

LEGAL PRACTICE COMMITTEE OF QUEENSLAND

OFFICE: Brisbane
NUMBER: 001/05

Applicant: LEGAL SERVICES COMMISSIONER

AND

Respondent: GREGOR JAMES McCARTHY

DISCIPLINE APPLICATION

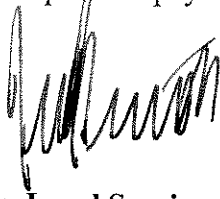
A. DETAILS OF APPLICATION

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:

29/3/05

RECEIVED
29 MAR 2005
by 
LEGAL PRACTICE COMMITTEE

DISCIPLINE APPLICATION
Filed by the Applicant
R 4(1) Legal Profession
(Tribunal and Committee) Rule 2004
Form LPC1

LEGAL SERVICES COMMISSION
Level 25, 307 Queen Street
Brisbane 4000
Telephone: (07) 3346 7737
Facsimile: (07) 3346 7749
DX: 148

B. PARTICULARS OF CHARGE

The Commissioner alleges that the following charge constitutes unsatisfactory professional conduct:


Gregor James McCarthy (the respondent), being a solicitor and trustee of property, namely clients' trust moneys, failed, for the financial period ending 31 March 2004, to comply with his obligations as trustee with respect to the audit requirements of his trust account.

Particulars

- 1.1 At all times, the respondent was the trustee and sole signatory of the trust bank account of Gregor McCarthy & Company, Solicitors, conducted at the ANZ Bank, Toowong.
- 1.2 The respondent was obliged as trustee, in respect of each financial period ending 31 March, to cause his trust records to be audited and to:
 - (a) by 31 May, lodge an auditor's report for that financial period in accordance with s.16(1) of the *Trust Accounts Act*; and
 - (b) by 14 June, lodge an audit certificate for that financial period in accordance with s.3 of the *Legal Practitioner's Regulation 1996*.
- 1.3 In breach of his duty, for the financial period ending 31 March 2004, the respondent failed to have his trust account audited and to lodge the audit report and audit certificate by the due dates particularized in paragraph 1.2.
- 1.4 By letter dated 13 July 2004, Mr Bill Hourigan, Manager of the Queensland Law Society's (the Society) Audit Branch, informed the respondent of his obligations as particularized in paragraph 1.2 and sought compliance with those obligations within 28 days.
- 1.5 In a telephone discussion on 9 September 2004, Ms Rebecca Campbell an employee of the Society, informed the respondent, in effect, that unless his auditor's report was lodged by 1 October 2004 a discipline charge would be recommended.
- 1.6 On 13 October 2004, the respondent lodged the audit report and audit certificate for the financial period ended 31 March 2004.

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C. TO THE RESPONDENT(S)

GREGOR JAMES McCARTHY

4th Floor, Worldcare House, 49 Sherwood Road Toowong 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 29 March 2005.

RECEIVED
29 MAR 2005
by *A. Newman*
LEGAL PRACTICE COMMITTEE

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 148
Telephone:	(07) 3406 7737
Fax:	(07) 34067749
E-mail address:	www.lsc@lsc.qld.gov.au

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