# QUEENSLAND CIVIL AND ADMINISTRATIVE TRIBUNAL

| | |
|---|---|
| CITATION: | *Legal Services Commissioner v Perrin* [2019] QCAT 188 |
| PARTIES: | **LEGAL SERVICES COMMISSIONER**<br>(applicant)<br>**v**<br>**MATTHEW DAVID PERRIN**<br>(respondent) |
| APPLICATION NO/S: | OCR174-18 |
| MATTER TYPE: | Occupational regulation matters |
| DELIVERED ON: | 23 July 2019 |
| HEARING DATE: | On the papers |
| HEARD AT: | Brisbane |
| DECISION OF: | Justice Daubney, President<br><br>Assisted by:<br><br>Ms Patrice McKay<br>Mr Geoffrey Sinclair |
| ORDERS: | **1. It is recommended that the name of the respondent, Matthew David Perrin, be removed from the roll of legal practitioners in Queensland;**<br><br>**2. The respondent shall pay the applicant's costs of and incidental to this discipline application, such costs to be 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 was convicted of serious offences of dishonesty, namely forgery and fraud – where the respondent does not oppose the application and waived all rights to file any material, make any arguments or otherwise oppose the orders sought by the applicant – whether the respondent's convictions for serious offences constitute professional misconduct or unsatisfactory professional conduct – whether the name of the respondent should be removed from the roll of legal practitioners in Queensland |

*Legal Profession Act* 2007 (Qld), s 418, s 419, s 452, s 462

*Attorney-General of the State of Queensland v Legal Services Commissioner & Anor; Legal Services Commissioner v Shand* [2018] QCA 66
*Legal Services Commissioner v Madden* (No 2) [2009] 1 Qd R 149
*Legal Services Commissioner v McQuaid* [2019] QCA 136
*Legal Services Commissioner v Meehan* [2019] QCAT 17
*Legal Services Commissioner v Munt* [2019] QCAT 160
*Watts v Legal Services Commissioner* [2016] QCA 224
*Prothonotary of the Supreme Court of New South Wales v P* [2003] NSWCA 320
*Ziems v Prothonotary of the Supreme Court of New South Wales* (1957) 97 CLR 279

REPRESENTATION:

| | |
|---|---|
| Applicant: | M R Lester, Prosecutor, Legal Services Commission |
| Respondent: | Self-represented |

APPEARANCES:

This matter was heard and determined on the papers pursuant to s 32 of the *Queensland Civil and Administrative Tribunal Act* 2009 (Qld).

**REASONS FOR DECISION**

[1] This discipline application, which was filed on 28 June 2018, is brought by the Legal Services Commissioner ("the Applicant") against Matthew David Perrin ("the Respondent") pursuant to s 452 of the Legal Profession Act 2007 ("LPA") detailing one charge against the Respondent, namely that his convictions for serious offences constitute professional misconduct or unsatisfactory professional conduct.

[2] The particulars of the charge are set out in the discipline application:

> 1. That on 27 January 2017, following a trial by jury in the District Court of Queensland at Brisbane, the respondent was convicted of the following serious offences under the *Criminal Code Act 1899* (Qld):
>
> (a) Forgery and uttering a deed – bond – warrant between 15 May 2008 and 20 May 2008 and 12 June 2008 and 24 June 2008 (three counts);
>
> (b) Forge document with intent to defraud on or about 20 May 2008, between 12 June 2008 and 24 June 2008, and on or about 15 August 2008 (three counts);
>
> (c) Fraud – dishonestly gain benefit/advantage value of/over $30,000.00 on divers [sic] dates between 27 April 2008 and 21 May 2008, between 25 May 2008 and 28 June 2008, and between 3 August 2008 and 20 August 2008 (three counts).

2. The forgery related to the respondent's signing of his wife's signature on mortgage documents.

3. The fraud involved the respondent's presenting those forgeries to the Commonwealth Bank to induce the bank to lend him a large amount of money. There had been some payments made to the bank, and the ultimate loss to the bank was in the vicinity of $9 million.

4. The respondent was sentenced to eight years imprisonment, with parole eligibility after the statutory period of half the sentence, being four years.

5. The respondent appealed against his conviction and sentence to the Supreme Court of Queensland, Court of Appeal division at Brisbane.

6. On 5 September 2017, the Court of Appeal handed down its decision. It dismissed the appeal against the conviction, and upheld the appeal against sentence, setting aside the order as to parole eligibility, and in lieu thereof ordered that the parole eligibility date was set at 20 June 2020 (after serving three and half years).

7. The respondent made an application seeking special leave at the High Court of Australia to appeal the judgement [sic] of the Court of Appeal.

8. An order dismissing the application was made on 15 February 2018.

[3] The Respondent was admitted as a solicitor of the Supreme Court of Queensland on 29 January 1996, but he has not held a practising certificate since 30 June 2005. The Applicant seeks an order recommending that the Respondent's name be removed from the roll of legal practitioners of this State.

[4] The Respondent has confirmed on several occasions since the discipline application was commenced that he does not oppose the application. Most recently, on 15 July 2019, the Respondent sent an email to the Tribunal (copied to the Applicant) enclosing an application to vacate the oral hearing which had been set for this matter and requesting that the matter be determined on the papers. In that email, the Respondent confirmed, amongst other things, that he consented to the orders sought by the Applicant and that he "waives all rights to file any material, make any arguments or otherwise oppose any of the orders sought". The Applicant consented to the oral hearing being vacated, and accordingly this matter has proceeded to be determined on the papers.

[5] The Tribunal has had regard to the material filed in support of the discipline application. That includes the verdict and judgment record in relation to the Respondent's convictions, the sentencing remarks of the learned sentencing judge, the judgment of the Court of Appeal on an appeal against conviction and sentence,[1] and the High Court's order and reasons for refusing special leave to appeal from the Court of Appeal's judgment.[2] The Tribunal is satisfied on the material before it that the particulars of the charge have been established.

[6] The Respondent was convicted, after trial by jury in December 2016, of serious offences of dishonesty, namely forgery and fraud. He had forged his wife's signature on mortgage documents and then used those documents to fraudulently induce the

---

1 *R v Perrin* [2017] QCA 194.

2 *Perrin v The Queen* [2018] HCASL 19.

Commonwealth Bank to lend him a large amount of money. Those offences were not committed in the course of the Respondent practising as a lawyer, but as the learned sentencing judge said they were offences which "struck at the heart of commercial integrity". He was sentenced in January 2017. The nature and seriousness of the offences were such as to attract a head sentence of eight years' imprisonment. That head sentence was not disturbed on appeal, although there was an adjustment of the parole eligibility date. The Respondent was 44 years old when sentenced.

[7] The Applicant has submitted that there should be a finding of professional misconduct. Section 419 of the LPA provides:

> (1) ***Professional misconduct*** includes—
>
> (a) unsatisfactory professional conduct of an Australian legal practitioner, if the conduct involves a substantial or consistent failure to reach or keep a reasonable standard of competence and diligence; and
>
> (b) conduct of an Australian legal practitioner, whether happening in connection with the practice of law or happening otherwise than in connection with the practice of law that would, if established, justify a finding that the practitioner is not a fit and proper person to engage in legal practice.
>
> (2) For finding that an Australian legal practitioner is not a fit and proper person to engage in legal practice as mentioned in subsection (1), regard may be had to the suitability matters that would be considered if the practitioner were an applicant for admission to the legal profession under this Act or for the grant or renewal of a local practising certificate.

[8] As this was conduct which happened otherwise than in connection with the practice of law, regard must be had to s 419(1)(b) and 419(2). By s 9(1)(d) of the LPA, "suitability matter" relevantly includes whether a person has been convicted of an offence, and if so the nature of the offence, how long ago the offence was committed, and the person's age when the offence was committed.

[9] The Respondent was a mature businessman who was convicted of serious offences of dishonesty. A finding that the Respondent was not a fit and proper person to engage in legal practice is clearly warranted. It follows that the Tribunal makes a finding of professional misconduct against the Respondent.

[10] Having made that finding, the Tribunal's discretion under s 456 of the LPA is enlivened. The Tribunal has a wide discretion as to the orders it may make upon a finding that a practitioner has engaged in professional misconduct. The most serious of those is an order recommending that a practitioner's name be removed from the local roll.

[11] It is appropriate to repeat the following observations of this Tribunal in *Legal Services Commissioner v Munt*:[3]

> In approaching the question as to the orders which ought be made as a consequence of that finding, the following propositions are well-established:

---

3 [2019] QCAT 160 at [43].

(a) In this disciplinary jurisdiction, orders are shaped in the interests of the protection of the community from unsuitable practitioners, and in determining what orders should be made "regard should primarily be had to the protection of the public under the maintenance of proper professional standards".[4]

(b) An order removing a practitioner's name from the roll should only be made when the probability is that the practitioner is permanently unfit to practice.[5]

(c) The determination is as to present fitness, not fitness at the time of the offending conduct.[6]

[12] Honesty is an essential and fundamental trait for legal practitioners. Whilst it is no part of this Tribunal's function to punish the Respondent again for having committed these serious offences, it is necessary to note that the nature of the offences are such as to impugn his character. His conduct was wilfully deceitful, and was engaged in for his own personal benefit. It was conduct of such a nature and extent as to provide "instant demonstration of unfitness".[7] The public should be protected from practitioners who have demonstrated such a personal propensity for dishonesty. Such a person is not one in whom the public, other members of the profession, or the Bench can safely repose trust and confidence. Nor is such a person one who deserves ongoing endorsement of fitness to practice by inclusion on the roll of legal practitioners.[8] Nothing has been put before this Tribunal which would gainsay a present conclusion that the probability is that the respondent is permanently unfit to practice.

[13] Accordingly, it is the recommendation of the Tribunal that the Respondent's name be removed from the roll.

[14] By s 462(1) of the LPA, this Tribunal must make an order requiring a person whom it has found to have engaged in professional misconduct to pay the Applicant's costs unless the Tribunal is satisfied exceptional circumstances exist. There are no such exceptional circumstances in this case. The Tribunal notes that, given the absence of opposition to the orders sought and the fact that the matter proceeded expeditiously to a hearing on the papers, this may well have been a case in which it would have been appropriate for the Applicant to put material before the Tribunal to enable costs to be ordered in a stated amount pursuant to s 462(5)(a). In the absence of such material, and noting also that s 462 does not confer on the Tribunal a general discretion as to costs,[9] this Tribunal is effectively limited to making an order for the costs to be assessed.

[15] Accordingly, the orders of the Tribunal are as follows:

---

4 *Legal Services Commissioner v Madden (No 2)* [2009] 1 Qd R 149 at [122]; and see *Legal Services Commissioner v Meehan* [2019] QCAT 17 at [31].

5 *Watts v Legal Services Commissioner* [2016] QCA 224 at [46].

6 *Prothonotary of the Supreme Court of New South Wales v P* [2003] NSWCA 320 at [17].

7 *Ziems v Prothonotary of the Supreme Court of New South Wales* (1957) 97 CLR 279, per Kitto J at 298.

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

9 *Legal Services Commissioner v McQuaid* [2019] QCA 136.

1. It is recommended that the name of the Respondent, Matthew David Perrin, be removed from the roll of legal practitioners in Queensland;

2. The respondent shall pay the applicant's costs of and incidental to this discipline application, such costs to be assessed on the standard basis in the manner in which costs would be assessed if the matter were in the Supreme Court of Queensland.