

**JURISDICTION** : STATE ADMINISTRATIVE TRIBUNAL

**STREAM** : VOCATIONAL REGULATION

**ACT** : LEGAL PRACTICE ACT 2003 (WA)

**CITATION** : LEGAL PRACTITIONERS COMPLAINTS  
COMMITTEE and RICHARDSON  
[2006] WASAT 251

**MEMBER** : JUDGE J CHANEY (DEPUTY PRESIDENT)  
MR C EDMONDS SC (SENIOR SESSIONAL  
MEMBER)  
MS C WINSOR (SESSIONAL MEMBER)

**HEARD** : 8 MARCH 2006 AND FURTHER SUBMISSIONS  
FILED 30 MARCH 2006

**DELIVERED** : 24 AUGUST 2006

**FILE NO/S** : VR 382 of 2005  
VR 383 of 2005

**BETWEEN** : LEGAL PRACTITIONERS COMPLAINTS  
COMMITTEE  
Applicant

AND

BARRY MICHAEL RICHARDSON  
Respondent

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*Catchwords:*

Professions - Legal practitioner - Failure to serve bill of costs before deducting money from trust account - Failing to respond to enquiries by Complaints Committee - Practitioner not responding to proceeding in Tribunal

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*Legislation:*

*Interpretation Act 1984 (WA), s 76*

*Legal Practice Act 2003 (WA), s 138, s 18(1)(f)(iii), s 250A(2)*

*Legal Practitioners Act 1893 (WA), s 34A*

*State Administrative Tribunal Act 2004 (WA), s 131(1)*

*Result:*

Practitioner fined \$3000 and suspended from practice for one year

Orders to pay costs and to reimburse client

*Category:* B

**Representation:**

*Counsel:*

Applicant : Mr AS Stavrianou

Respondent : No appearance

*Solicitors:*

Applicant : Legal Practitioners Complaints Committee

Respondent : No appearance

**Case(s) referred to in decision(s):**

Nil

**Case(s) also cited:**

Nil

## REASONS FOR DECISION OF THE TRIBUNAL:

### *Summary of the Tribunal's decision*

1           Between August 2003 and April 2004 Mr Barry Michael Richardson acted as solicitor for a client in relation to her matrimonial proceedings. The client provided Mr Richardson with \$5000 on account of costs and disbursements.

2           When the client instructed new solicitors in March 2004, those solicitors attempted to have Mr Richardson account to the client for his costs and the money he held on the client's behalf. They were unable to obtain any satisfactory response from Mr Richardson and the client made a complaint to the Legal Practitioners Complaints Committee.

3           The Committee sought an explanation from the practitioner, but he failed to respond adequately over a period of some months. Eventually the Committee ascertained that Mr Richardson had drawn the client's funds from his trust account in payment of his fees. It appeared to the Committee that no accounts for fees had ever been served on the client as required by the *Legal Practice Act 2003* (WA).

4           Accordingly, the Committee brought disciplinary proceedings against Mr Richardson alleging unsatisfactory conduct by the practitioner in two respects – first, by deducting money from trust without serving a bill of costs on the client, and second by failing to respond in a timely fashion to requests by the Committee for information.

5           Mr Richardson failed to respond to the application in any way, and appeared to avoid service of any documents on him. After giving Mr Richardson every possible opportunity to answer the allegations, the Tribunal dealt with the allegations in his absence. It found the complaints made out and agreed that, in all the circumstances, Mr Richardson should be suspended from practice for one year for his failure to respond to the complaints officer, which was aggravated by his failure to respond to the proceedings in the Tribunal. For the failure to serve a bill of costs before deducting funds from his trust account Mr Richardson was fined \$3000, ordered to pay compensation to the client and ordered to pay the Committee's costs of the proceedings.

### *Introduction*

6           The Legal Practitioners Complaints Committee (the Committee) brings two complaints against a legal practitioner, Barry Michael Richardson. The first (VR 382 of 2005) is that

Mr Richardson was guilty of unprofessional conduct between October 2003 and June 2004 in transferring various sums totalling \$4828 from his trust account held on behalf of his client, Ms R, to his general office account in payment of costs, without having caused to be served upon the client a bill of costs at all or within 14 days of transferring the funds. It was a requirement of the *Legal Practitioners Act 1893* (WA) (up until December 2003), and the *Legal Practice Act 2003* (WA) (as from 1 January 2004) that a practitioner must serve a bill of costs upon his client justifying the transfer of monies from trust and showing that the trust monies have been applied by the practitioner towards the payment of his costs.

7 The second complaint (VR 383 of 2005) is that Mr Richardson was guilty of unsatisfactory conduct by unprofessional conduct in that, between August 2004 and February 2005, he failed to respond to requests for documents and information from the Committee within the time requested, or within a reasonable time.

8 These proceedings have taken an unusual course. The practitioner has taken no steps to answer the allegations against him. It is necessary to recount the history of the proceedings to give context to the Tribunal's determination of the matters.

### *The history of the proceedings*

9 The Committee instituted the application on 3 November 2005. Personal service of the application was attempted at 6 Spey Road, Applecross, which was an address given to the applicant's solicitor by Mr Robert Nash, a solicitor who had earlier written to the Committee on Mr Richardson's behalf. Mr Nash, had advised that the address was the most recent address for the practitioner that he knew. Mr Nash had lost contact with the practitioner and was unable to accept service of the application.

10 Process servers instructed by the Committee made ten attempts to serve the practitioner at the address given. The process server reported that he had observed people at the house, and a vehicle, that he had previously seen Mr Richardson driving, parked on the front lawn. On several occasions when he knocked on the door, no-one answered, notwithstanding that the house appeared to be occupied. The process server formed the view that Mr Richardson was deliberately avoiding service. Attempts to telephone Mr Richardson were unsuccessful. The Committee's solicitors made a telephone call to a mobile phone number which the Committee had on file for the practitioner. When a male person

answered, he denied that he was Barry Richardson. Telephone calls to 6 Spey Road, Applecross were answered by one Kirstine Forestier, a legal practitioner whom the Committee's solicitor believed to be the practitioner's partner. She asserted that the practitioner was no longer living at the Spey Road address, but declined to identify when Mr Richardson left the address or where he might be living. On 24 November 2005, the Committee's solicitor sent a copy of the application to the practitioner at the Spey Road address. It was not returned unclaimed, but no response was heard from the practitioner prior to the initial directions hearing for the application which was listed for 9 December 2005.

11 On 9 December 2005, the Tribunal ordered that personal service of the application on Mr Richardson be dispensed with, and that service of the application and the Tribunal's orders of 9 December 2005 be effected by ordinary post to 6 Spey Road, Applecross. Directions were then made programming the matter and setting it down for hearing.

12 The documents filed in relation to the hearing were all served by post to 6 Spey Road, Applecross, as was the notice of hearing issued by the Tribunal.

13 When the matter came on for hearing, Mr Richardson did not appear. He had filed no documents in accordance with the programming orders, or at all. When the hearing commenced, in order to give Mr Richardson every opportunity to be heard in relation to the allegations against him, the Tribunal telephoned the number for 6 Spey Road, Applecross. The call was answered by Ms Forestier. Ms Forestier professed to be unaware of the hearing and said that Mr Richardson does not live at 6 Spey Road "at the moment". She said she had not seen any of the documents posted to that address. She declined to provide any contact details for Mr Richardson, but indicated that she would try to contact him. She advised that she would need "until, at least, the afternoon" to try to contact him. She was given contact details of the Tribunal for Mr Richardson to utilise if he wished to participate in the hearing.

14 The Tribunal then proceeded to hear evidence from Ms R which simply confirmed her witness statement that had been filed earlier. The witness statements and other documents to be relied upon at the hearing had been posted to the Applecross address prior to the hearing. The Tribunal heard submissions from the counsel for the Committee, and determined that it was appropriate for the Committee to file some supplementary evidence, and written submissions on penalty, and that

Mr Richardson should be given a final opportunity to be heard, before it proceeded to a final determination.

15 Accordingly, the Tribunal ordered that a copy of the transcript of the hearing be made available to the practitioner by posting it to the Applecross address, and that further evidence and submissions be filed by 29 March 2006 and be served on the practitioner by posting them to the Applecross address. Mr Richardson was given leave to apply by letter to the Tribunal on or before 5 April 2006 to reconvene the hearing for the purpose of adducing evidence, cross-examining any deponents of the statements or affidavits received in evidence, or make submissions. It was ordered that, in the event that the respondent did not make that application, the matter was to be decided on the basis of the submissions and evidence received at the hearing, and any further submissions and evidence filed by the respondent.

16 Those directions were complied with by the Committee, and the Tribunal posted the transcript and a copy of its orders to Mr Richardson as contemplated.

17 Mr Richardson has made no response to any of those steps.

***The facts***

18 The following facts were set out in the applicant's written statements and are established by the witness statements and documents tendered in the proceedings.

19 On or about 5 August 2003, Ms R retained the practitioner to act for her in relation to her family law property settlement. At that time the practitioner was a sole practitioner operating under the name of Richardson Legal.

20 At Ms R's first meeting with the practitioner she entered into a standard Law Society costs agreement. It provided that Ms R agreed to pay \$5000 in advance on account of legal costs and disbursements. The costs agreement also permitted the practitioner to pay from his trust account unpaid invoices which he rendered to Ms R.

21 On or about 20 August 2003, Ms R sent a cheque to the practitioner in the sum of \$5000. The practitioner deposited Ms R's cheque into his trust account.

22 The practitioner then undertook work on Ms R's behalf in respect of her matter. After a conciliation conference on 11 March 2004 at which

the practitioner represented Ms R, Ms R decided to change solicitors and engaged Ms Gillian Anderson of Anderson Josland to act for her in place of the practitioner.

23 According to Ms R, during the time that the practitioner represented her she did not receive any bills from him for his fees. Nor did the practitioner notify her verbally of his fees or whether he had used any of the monies she had paid into trust.

24 After she was retained, Ms Anderson set about trying to contact the practitioner to obtain Ms R's file. After some initial difficulty getting in touch with the practitioner she succeeded in doing so and he duly delivered Ms R's file to her. According to Ms Anderson when she reviewed Ms R's file she could not find any file or original copies of accounts addressed to Ms R on it. Nor was there any documentation evidencing any dealing with money from the trust account held by the practitioner on behalf of Ms R.

25 The only document which appeared on the file related to the practitioner's costs was a Cost Practice Direction Memorandum addressed to Ms R dated 3 December 2003 and signed on behalf of Richardson Legal which stated that Ms R' costs up to but not including a directions hearing to be held on 4 December 2003 were \$1980 including GST and he estimated her future costs up to and including the conciliation conference would be \$15 000 plus GST.

26 Ms Anderson wrote to the practitioner on 8 April 2004 requesting him to urgently forward his account and the balance of the monies he was holding on behalf of Ms R. Ms Anderson did not receive any response to that letter so she sent a further letter to him by email dated 6 May 2004. In that letter Ms Anderson repeated her instructions that Ms R had not as at that time received an account from him and that having regard to the information contained in the Cost Practice Direction Memorandum dated 3 December 2003 that she would expect that Ms R would be due repayment of part of the \$5000 she had paid to him on account of costs. Ms Anderson went on to request the practitioner's itemised account within 7 days. Ms Anderson did not receive any response to her letters to the practitioner.

27 Ms R then made an attempt herself to get the practitioner to account to her for the \$5000 she had paid to him. Ms R sent the practitioner an email dated 9 June 2004 asking him for an account. Ms R did not receive an account from him.

28 A few months after this Ms R lodged a complaint against the practitioner with the Complaints Committee.

29 Ms Diane Howell, the Law Complaints Officer, sent a copy of Ms R's complaint to the practitioner on 2 September 2004 and requested his substantive response to Ms R's complaint, a copy of Ms R's trust ledger and his complete file in respect of Ms R by 6 September 2004.

30 Ms Howell did not receive a response from the practitioner by 6 September 2004 but the practitioner did telephone the Complaints Committee's office on the morning of 8 September 2004 to indicate that he had been away and had only returned the previous night and requested, in essence, further time to bring in his files and papers. It appears that at the time that telephone call was made, Ms Howell and the Legal Practice Board's Trust Account Inspector, Ms Anna Buckley, were outside the practitioner's home seeking to gain entry in order to carry out an examination of his legal practice, including his financial records.

31 Following receipt of the practitioner's message, Ms Howell was able to contact the practitioner and to arrange to see him at his home later that day. At that meeting, Ms Howell asked the practitioner where his financial records were and was informed that they were stored off-site at two different locations. The practitioner agreed to retrieve his financial records and that Ms Buckley would contact him at the close of business on 9 September 2004 to ascertain whether the records had been retrieved.

32 Also at that meeting Ms Howell questioned the practitioner about Ms R's complaint and was told that the practitioner had consulted Mr Ron Cannon in respect to providing a response. When asked when a response would be forthcoming and after making enquiry of Mr Cannon, the practitioner informed Ms Howell that he would be in a position to respond within one or two weeks.

33 The practitioner told Ms Buckley on 13 September 2004 he had had trouble retrieving his records from storage and would personally deliver them to her office on 17 September 2004.

34 On 14 September 2004 Ms Howell received a letter from Mr Cannon, on behalf of the practitioner, advising that he had been consulted by the practitioner to respond to Ms R's complaint and that he had advised the practitioner that he was not in a position to act for him.

35 The practitioner did not to deliver his records to Ms Buckley on 17 September 2004 so Ms Howell wrote to him again on

28 September 2004 informing him that she had not received his substantive response to Ms R's complaint nor had she received his financial records or Ms R's file (although it was noted that part of Ms R's file had been delivered to Ms Anderson). Ms Howell also pointed out to the practitioner that he had a professional responsibility to respond substantively to conduct enquiries from the Complaints Committee.

36 The practitioner failed to respond to Ms Howell, so by letter dated 14 October 2004, which was served personally on the practitioner by Ms Buckley, Ms Howell enclosed a Summons to Produce Documents and noted the practitioner's failure to provide a substantive response to the complaint. The documents which the practitioner was requested to produce consisted of his financial records and his client file relating to Ms R.

37 The practitioner delivered to the Complaints Committee some documents in response to the Summons on 25 October 2004. According to Ms Buckley, the documents produced by the practitioner consisted of his trust account ledgers, trust cheque book, trust account bank statements and copies of 4 invoices and covering letters addressed to Ms R.

38 The trust ledger for Ms R shows that the practitioner transferred the following sums totalling \$4828 from his trust account held on behalf of Ms R to his general office account in payment of his fees:

1 October 2003	\$	1320
4 December 2003	\$	990
7 January 2004	\$	550
17 February 2004	\$	1200
24 March 2004	\$	550
1 April 2004	\$	200
June 2004	\$	18

39 The sum of \$172 was paid out of trust on 20 November 2003 as Family Court fees.

40 The invoices, totalling \$4828 are all addressed to Ms R at her address and are dated and in the following amounts:

1 September 2003	\$	2482.00
7 December 2003	\$	1100.00
15 January 2004	\$	1246.00
15 March 2004	\$	1600 but say \$0

41 The covering letters enclosing the accounts are also addressed to Ms R but instead of being addressed to her at her correct address of 32 Clevedon Way, Karrinyup are addressed to 23 Clevedon Plc, Karrinyup.

42 Ms R has been shown these invoices by the Complaints Committee and has denied ever receiving them.

***Were invoices sent?***

43 As pointed out in the Committee's submissions, by s 76 of the *Interpretation Act 1984* (WA), where a document is required to be served, service may be effected by post in accordance with s76. By that latter section, "service" is deemed effected by "properly addressing and posting ... the document as a letter to the last known address of the person to be served ..."

44 The Committee contends that the Tribunal should conclude that the invoices which were delivered to it by Mr Richardson on 25 October 2004 with other documents were never sent to Ms R. It submits that the Tribunal should reach that conclusion because:

- i) Ms R stated that she had never received any of the invoices;
- ii) the practitioner's file passed on to Ms Anderson did not contain file copies of the invoices;
- iii) the practitioner failed to respond to requests from Ms Anderson and Ms R for an accounting of the trust monies;

- iv) the amounts transferred from the trust account do not accord with the amounts of the invoices; and
- v) the first account dated 1 September 2003 was for \$2482, whereas, on Ms R's file is a cost practice direction memorandum dated 3 December 2003, that states that Ms R's costs up to but not including the directions hearing on 4 December will be \$1980 (including GST).

45 To the Committee's list might be added:

- vi) given the closeness of the address in the three covering letters to the client's correct address, it might have been expected that at least one of the letters and invoices would ultimately have been delivered to Ms R, alternatively
- vii) if the letters were undelivered it would have been expected that at least one of the letters and invoices would have been returned to the practitioner's office and evidence of that to have appeared on his file.

46 The assertion was made by the Committee in its written submissions filed before the hearing, and its submissions on penalty and costs filed on 27 March 2006. Both of those documents were posted to the practitioner, and the Tribunal is satisfied that Mr Richardson is aware of the allegations and has chosen not to answer them, or alternatively has wilfully ignored the papers that have been sent to him.

47 Each of the invoices had a covering letter. The invoices were correctly addressed to Ms R at 32 Clevedon Way, Karrinyup 6018. Each of the covering letters bore the address 23 Clevedon, Plc, Karrinyup 6018. On the face of the documents, therefore, it would be open to conclude that envelopes enclosing the invoice and covering letter were addressed in the same way as the covering letters. Assuming they were posted, that might explain why Ms R never received the invoices.

48 The only substantive response Mr Richardson has provided in relation to the invoices is contained in the letter to the Law Complaints Officer from Nash Clavey on 15 March 2005. In that letter, Nash Clavey advised that:

"Our client instructs us that he rendered and sent to the complainant three invoices. We understand copies have been already provided to the Legal Practice Board. Our client cannot understand how it is that the complainant did not receive those

invoices since, as far as he knew and understood, all three were sent to the complainant's address."

49 There is no explanation as to why the practitioner's file passed to Ms Anderson, did not contain file copies of the invoices, nor of the failure to provide invoices to Ms Anderson, nor of how each of the three covering letters came to be wrongly addressed.

50 It is clear enough that the practitioner did not meet the requirements of the *Legal Practitioners Act 1893* and the *Legal Practice Act 2003* to cause bills of costs to be served upon the client. Even if we were prepared to find that the covering letters and invoices were posted but to the wrong address, that would not assist the practitioner given the operation of the relevant "service of documents" provisions of the *Interpretation Act 1984* (above).

51 However, it is important to appreciate that the Committee's case is only that the practitioner failed to serve the invoices. It does not make the much more serious allegation that the practitioner in fact never prepared the letters and invoices until after the complaint was made. That is notwithstanding that the five matters identified by the Committee (above) would seem to be directed, or equally directed, to a failure by the practitioner to prepare the invoices. It follows that, notwithstanding the rather suspicious circumstances as to when the invoices and covering letters were prepared the Committee's submission is only that the practitioner failed properly to address and post the letters and invoices. Although, as mentioned, that does not affect the practitioner's breach of the statutory and professional obligations to properly serve the client, it is clearly relevant to penalty.

### ***Findings***

52 With respect to VR 382 of 2005, we find that Mr Richardson did transfer sums totalling \$4828 from his trust account held on behalf of Ms R to his general office account without having caused a bill of costs to be served on Ms R within 14 days of transferring each sum, or at all. That conduct is conduct which falls short to a substantial degree of the standard of professional conduct observed or approved by members of the profession of good repute and competence, and amounts to unprofessional conduct.

53 As to VR 383 of 2005, in Nash Clavey's letter to the Committee of 27 April 2005, the solicitors advised that Mr Richardson accepted he had not responded to matters raised by the Law Complaints Officer, and had

no good excuse for his failure to do so. That letter constitutes an admission of what is apparent in any event from the evidence adduced before the Tribunal.

54 It has long been accepted that a legal practitioner has a duty to respond to enquiries by a professional disciplinary body, and that a failure to do so amounts to unprofessional conduct. Accordingly, we find that, in application VR 383 of 2005, the applicant is guilty of unprofessional conduct between August 2004 and February 2005 by failing to respond to requests for documents and information from the Committee within the time requested or within reasonable time.

### ***Penalty***

55 The Committee seeks a penalty of suspension from practice. Pursuant to s 250A(2) of the *Legal Practitioners Act 2003*, the power of the Tribunal to order suspension of a practitioner can only be exercised when the Tribunal is constituted so as to include the President. At the time of delivery of these reasons, Judge Chaney, who presided in the Tribunal dealing with this matter, is acting in the office of President pursuant to s 131(1) of the *State Administrative Tribunal Act 2004* (WA). It follows that it is open to the Tribunal as presently constituted to impose a period of suspension from practice if so minded.

56 In relation to VR 382 of 2005, the Committee contends that, given the serious nature of the offence, and the practitioner's ongoing failure to deal with the matter, the practitioner should be suspended from practice for a minimum period of one year. The Committee submits that a breach of s 138 of the *Legal Practice Act 2003* (and its predecessor s 34A of the *Legal Practitioners Act 1893*) are inherently serious matters. They involve the application of trust monies contrary to the requirements of the Act. The Committee contends that the practitioner's conduct is aggravated by his failure to respond to requests from his client's new solicitor to account in relation to the monies deposited on trust, and by his failure to offer any explanation for his conduct to the Tribunal.

57 A primary objective of disciplinary proceedings is the protection of the public. The proper management of trust accounts, and compliance with the statutory obligations in relation to them, is an important element of protection of the public in relation to the actions of legal practitioners. In this case, by failing to render invoices to his client, Mr Richardson effectively deprived the client of her right to consider taxation of his accounts.

58           Whilst we accept the relevance and importance of these matters, once it is accepted that the practitioner's failure was to properly send out the bills of costs rather than a failure to prepare them at all, we do not think that this lapse warrants suspension. Given the practitioner's failure, aggravated by his refusal to respond to the entirely proper requests for copies of the invoices, we think a fine of \$3000 is appropriate.

59           In addition, the Committee seeks an order that the practitioner be ordered to repay Ms R the sum of \$1040. That amount is arrived at as being the difference between the amount paid by Ms R on account of costs, \$5000, and the amount assessed by a practitioner with expertise in the area of family law costs as being reasonable for the services provided.

60           Ms Maria Louisa Coulson is a barrister who was admitted to practice in March 1995. She has practised predominantly in the areas of civil and commercial litigation and family law matters. She has worked at the Law Society of Western Australia's costs consultancy and in September 2003 established chambers where she practises as a barrister predominantly in the area of costs. Ms Coulson reviewed Mr Richardson's accounts, his file, his costs agreement, information provided by solicitors acting for the husband in relation to Ms R's matter, and certain other correspondence. She assessed the tasks which had been undertaken by Mr Richardson and a reasonable time that each task would consume. She drew on her experience to estimate the time a taxing officer would be likely to allow for a particular task, and applied that time to the hourly rates prescribed in Mr Richardson's costs agreement with Ms R. That process led Ms Coulson to express the opinion that a reasonable charge for the work done by Mr Richardson would be \$3960 plus GST, although for reasons we will explain, we believe she intended to say "including GST".

61           The Committee relies on s 187(1)(f)(iii) of the *Legal Practice Act 2003* for the orders which it seeks. That section empowers the State Administrative Tribunal to order a legal practitioner "to reduce or refund the amount of any fees, charges or disbursements payable or paid in respect of work done for the client, to such an extent as is ordered by the Tribunal or as is to be determined by the Board".

62           The conduct of the practitioner in this case has prevented Ms R from having the opportunity to seek taxation of Mr Richardson's accounts. Mr Richardson has not challenged Ms Coulson's assessment of the reasonable amount of his costs. In our view, this is a case where an order under s 187(1)(f)(iii) is appropriate. The submission by the Committee is based on the proposition that Ms Coulson's assessment of the reasonable

costs is \$3960 inclusive of GST. The assessment contained in a letter from Ms Coulson to the Committee, dated 9 June 2005, reflects that position. Ms Coulson's affidavit, sworn 27 March 2006, expresses the opinion that a reasonable charge would be \$3960 plus GST. In view of the contents of the detailed assessment, upon which the affidavit is based, we take the expression "plus GST" to be a typographical error which should read "inclusive of GST". Proceeding on that assumption, we are of the view that the practitioner should be ordered to pay the sum of \$1040 to Ms R within 28 days.

63 With respect to VR 383 of 2005, the Committee's submission is that a fine is appropriate, and it is suggested that a fine of \$2000 should be imposed. We think that the suggested penalty is, in all the circumstances, insufficient.

64 We have set out above an outline of the practitioner's repeated disregard of requests for information and documents and will not repeat it here.

65 A practitioner's obligation to respond to a professional disciplinary body is a serious obligation. If the public is to continue to have faith in the extent to which the legal profession regulates its member's professional conduct, then it must be satisfied that practitioners respond in a timely manner, produce any documents requested, and otherwise give full co-operation to any enquiry into their conduct by the Committee. Further, that if a practitioner fails to meet these requirements, that the Committee will take action to enforce them. This is so in every case, and is especially important where there is an enquiry concerning the use of trust funds. No explanation for his conduct has been forthcoming from the practitioner other than the assertion in Nash Clavey's letter of 27 April 2005 that the practitioner "was under considerable pressure at the time and had difficulty in facing the issues being raised". We do not regard these unsubstantiated claims as being exculpatory.

66 The Tribunal is extremely concerned about the practitioner's attitude to these proceedings. Just as there is a duty on legal practitioner's to respond to enquiries by a professional disciplinary body, any practitioner of good repute and standing should provide a conscientious and timely response to disciplinary proceedings brought in the Tribunal. It appears that Mr Richardson has actively sought to avoid involvement in the proceedings to the point of evading service. That conduct indicates a lack of any appreciation of professional obligations, and a complete failure to accept responsibility for the conduct the subject of the complaint.

67 Suspension is appropriate by way of demonstration to Mr Richardson, and to others who may receive enquiries from the Committee, that the obligation to respond in a timely and appropriate manner is a serious one and will be enforced whatever the ultimate outcome of the enquiry

***Costs***

68 The applicant seeks costs in the sum of \$2904, being counsel's fees on the matter. No contribution is sought in relation to the Law Complaints Officer's own costs of preparation of the matter and instruction to counsel. The claim for costs is reasonable, and it is appropriate that the practitioner be ordered to pay costs in the sum of \$2904.

***Orders***

1. On VR 382 of 2005:
  - i) the respondent is ordered to pay to the Legal Practice Board a fine of \$3000.
  - ii) the respondent is ordered to pay to his former client, Ms R, the sum of \$1040. That payment is to be made by cheque delivered to the Law Complaints Officer within 28 days.
  - iii) the respondent is ordered to pay to the Legal Practitioners Complaints Committee, its costs fixed in the sum of \$2904.
2. On VR 383 of 2005:
  - i) the respondent is suspended from practice for a period of one year commencing on the date of this order.

I certify that this and the preceding [68] paragraphs comprise the reasons for decision of the State Administrative Tribunal.

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**JUDGE J CHANEY, DEPUTY PRESIDENT**