained a trust account in accordance with the provisions of the *Trust Accounts Act 1973*.
- 1.2 On 18 August 2005, the respondent received the sum of \$36.00 on account of outlays for the matter L Tian – Spouse Visa Application.
- 1.3 The sum of \$36.00 was trust money and a trust account receipt was issued to record its receipt.
- 1.4 The respondent failed to deposit the sum of \$36.00 to his trust account until 16 February 2006.
- 1.5 On 18 August 2005, the respondent paid the sum of \$36.00 from his trust account in payment of outlay expenditure.
- 1.6 The payment of the sum of \$36.00 on 18 August 2005 was made in breach of the provisions of Section 8(1) of the *Trust Accounts Act 1973* and in breach of the

provisions of Section 10 of the *Trust Accounts Regulation 1999* as no money was held in the trust account for this matter.

- 1.7 The payment of the sum of \$36.00 from the trust account on 18 August 2005 resulted in a deficiency of trust money to the extent of \$36.00.
- 1.8 The deficiency of \$36.00 was restored by the respondent on 16 February 2006 when he deposited the sum of \$36.00 to his trust account.

### ***Charge 2***

2. Between 3 October 2005 and 9 February 2006, the respondent:
  - (a) breached Section 7(3) of the *Trust Accounts Act 1973*;
  - (b) made payments from his trust account in breach of section 8(1) of the *Trust Accounts Act 1973*;
  - (c) made payments from his trust account in breach of Section 10 of the *Trust Accounts Regulation 1999*;
  - (d) failed to operate his trust account in a diligent and competent manner.

### **Particulars**

- 2.1 On 3 October 2005, the respondent received the sum of \$11,372.90 on account of professional fees and outlays for the matter M T & L K S Lay P/F Stacey.
- 2.2 The sum of \$11,372.90 was trust money and a trust account receipt was issued to record its receipt.
- 2.3 The respondent failed to deposit the sum of \$11,372.90 to his trust account until 9 February 2006.
- 2.4 On 11 October 2005, the respondent paid the sum of \$11,372.90 from his trust account in payment of professional fees and outlays, including stamp duty and fees paid to the Department of Natural Resources.
- 2.5 The payment of the sum of \$11,372.90 on 11 October 2005 was made in breach of the provisions of Section 8(1) of the *Trust Accounts Act 1973* and in breach of the provisions of Section 10 of the *Trust Accounts Regulation 1999* as no money was held in the trust account for this matter.
- 2.6 The payment of the sum of \$11,372.90 from the trust account on 11 October 2005 resulted in a deficiency of trust money to the extent of \$11,372.90.

- 2.7 The deficiency of \$11,372.90 was restored by the respondent on 9 February 2006 when he deposited the sum of \$11,372.90 to his trust account.

### **Charge 3**

3. Between 3 October 2005 and 9 February 2006, the respondent:
- (a) breached Section 7(3) of the *Trust Accounts Act 1973*;
  - (b) made payments from his trust account in breach of section 8(1) of the *Trust Accounts Act 1973*;
  - (c) made payments from his trust account in breach of Section 10 of the *Trust Accounts Regulation 1999*;
  - (d) failed to operate his trust account in a diligent and competent manner.

### **Particulars**

- 3.1 On 3 October 2005, the respondent received the sum of \$4,000.00 on account of professional fees and outlays for the matter S Lin S/T Noussair.
- 3.2 The sum of \$4,000.00 was trust money and a trust account receipt was issued to record its receipt.
- 3.3 The respondent failed to deposit the sum of \$4,000.00 to his trust account until 9 February 2006.
- 3.4 On 15 November 2005, the respondent paid the sum of \$4,000.00 from his trust account in payment of professional fees and outlays, including stamp duty and fees paid to the Department of Natural Resources.
- 3.5 The payment of the sum of \$4,000.00 on 15 November 2005 was made in breach of the provisions of Section 8(1) of the *Trust Accounts Act 1973* and in breach of the provisions of Section 10 of the *Trust Accounts Regulation 1999* as no money was held in the trust account for this matter.
- 3.6 The payment of the sum of \$4,000.00 from the trust account on 15 November 2005 resulted in a deficiency of trust money to the extent of \$4,000.00.
- 3.7 The deficiency of \$4,000.00 was restored by the respondent on 9 February 2006 when he deposited the sum of \$4,000.00 to his trust account.

### **C. TO THE RESPONDENT**

Mr David Lin  
of C/- Davellin Lawyers  
Suite 112 "Times Square"  
250 McCullough Street  
Sunnybank Qld 4109

This application will be heard by the Committee at a time and date to be fixed.

Filed with the Committee on     /     /2007

Secretariat:

If you wish to contest this application, or to make submissions on penalty, you must lodge a Notice of Address for service with the Secretariat within fourteen [14] days of service of this application on you. The Notice should be in Form 8 to the Uniform Civil Procedure Rules. If you fail to file a Notice of Address for service with the Secretary within fourteen [14] days of service of this application on you, the matter will be heard in default of your appearance, on a date to be fixed being not less than twenty one [21] days after service of this application on you.

### **D. SERVICE**

#### **APPLICANT'S ADDRESS FOR SERVICE:**

Name:	Legal Services Commission
Applicant's business address:	Level 25, 307 Queen Street. Brisbane Qld 4000
Address for service:	As Above
DX:	DX 40118 Brisbane Uptown
Telephone:	(07) 3406 7737
Fax:	(07) 34067749
E-mail address:	<a href="http://www.lsc@lsc.qld.gov.au">www.lsc@lsc.qld.gov.au</a>