

LEGAL PRACTICE COMMITTEE OF QUEENSLAND

OFFICE: Brisbane  
NUMBER: 001/09

**Applicant:** LEGAL SERVICES COMMISSIONER

AND

**Respondent:** JOHN STANLEY GREGG

**DISCIPLINE APPLICATION**

**A. DETAILS OF APPLICATION**

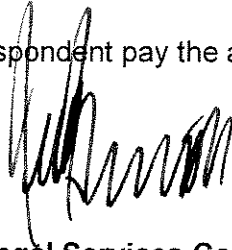
This application is made under section 452 of the *Legal Profession Act 2007* ("Act").

The applicant alleges that on the particulars of charge set out below, the respondent is guilty of unsatisfactory professional conduct.

Upon a finding that the respondent is guilty of unsatisfactory professional conduct the applicant seeks the following orders;

1. Disciplinary orders pursuant to section 458 of the Act.
2. Any 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:

27 January 2009

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## B. PARTICULARS OF CHARGE

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

### Charge 1- Lack of Competence & Diligence

In the conduct of a conveyancing matter on behalf of Bronwyn Cozens ("the client") between 24 July 2007 and 30 August 2007 the respondent failed to reach or maintain the standard of competence and diligence that a member of the public is entitled to expect of a reasonably competent Australian Legal Practitioner.

### PARTICULARS

- 1) At all material times the respondent;
  - a. was an Australian Legal Practitioner;
  - b. was the sole principle of the legal practice Gregg Lawyers;
  - c. employed a conveyancing clerk, Sarah Dunphy ("Dunphy") to conduct conveyancing transactions;
  - d. was responsible for the supervision of Dunphy's work on behalf of clients;
  - e. bore ultimately responsibility for the proper conduct of conveyancing matters on behalf of clients.
- 2) At all material times Gregg Lawyers conducted conveyancing services under the name 'Conveyancing Express - a division of Gregg Lawyers'.
- 3) On or about 24 July 2007 the client engaged 'Conveyancing Express' to act for her in relation to her contracted purchase of real property at Deception Bay ("the conveyance").
- 4) Notwithstanding that the respondent was the legal practitioner responsible for the conveyance on behalf of Conveyancing Express, the respondent gave carriage of the conveyance to Dunphy.
- 5) The contract included a number of special conditions. Special Condition 3 provided a time frame during which the client must give notice to the seller of any outstanding council requisitions.
- 6) On 31 July 2007 Dunphy wrote to the client acknowledging receipt of the contract and setting out various dates when the client was to comply with certain obligations under the contract. No mention was made in the letter of the special conditions in the contract, particularly the date relevant to special condition 3, namely 10 August 2007.

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- 7) On 7 August 2007 Dunphy advised the client that "[t]he Council approvals are due today." Later that day, the client via email to Dunphy, asked in relation to the Council approvals:-

*"Is this something I should have done? My unfamiliarity with this process is making me blunder. Please help me to get this right!"*

Dunphy did not respond to this email.

- 8) On 7 August 2007, without instructions from the client, Dunphy obtained from the solicitors for the seller a one day extension of the date to obtain pest and building reports and complete the searches required by special condition 3.
- 9) By letter of 8 August 2007 Dunphy advised the seller's solicitor that *"we are instructed to advise that our client waives her rights to the Finance Condition and special condition A of the contract."*
- 10) Dunphy did not seek or obtain the client's instructions to waive any of her rights as purported in the letter of 8 August 2007.
- 11) At no time prior to 8 August 2007 did the respondent or Dunphy return or answer the client's query made on 7 August 2007 concerning the Council approvals.
- 12) At no time did the respondent or Dunphy explain the client's rights and obligations pursuant to special condition 3.
- 13) The respondent failed to exercise any or sufficient supervision of Dunphy in relation to the conveyance.
- 14) Upon receipt of the contract on 30 July 2007 and thereafter, the respondent failed to inform the client of the special conditions which had been included in the contract and the nature and effect those conditions had upon her contractual rights.
- 15) The respondent failed to ensure that searches of the records of the Caboolture Shire Council were conducted in sufficient time to ensure that such results would be received by the date required by special condition 3 of the contract, namely 7 August 2007 or alternatively, to obtain instructions to request from the seller an extension of time for compliance with special condition 3 until the Council search had been received.
- 16) The respondent failed to give the client the benefit of his own professional judgement regarding her rights and possible causes of action concerning the effect of special condition 3 and any claims which could be made against the seller.
- 17) On 8 August 2007 the respondent allowed the waiver of his client's rights pursuant to the special conditions of the contract without instructions to do so and prior to conducting searches relevant to the provision of information concerning the exercise of that condition.
- 18) The respondent failed to respond to or ensure Dunphy responded to the client's inquiries of 7 August 2007.

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**C. TO THE RESPONDENT**

John Stanley Gregg, Solicitor  
 Level 11  
 445 Upper Edward Street  
 SPRING HILL Qld 4000

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

Filed in the Brisbane Secretariat on 27 / 1 / 2009.

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Secretariat:

by *JS*  
 LEGAL PRACTICE COMMITTEE

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 Secretariat 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="mailto:www.lsc@lsc.qld.gov.au">www.lsc@lsc.qld.gov.au</a>