

LEGAL PRACTICE COMMITTEE OF QUEENSLAND

OFFICE: Brisbane
NUMBER: 015/06

Applicant: LEGAL SERVICES COMMISSIONER

AND

Respondent: DIANNE MAY EDWARDS

DISCIPLINE APPLICATION

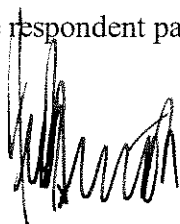
A. DETAILS OF APPLICATION

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:

20/09/06

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B. PARTICULARS OF CHARGE

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

Charge 1 – Breach of undertaking

1. On divers dates between 7 July 2003 and 26 July 2003 the respondent, being a solicitor and trustee of property, breached a written undertaking given by her to Messers McLaughlin & Associates on 2 July 2003.

Particulars

- 1.1 At all material times, the respondent:
 - (a) was a legal practitioner;
 - (b) was the principal of the law practice Dianne M. Edwards, Solicitor;
 - (c) acted for M. Englefield in a de facto property settlement (“the property settlement”).
- 1.2 The other party in the property settlement, L. Pickett, was represented by McLaughlin & Associates.
- 1.3 In the Heads of Agreement in the property settlement, signed by the parties on 19 December 2002, the respondent’s client warranted that the mortgage debt of a property at 17 Colburn Street, Cleveland (“the property”), would, at the time of sale, be no greater than at the time of separation.
- 1.4 On 2 July 2003 the respondent gave a written undertaking to McLaughlin & Associates in the following terms:

“I refer to previous correspondence and your client’s concerns regarding the mortgage details as at the date of separation and as at the date of settlement.

I confirm that at the time of dictating this letter, the writer is not apprised of the payout figure to the mortgagee and will not be in a position to know these details until tomorrow. In the circumstances, I undertake to hold the whole of the balance of proceeds of sale of the Colburn Street property in my trust account pending satisfaction by your client as to the compliance with the Heads of Agreement by my client.”
- 1.5 The sale of the property was settled on 3 July 2003. The mortgage debt at the time of settlement (\$52,400.01) exceeded the mortgage debt at the time of separation (\$50,274.23).

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1.6 On 4 July 2003 the respondent received sale proceeds in the amount of \$88,484.82 into her trust account.

1.7 Between 7 July 2003 and 26 July 2003 the respondent, in breach of her undertaking, disbursed \$13,137.04 of the sale proceeds from her trust account, on the dates and in the amounts shown in the table below:

Date	Amount	Paid to
8 July 2003	\$1,430.00	The respondent, for costs and outlays in respect of another matter for M. Englefield.
22 July 2003	\$1,179.73	Another trust ledger maintained on behalf of M. Englefield, to reimburse a payment from that trust ledger account to the Child Support Agency.
24 July 2003	\$8,812.94	The respondent, for costs and outlays in respect in respect of another matter for M. Englefield
25 July 2003	\$1,715.25	The respondent, for costs and outlays in respect of another matter for M. Englefield
Total	\$13,137.04	

1.8 As at 25 July 2003, the respondent held only \$74,902.78 of the sale proceeds in her trust account.

Charge 2 – Breach trust accounts regulation

2. On divers dates between 7 July 2003 and 26 July 2003 the respondent, being a solicitor and trustee of property, breached regulation 21 of the *Trust Accounts Regulation 1999*.

Particulars

- 2.1 The applicant repeats and relies on particulars 1.1 to 1.8.
- 2.2 Each of the transactions shown in particular 1.7 involved internal transfers of trust monies from one trust ledger account to another.
- 2.3 At the time each transaction was made, the respondent did not keep a trust account journal for transfers of moneys from one trust ledger account to another.
- 2.4 The respondent breached regulation 21 in respect of each of the transactions shown in particular 1.7, in that she failed to transfer the moneys by journal entry.

* * *

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C. TO THE RESPONDENT

Dianne May Edwards
C/- Mr Michael Quinn
Of Gilshenan & Luton Lawyers
Level 13, 259 Queens Street, Brisbane in the State of Queensland

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

Filed with the Committee on 20 / 9 / 2006

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:	www.lsc@lsc.qld.gov.au

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