

**LEGAL PRACTICE COMMITTEE OF QUEENSLAND**

**REGISTRY: Brisbane**  
**NUMBER: 001/09**

**Applicant: LEGAL SERVICES COMMISSIONER**

**AND**

**Respondent: JOHN STANLEY GREGG**

**ORDER**

**Before:** Mr P Cooper, assisted by Mr W LeMass and Ms P Frampton

**Date:** 16 March 2009

**Basis of Judgement:** Originating application filed on 27 January 2009

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

The respondent is a 52 year old solicitor who was admitted to practise as a solicitor of the Supreme Court of Queensland on 27 February 1979.

There is one charge brought by the applicant against the respondent, namely:

- (i) his conduct, exhibited in the conveyance on behalf of a client, showed a lack of competence and diligence, and as such, constitutes unsatisfactory professional conduct.

The respondent had employed a conveyancing clerk, to conduct conveyancing transactions, and he was responsible for the supervision of this conveyancing clerk on behalf of clients. The respondent gave the carriage of a conveyancing contract to his clerk which contained a number of special conditions. Special condition 3 provided a timeframe during which the client must give notice to the seller of any outstanding council requisitions. On 31 July 2007 the conveyancing clerk 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, to explain the affect of special condition 3. The

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Filed on behalf of the Applicant  
Form 59rr661

Legal Services Commission  
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respondent has acknowledged that, but has not admitted that the date relevant to special condition 3 was namely 10 August 2007, as stated in the disciplinary application.

On 7 August 2007, the conveyancing clerk advised the client that:

*The council approvals are due today.*

Later that date, the client, via email to the conveyancing clerk, asked, in relation to the council's approvals:

*Is this something I should have done? My unfamiliarity with this process is making me blunder, please help me to get this right?*

It is not known what, if any, response the conveyancing clerk provided to the client. The conveyancing clerk is no longer employed by the respondent and cannot be found. On 7 August 2007, the conveyancing clerk 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. At no time did the respondent personally return or answer the client's query made on 7 August 2007 concerning the council's approvals or explain to the client her rights and obligations pursuant to special condition 3. The conveyancing clerk did not make proper file notes of any conversations with the client, or any advice provided in respect of special condition 3.

The respondent admits that he failed to exercise any or sufficient supervision of his conveyancing clerk, in relation to the conveyance. Upon receipt of the contract, on 30 June 2007 and thereafter, the respondent failed to inform the client of special condition 3, including the nature and affect of that condition upon the client's contractual rights. The respondent failed to ensure that searches of council records 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's searches had been received.

The respondent failed to give the client the benefit of his professional judgment regarding his client's rights, and possible causes of action concerning the affect of special condition 3, and any claims which could have been made against the seller.

On 8 August 2007, the respondent did not prevent the waiver of the client's rights pursuant to special condition 3. Council's search should have been obtained prior to 8 August 2007, and the results shown conveyed to the client, with an explanation of them, and then instructions sought as to how the client could exercise rights under special condition 3.

The respondent admits that:

- (a) An unusual special condition was notified by the conveyancing clerk when possession of the contract took place.

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- (b) To the best of his recollection, special condition 3 was not squarely brought to his attention for advice as it should have been if his standard conveyancing procedures had been followed.
- (c) The significance and meaning of special condition 3 was apparently overlooked by the conveyancing clerk.
- (d) Relevant dates for satisfaction of that special condition were not adequately diarised by the conveyancing clerk, as they should have been.
- (e) To the best of the respondent's recollection, problems which arose with the contract were not squarely brought to his attention as they should have been.
- (f) Searches were not requested within adequate time to take full advantage of condition 3.
- (g) The council's searches, when received, does not appear to have been read or adequately understood as they should have been, and adequate advice was not given to the client.
- (h) The respondent should have carried out a review of the file and addressed the issues.

The respondent has pleaded guilty to this charge.

The committee finds that the conduct complained of amounts to unsatisfactory professional conduct, and the committee finds the respondent guilty of unsatisfactory professional conduct

. In relation to determining penalty, the committee has taken into account:

- (a) The respondent has fully cooperated with the Legal Service Commissioner.
  - (b) The respondent has had no previous unsatisfactory or unprofessional conduct.
  - (c) The respondent has cooperated fully with the Legal Service Commissioner, and the Queensland Law Society, in the investigation of the complaint and the conduct of the disciplinary proceedings.
  - (d) The steps taken by the respondent, as detailed in paragraph 15 of his response, to prevent a reoccurrence of similar errors, and the fact that the respondent has paid to the client, prior to the commencement of these proceedings, a sum of money, namely \$6032.50.
1. The committee publicly reprimands the respondent, which is hereby given.
  2. The committee orders that, by agreement, the respondent pay to the applicant its costs, agreed at \$1000.

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P. Cooper  
Chairperson

19/3/09  
Date

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