

QUEENSLAND CIVIL AND ADMINISTRATIVE TRIBUNAL

CITATION: *Legal Services Commissioner v Picken* [2025] QCAT 224

PARTIES: **LEGAL SERVICES COMMISSIONER**
(applicant)

v

STEPHEN RICHARD PICKEN
(respondent)

APPLICATION NO/S: OCR163 of 2024

MATTER TYPE: Occupational regulation matters

DELIVERED ON: 12 June 2025

HEARING DATE: 12 June 2025

HEARD AT: Brisbane

DECISION OF: Hon. Judicial Member McMeekin KC

Assisted by:

Ms Petrina Macpherson, practitioner panel member

Dr Julian Lamont, lay panel member

- ORDERS:
- 1. Pursuant to s 456(2)(a) of the *Legal Profession Act 2007 (Qld)*, an order is made recommending that the name of the respondent be removed from the local roll.**
 - 2. The respondent must pay the applicant's costs of and incidental to this discipline application, such costs to be agreed or assessed on the standard basis in the manner in which costs would be assessed if the matter were in the Supreme Court of Queensland.**

CATCHWORDS: PROFESSIONS AND TRADES – LAWYERS – COMPLAINTS AND DISCIPLINE – PROFESSIONAL MISCONDUCT AND UNSATISFACTORY PROFESSIONAL CONDUCT – CRIMINAL OFFENCES where the respondent pleaded guilty to making false declarations – where the applicant brought a discipline application against the respondent – where the respondent did not dispute the application or sanction – whether the respondent's name should be removed from the local roll

Legal Profession Act 2007 (Qld) s 419 s 456

Attorney-General of the State of Queensland v Legal Services Commissioner & Anor; Legal Services Commissioner v Shand [2018] QCA 66

APPEARANCES & REPRESENTATION:

Applicant: Mr J V Patty i/b Legal Services Commissioner

Respondent: No appearance

REASONS FOR DECISION

- [1] This is a discipline application by the Legal Services Commissioner under s 452 of the *Legal Profession Act* 2007 (Qld) ('Act'). The Commissioner alleges that the respondent Stephen Richard Picken ('the respondent') engaged in professional misconduct and/or unsatisfactory professional conduct. The Commissioner seeks that disciplinary orders be made against Mr Picken pursuant to s 456 of the *Act*. Mr Picken faces three charges:
 - (1) between 8 June 2017 and 15 August 2017, he falsely attested the execution by Ms Hind Issa of various loan documents;
 - (2) on 8 June 2017, he falsely certified that he had identified Ms Issa in accordance with the requirements of a Combined Appointment as Identified Certificate and Identification Certificate; and
 - (3) on or about 9 June 2017, he engaged in conduct for which he was convicted on 24 March 2020 in the Magistrates Court of Queensland at Southport of 1 offence of false declarations.
- [2] The respondent was admitted as a solicitor in Queensland on 15 September 1995. He had previously practised in another State. At all material times, the respondent was an Australian lawyer, a local legal practitioner, and held an unrestricted practising certificate. He was subject to the Australian Solicitors Conduct Rules 2012 (ASCR) at the time of the alleged conduct.
- [3] Mr Picken ceased to engage in legal practise from 30 June 2018 and has not held a practising certificate since that date.
- [4] There is no doubt about the facts here. Mr Picken was convicted on his own plea of guilty before the Magistrates Court of falsely attesting and falsely certifying as alleged. He was sentenced to a term of six months imprisonment, albeit suspended. As well, Mr Picken gave evidence before the Honourable Justice Crowley, admitting the conduct of Charge 2, in a civil trial wherein Ms Issa had certain loans and mortgages, obtained because of Mr Picken's false attestations and certifications, set aside.
- [5] Mr Picken has eventually engaged in these proceedings by responding by letter to the Commissioner's discipline application confirming that he had no wish to contest the application and consenting to having his name removed from the roll, as the Commissioner seeks. He has no intention of seeking to practise again.
- [6] Given the course that this matter has taken there is no necessity to detail the conduct to any great extent or set out the comprehensive submissions made by the Commissioner. They are helpful and we adopt them.
- [7] It is self-evident that Mr Picken's conduct can only be characterised as professional misconduct within the meaning of section 419 of the *Act*. To engage in criminal behaviour, as here, to do so in the course of his legal practise, as here, and thereby

assist his client in defrauding a third party, as here, justifies a finding that Mr Picken is not a fit and proper person to engage in legal practise.

- [8] As to the sanction we are conscious of the mitigating factors. Mr Picken did not profit himself by his fraudulent conduct. He relied on the honesty of his client when certifying and attesting to the forged signatures of the client's mother. He co-operated with the police in their investigations. He assisted in the administration of justice by entering an early plea of guilty. He did what he could to assist Ms Issa recover her position by giving evidence at the civil trial. He was under considerable stress at the time of the offending conduct in caring for his aged and unwell wife. He had practised for over 40 years and had no other disciplinary matters nor any other criminal convictions. He is now aged 75 years. While somewhat belatedly, he has now co-operated with this discipline process.
- [9] Despite those mitigating factors there is only one course open. Mr Picken does not assert otherwise. As Justice McMurdo said, with whom Morrison JA and Brown J agreed, in *Attorney-General of the State of Queensland v Legal Services Commissioner & Anor; Legal Services Commissioner v Shand* [2018] QCA 66 'the Court's Roll of practitioners is an endorsement of the fitness of those who are enrolled'. Mr Picken is not entitled to that endorsement. His character is indelibly marked by his criminal behaviour. His conduct shows a lack of honesty and integrity, traits which are fundamental to a legal practitioner. To permit his name to remain on the roll would seriously undermine the public's confidence and trust in the legal profession and fail to deter others who might be inclined to behave in a like manner.

Costs

- [10] The Commissioner seeks an order pursuant to s 462 of the *Act*, that is, Mr Picken pay the Commissioner's costs of and incidental to this discipline application. That is the usual order unless it can be shown there are exceptional circumstances. Mr Picken did not submit there were and there are not.
- [11] Mr Picken should pay the costs of the applicant.

Orders

- [12] The orders are:
- (a) pursuant to s 456(2)(a) of the *Legal Profession Act 2007* (Qld), an order is made recommending that the name of the respondent be removed from the local roll; and
 - (b) the respondent must pay the applicant's costs of and incidental to this discipline application, such costs to be agreed or assessed on the standard basis in the manner in which costs would be assessed if the matter were in the Supreme Court of Queensland.