

# LEGAL PRACTICE COMMITTEE OF QUEENSLAND

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REGISTRY: Brisbane  
NUMBER: 008/08

**Applicant:** LEGAL SERVICES COMMISSIONER

AND

**Respondent:** BLAYNE LEDGER

## ORDER

Before: Mr P Cooper, assisted by Mr M Conroy and Ms B Russell

Date: 11 May 2009

Basis of Judgement: Originating application filed in the Legal Practice Tribunal on 19 December 2007

### THE ORDER, FINDINGS AND REASONS OF THE COMMITTEE:

The discipline application was filed in the Legal Practice Tribunal 19 December 2007. There was a consent order on 25 September 2008 that the disciplinary application would be remitted to the Legal Practice Committee, and the order was formalised by the tribunal on 8 October 2008.


The respondent was born on 5 May 1975 and is 36 years old. He was admitted to practice as a solicitor to the Supreme Court of Queensland on 2 October 1997. The respondent is an Australian legal practitioner within the meaning of section 6 of the *Legal Professions Act 2007*.

The committee has determined that it has jurisdiction to hear this matter. The disciplinary application comprises two charges.

Charge 1 alleges the respondent charged his client excessive legal costs, and

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ORDER  
Filed on behalf of the Applicant  
Form 59rr661

RECEIVED  
15 MAY 2009  
by   
LEGAL PRACTICE COMMITTEE

Legal Services Commission  
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Brisbane Qld 4000  
Telephone: (07) 3406 7737  
Facsimile: (07) 3406 7749

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Charge 2 alleges that the respondent failed to maintain reasonable standards of competence and diligence, in that, following the cost assessment which reduced his original and final account, he issued a second account which purported to charge additional fees for the same period covered by the original final account.

There has been filed a statement of agreed facts, in which the respondent admits charges 1 and 2.

In respect of charge 1, the respondent rendered an account for \$3320.45 which the client paid. On assessment, the account was reduced to \$1059.42. On the face of that, an overcharge of \$2261.03, which equates to 68 per cent.

The respondent's account was challenged by the client through the normal procedure, and as a result, the client was put to a great deal of trouble in order to recover the overcharge.

The statement of agreed facts shows that the respondent attempted to withdraw the account which was the subject of the assessment and replace it with a different account. He subsequently failed to repay the amount which was deemed to have been overcharged by the cost assessors, requiring the client to bring a claim in the Magistrates Court.

In respect of charge 2, the respondent issued a second account for the additional fees and costs purportedly incurred by the client in the same period covered by the first account.

The committee, whilst accepting the percentage argument in Duffield's case, notes that there were substantially more accounts rendered in that case, in fact, 22, and the amounts involved were much greater, and the committee feels that this distinguishes that case from the present circumstances.

The committee notes the other cases advanced by the parties to support the arguments and also notes the penalties handed down in the cited cases.

The committee is of the view, whilst practitioners are not obliged to appear, it is desirable for a practitioner to appear and to acknowledge the seriousness of the charge.

The committee also notes the unexplained delay in bringing the matter to finality, and finds this unacceptable and unexplained by the commissioner.

The committee has taken into account the early plea by the respondent, that the respondent has no previous offence or complaints, and, that the refund of the

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overpayment charged in relation to the costs - albeit pursuant to a magistrate's court order - and the payment of the assessed costs by the respondent to the client.

In relation to the claim of compensation, the committee has exercised its discretion not to make an order for compensation, and has taken into account;

- (1) a cost order was made in the matter of the magistrates court hearing;
- (2) the affidavit in support of the compensation claim is lacking in details and deficient in substance;
- (3) the late claim for the compensation - that a copy not being filed but only being produced at the bar table and a copy handed to the respondent's solicitors today.


The committee finds the charges proved and the conduct complained of as unsatisfactory professional conduct, and we find the respondent guilty of unsatisfactory professional conduct.

- The committee publicly reprimands the respondent, which is hereby given.
- The committee orders that the respondent pay \$2000 by way of penalty to the Legal Practitioner's Interest on Trust Accounts Fund within three months from today's date.
- The committee orders the respondent to pay the commissioner's costs, fixed at \$1000, within three months from today's date.

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P. Cooper  
Chairperson

15-5-09  
Date

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by JK  
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