

LEGAL PRACTICE COMMITTEE OF QUEENSLAND

OFFICE: Brisbane
NUMBER: 003/07

Applicant: LEGAL SERVICES COMMISSIONER

AND

Respondent: MICHAEL ROBERT DE VERE

DISCIPLINE APPLICATION

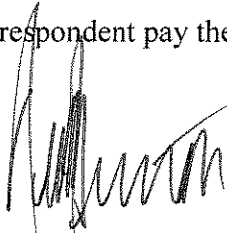
A. DETAILS OF APPLICATION

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

On the facts stated in the particulars of charge set out below, the applicant seeks the following orders:

1. Pursuant to section 458 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:

31/08/07

R E C E I V E D
04 SEP 2007
by 
LEGAL PRACTICE COMMITTEE

DISCIPLINE APPLICATION
Filed on behalf of the Applicant
Rule 4(1) Legal Profession (Tribunal and Committee) Rule 2007
Form LPC, Version 1

Legal Services Commission
Level 25, 307 Queen Street
Brisbane Qld 4000
Telephone: (07) 3406 7737
Facsimile: (07) 3406 7749

B. PARTICULARS OF CHARGE

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

1. That between 3 November 2005 and 29 September 2006 Michael Robert De Vere (the Practitioner) borrowed an amount of \$120,000 from a client contrary to rule 86 of the then Queensland Law Society Rules 1987 (*repealed 30 June 2006*) and rule 86 of the then Legal Profession (Solicitors) Rule 2006 (*repealed 30 June 2007*).

Particulars

- 1.1 At all material times, the Practitioner was a solicitor admitted to practice in Queensland.
- 1.2 At all material times Blair Tracey Gough and Phylippa Rae Bernice Gough ('the Goughs') were clients of the practitioner as defined in rule 86(4).
- 1.3 On 3 November 2005 a Deed of Loan was duly executed by the practitioner as borrower and the Goughs as lender. The Deed provided for the practitioner to borrow \$120,000 from the Goughs, to be repaid with interest on or before 3 November 2006.
- 1.4 On 3 November 2005 \$120,000 was transferred from funds held in trust for the Goughs into a trust account ledger for this transaction. On the same day \$40,000 was paid to the practitioner from those funds. On 8 November 2005 the remaining \$80,000 was paid to the practitioner from the funds in trust.
- 1.5 On 11 November 2005 the practitioner sought and obtained the Goughs' authority to draw down funds from the trust account as per the Deed of Loan.
- 1.6 The practitioner made interest payments to the trust account ledger on 6 December 2005, 17 January 2006 and 30 June 2006. On 25 September 2006 the practitioner repaid the loan in full by transferring \$120,000 to the trust account ledger.
- 1.7 At no time did the Goughs receive or retain independent legal advice or representation in respect of this transaction.

RECEIVED
04 SEP 2007
by *[Signature]*

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2. That between 19 June 2003 and 28 April 2004 the Practitioner acted on behalf of both the lender and the borrower in respect of a loan transaction, contrary to rule 85 of the then Queensland Law Society Rules 1987 (*repealed*).

Particulars

- 2.1 At all material times, the Practitioner was a solicitor admitted to practice in Queensland.
- 2.2 In or about June 2003 the practitioner was engaged by Lance Reynolds ('Reynolds') to act on his behalf in relation to the purchase of an investment property. Reynolds asked the practitioner to assist him in obtaining bridging finance to fund the purchase.
- 2.3 On or about 1 July 2003 the practitioner provided Reynolds with a Deed of Loan between Reynolds as borrower and Blair Tracey Gough ('Gough') as lender. The Deed provided for Reynolds to borrow \$20,000 from Gough to be repaid with interest on or before 31 January 2004. The Deed of Loan was duly executed by Reynolds on 1 July 2003 and Gough on 4 July 2003.
- 2.4 The practitioner acted for Reynolds in relation to the purchase of the proposed property, which settled on 29 July 2003.
- 2.5 At all material times the practitioner was also engaged to act as solicitor for Gough, the lender, in relation to the loan transaction.
- 2.6 The practitioner created or authorized the creation of a trust account ledger for this transaction.
- 2.6.1 On 19 June 2003 the trust account ledger was credited with \$20,000 'by Gough for investment loan to Reynolds'.
- 2.6.2 On 29 July 2003 \$18,623.53 was advanced to Reynolds from funds held in trust. The remaining \$1,376.47 was paid to the practitioner from the loan funds for his professional fees.
- 2.6.3 On 13 January 2004 the loan was repaid in full by Reynolds.
- 2.6.4 On 28 April 2004 the practitioner produced a trust account statement addressed to Gough in relation to the transaction.
- 2.7 At no time during the relevant period did Reynolds or Gough receive or retain independent legal advice or representation in respect of the transaction.

C. TO THE RESPONDENT

Mr. Michael De Vere
C/o Summerton De Vere
Solicitors
39 The Promenade,
Sanctuary Cove Qld 4212

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

Filed with the Committee on 4 / 9 / 2007

Secretariat: *gjhase*

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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 by *gjhase*
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