
JURISDICTION : STATE ADMINISTRATIVE TRIBUNAL

ACT : LEGAL PROFESSION ACT 2008 (WA)

CITATION : LEGAL PROFESSION COMPLAINTS
COMMITTEE and TOLSON [2019] WASAT 84

MEMBER : JUDGE T SHARP, DEPUTY PRESIDENT
MS L EDDY, SENIOR MEMBER
MS R MOORE, MEMBER

HEARD : DETERMINED ON THE DOCUMENTS

DELIVERED : 9 OCTOBER 2019

FILE NO/S : VR 85 of 2019

BETWEEN : LEGAL PROFESSION COMPLAINTS
COMMITTEE
Applicant

AND

HELEN MARIE TOLSON
Respondent

Catchwords:

Legal practitioners - Disciplinary proceedings - Practitioner convicted of nine counts of stealing - Appropriate penalty - Recommendation to full court that practitioner's name be removed from the roll

Legislation:

Criminal Code Act Compilation Act 1913 (WA), s 378(7)
Legal Profession Act 2008 (WA), s 3, s 5(a), s 401, s 402, s 403(1), s 404, s 428(1),

s 438, s 438(2), s 438(2)(a), s 555, Pt 9, Pt 13

State Administrative Tribunal Act 2004 (WA), s 15(1), s 60(2), s 62(3)

Result:

Report transmitted to Supreme Court (full bench)

Category: B

Representation:

Counsel:

Applicant : Mr S Merrick

Respondent : In Person

Solicitors:

Applicant : Law Complaints Officer

Respondent : N/A

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

Barristers' Board v Darveniza [2000] QCA 253; (2000) 112 A Crim R 488

Council of the New South Wales Bar Association v Sahade [2007] NSWCA 145

Craig v Medical Board of South Australia [2001] SASC 169;
(2001) 79 SASR 545

In re Davis [1947] HCA 53; (1947) 75 CLR 409

Khosa v Legal Profession Complaints Committee [2017] WASCA 192

Legal Practitioners Complaints Committee v De Pardo [2007] WASC 266

Legal Practitioners Complaints Committee v McKerlie [2007] WASC 119

Legal Practitioners Complaints Committee v Palumbo [2005] WASCA 129

Legal Practitioners Complaints Committee v Thorpe [2008] WASC 9

Legal Profession Complaints Committee v Brennan [2010] WASAT 46

Legal Profession Complaints Committee v Brickhill [2013] WASC 369

REASONS FOR DECISION OF THE TRIBUNAL:

The application

1 The Legal Profession Complaints Committee (**Committee**) seeks a finding pursuant to s 438 of the *Legal Profession Act 2008* (WA) (**LP Act**) that Ms Helen Marie Tolson (**Practitioner**) has engaged in professional misconduct.

2 The conduct the subject of the complaint is that the Practitioner, between about 23 September 2013 and about 30 August 2017 stole a total of \$1,967,741.51 from the trust account of the law practice of which she was an employee, and in relation to which she, on 27 November 2018, pleaded guilty and was convicted of nine indictable offences of stealing as a servant under s 378(7) of the *Criminal Code Act Compilation Act 1913* (WA) (**Criminal Code**). She was sentenced to a term of imprisonment of seven years and six months for those offences.

3 The Committee further submits that the Tribunal should make and transmit a report on its finding of professional misconduct to the Supreme Court (full bench) pursuant to s 438(2) of the LP Act in order for the Court to consider removal of the Practitioner's name from the roll of practitioners.

4 The Committee in its application also sought an order for its costs, but subsequently applied for, and was given, leave to withdraw that part of its application on the basis that the Practitioner did not oppose the Committee's application.

Proceedings in the Tribunal

5 The Committee filed its application with the Tribunal on 5 June 2019.

6 By letter dated 21 June 2019 to the Tribunal the Practitioner:

- acknowledged that she had received a copy of the Committee's application;
- stated that she does not oppose the Committee's application for a finding of professional misconduct by way of illegal and dishonest conduct within the meaning of s 403, s 404(c)(iii) and s 438 of the LP Act or the recommendation that the Tribunal make a report to the full bench of the Supreme Court recommending her

name be removed from the roll of practitioners pursuant to section 438(2)(a) of the LP Act; and

- applied for an order that certain matters not be published.

7 At a directions hearing on 25 June 2019, attended by the Practitioner by telephone from Bandyup Women's Prison, the President of the Tribunal ordered under s 62(3) of the *State Administrative Tribunal Act 2004* (WA) (**SAT Act**) that the names of certain specified individuals and entities involved in the matter are not to be disclosed or published to any third party.

8 The Tribunal on the same date ordered that, by 9 July 2019, the Committee file its bundle of documents and written submissions in support of the application, and, by 30 July 2019, the Practitioner file any written submissions in response. The Tribunal further ordered, under s 60(2) of the SAT Act, that this matter would then be determined on the documents.

9 On 8 July 2019 the Committee filed its bundle of documents as well as its written submissions.

10 The Practitioner did not file written submissions by 30 July 2019 or at all. On 1 August 2019 the Tribunal contacted the Committee and the Committee confirmed that it had not heard from the Practitioner and was not aware whether the Practitioner intended to file written submissions.

11 A further letter dated 1 August 2019 was sent to the Practitioner at the prison which was also not responded to. The Tribunal listed the matter for hearing on 26 September 2019. At the hearing, which the Practitioner attended by telephone, the Committee tendered its bundle of documents and stated that it intended to rely entirely on its written submissions. The Practitioner confirmed that she also did not seek to make any further submissions.

Factual background

12 Annexure A to the Committee's application contains a statement of facts addressing the Practitioner's nine criminal offences of stealing as a servant. In the Committee's bundle of documents, there is a transcript of proceedings in the District Court of Western Australia on 27 November 2018 at which the Practitioner pleaded guilty to all nine of the counts on the indictment. The facts alleged by the prosecution in those proceedings

were accepted by the Practitioner through counsel, with some minor, inconsequential, amendments. We are satisfied that the Committee's statement of facts is an accurate summary of the admitted facts. The Tribunal therefore makes the following findings of fact, drawn from the statement of facts, supplemented by facts taken from documents within the Committee's bundle of documents, but amended to have regard to the suppression order made by the President.

13 At all material times:

- (a) the Practitioner was an Australian legal practitioner within the meaning of s 5(a) of the LP Act, having been admitted to practise in Western Australia in 1996;
- (b) the Practitioner was an employee of a law practice (**Firm**);
- (c) the Firm held a trust account (**Trust Account**) with the National Australia Bank (**NAB**) for which it maintained, in accordance with its obligations under Pt 9 of the LP Act, a Trust Matter Ledger; and
- (d) the Practitioner was a trustee for a number of trusts and deceased estates for which trust moneys were held in the Trust Account.

14 On 27 November 2018, before Lonsdale DCJ in District Court of Western Australia proceedings IND 706 of 2018 (**District Court proceedings**), the Practitioner:

- (a) pleaded guilty to, and was convicted of, nine indictable offences under s 378(7) of the Criminal Code; and
- (b) was sentenced to a term of imprisonment of seven years and six months (with a non-parole period of five years and six months).

First conviction

15 On 23 September 2013 the Practitioner withdrew the sum of \$50,000 from the Trust Account (**first withdrawal**) by way of bank cheque.

16 The first withdrawal was deposited into the bank account of the
Practitioner's husband's company (**husband's company**) trading under a
business name (**husband's business**).

17 The Practitioner assisted with the running of her husband's business
by doing the accounts.

18 The Practitioner's husband's business was not a client of the Firm
and was not entitled to any money from the Trust Account.

19 The Practitioner attempted to conceal the first withdrawal in the
Trust Matter Ledger by recording the first withdrawal as a payment
against a deceased estate for which the Practitioner acted as trustee (**First
Estate**).

20 When the final distribution was due to the beneficiaries of the First
Estate, the Practitioner made a journal entry transferring funds from
another deceased estate for which the Practitioner also acted as trustee
(**Second Estate**), in order to balance the Trust Matter Ledger and further
conceal the first withdrawal.

21 On 27 November 2018 the Practitioner pleaded guilty to, and was
convicted of, the offence of stealing as a servant pursuant to s 378(7) of
the Criminal Code in making the first withdrawal.

Second conviction

22 On 21 May 2015 the Practitioner:

- (a) withdrew the sum of \$55,000 from the Trust Account
(**second withdrawal**); and
- (b) deposited the sum of \$78,201.46 into the Trust Account.
That deposit included a bank cheque in the sum of
\$77,905.02 payable to a corporate client of the Firm
(**AB Holdings; AB Funds**).

23 The second withdrawal comprised of two transfers of \$25,000 and
\$30,000 respectively into her husband's business bank account
(**husband's business bank account**) and a second bank account
(**husband's second business bank account**).

24 The Practitioner attempted to conceal the second withdrawal in the
Trust Matter Ledger by recording the second withdrawal against an
account created for file matter No. 17124 (where there was in fact no

such file matter) she had established for herself sometime prior to 21 May 2015 (**miscellaneous account**).

25 The second withdrawal was funded by the AB Funds.

26 At all material times the representatives of AB Holdings:

- (a) believed that the AB Funds were held in a term deposit account of a linked business entity; and
- (b) were unaware that the AB Funds had been paid into the Trust Account.

27 On 27 November 2018 the Practitioner pleaded guilty to, and was convicted of, the offence of stealing as a servant pursuant to s 378(7) of the Criminal Code in making the second withdrawal.

Third conviction

28 On 19 June 2015 the Practitioner withdrew the sum of \$25,742.02 from the Trust Account (**third withdrawal**).

29 The third withdrawal was deposited into her husband's business bank account.

30 The Practitioner attempted to conceal the third withdrawal in the Trust Matter Ledger by recording the third withdrawal against the miscellaneous account.

31 The third withdrawal was funded by the AB Funds.

32 On 27 November 2018 the Practitioner pleaded guilty to, and was convicted of, the offence of stealing as a servant pursuant to s 378(7) of the Criminal Code in making the third withdrawal.

Fourth conviction

33 On 30 September 2015 the Practitioner withdrew the sum of \$31,949.75 from the Trust Account (**fourth withdrawal**).

34 The fourth withdrawal was deposited into her husband's business bank account.

35 The Practitioner attempted to conceal the fourth withdrawal in the Trust Matter Ledger by recording the fourth withdrawal against the Second Estate as 'Transfer to Estate Bank Account'.

36 On 27 November 2018 the Practitioner pleaded guilty to, and was
convicted of, the offence of stealing as a servant pursuant to s 378(7) of
the Criminal Code in making the fourth withdrawal.

Fifth conviction

37 On 2 March 2016 the Practitioner withdrew the sum of \$26,000
from the Trust Account (**fifth withdrawal**).

38 The fifth withdrawal was deposited into a third bank account
(**husband's third business bank account**).

39 The Practitioner attempted to conceal the fifth withdrawal in the
Trust Matter Ledger by recording the fifth withdrawal against the trust
fund of Ms X, an elderly client of the Firm, and for which trust the
Practitioner acted as trustee (**Ms X Trust**).

40 On 27 November 2018 the Practitioner pleaded guilty to, and was
convicted of, the offence of stealing as a servant pursuant to s 378(7) of
the Criminal Code in making the fifth withdrawal.

Sixth conviction

41 On 31 May 2016 the Practitioner attended NAB in person and
withdrew the sum of \$250,000 from the Trust Account
(**sixth withdrawal**).

42 The sixth withdrawal comprised of seven separate bank cheques,
which were disposed of as follows:

- (a) the sum of \$9,650 deposited into a Westpac Credit Card
account held in the name of the Practitioner's husband;
- (b) the sum of \$3,940 deposited into a Westpac Credit Card
account held in the name of the Practitioner;
- (c) the sum of \$6,231.50 payable to a company operating in
relation to her husband business (**company related to
husband's business**);
- (d) the sum of \$27,489.57 deposited into her husband's third
business bank account;
- (e) the sum of \$43,000 deposited into her husband's
business bank account;

- (f) the sum of \$120,000 payable to the Australian Taxation Office, for a tax debt incurred by the company related to her husband's business; and
- (g) the sum of \$39,688.93 used to purchase a new car registered to the Practitioner.

43 The Practitioner attempted to conceal the sixth withdrawal in the Trust Matter Ledger by recording the sixth withdrawal against the Second Estate as 'Settlement Proceeds'.

44 On 27 November 2018 the Practitioner pleaded guilty to, and was convicted of, the offence of stealing as a servant pursuant to s 378(7) of the Criminal Code in making the sixth withdrawal.

Seventh conviction

45 On 14 October 2016 the Practitioner attended NAB in person and withdrew the sum of \$500,000 from the Trust Account (**seventh withdrawal**).

46 The seventh withdrawal comprised of two separate bank cheques, which were disposed of as follows:

- (a) the sum of \$456,000 used to pay off a NAB loan in the name of a family trust in relation to the company related to her husband's business; and
- (b) the sum of \$44,000 deposited into her husband's business bank account.

47 The Practitioner attempted to conceal the seventh withdrawal in the Trust Matter Ledger by recording the seventh withdrawal against the Second Estate as 'Settlement Proceeds'.

48 On 27 November 2018 the Practitioner pleaded guilty to, and was convicted of, the offence of stealing as a servant pursuant to s 378(7) of the Criminal Code in making the seventh withdrawal.

Eighth conviction

49 On 7 December 2016 the Practitioner withdrew the sum of \$977,983.49 from the Trust Account (**eighth withdrawal**).

50 The eighth withdrawal was used to pay a number of bad and doubtful debts to the NAB owed by the Practitioner and her husband.

51 The Practitioner attempted to conceal the eighth withdrawal in the Trust Matter Ledger by recording the eighth withdrawal against the Ms X Trust as 'Transfer to NAB'.

52 On 27 November 2018 the Practitioner pleaded guilty to, and was convicted of, the offence of stealing as a servant pursuant to s 378(7) of the Criminal Code in making the eighth withdrawal.

Ninth conviction

53 On 30 August 2017 the Practitioner withdrew the sum of \$46,800 from the Trust Account (**ninth withdrawal**).

54 The ninth withdrawal was used to purchase a new car registered to the Practitioner's husband.

55 The Practitioner attempted to conceal the ninth withdrawal in the Trust Matter Ledger by recording the ninth withdrawal against the Ms X Trust as 'Transfer to Client'.

56 On 27 November 2018 the Practitioner pleaded guilty to, and was convicted of, the offence of stealing as a servant pursuant to s 378(7) of the Criminal Code in making the ninth withdrawal.

The issue for determination

57 The Tribunal must determine whether, pursuant to s 438(2) of the LP Act, it is satisfied that the Practitioner is guilty of professional misconduct and, if so, whether the Tribunal should make and transmit a report to the Supreme Court of Western Australia (full bench) with a recommendation that the Practitioner's name be removed from the roll of practitioners.

Statutory framework

58 The proceedings in the Tribunal come within the Tribunal's original jurisdiction. By s 15(1) of the SAT Act, in exercising its original jurisdiction the Tribunal is to deal with the matter in accordance with the SAT Act and, in this case, Pt 13 of the LP Act.

59 The heading to Pt 13 of the LP Act is 'Complaints and discipline'. Part 13 comprises s 401 to s 469.

60 Section 401 of the LP Act provides that the purposes of Pt 13 of the LP Act are, relevantly, to:

- (a) provide for the discipline of the legal profession in Western Australia, in the interests of the administration of justice and for the protection of consumers of the services of the legal profession and the public generally;
- (b) promote and enforce the professional standards, competence and honesty of the legal profession; and
- (c) provide a means of redress for complaints about lawyers.

61 Section 402 of the LP Act provides:

For the purposes of this Act -

unsatisfactory professional conduct includes conduct of an Australian legal practitioner occurring in connection with the practice of law that falls short of the standard of competence and diligence that a member of the public is entitled to expect of a reasonably competent Australian legal practitioner.

62 Section 403(1) of the LP Act provides:

For the purposes of this Act -

professional misconduct includes -

- (a) unsatisfactory professional conduct of an Australian legal practitioner, where the conduct involves a substantial or consistent failure to reach or maintain a reasonable standard of competence and diligence; and
- (b) conduct of an Australian legal practitioner whether occurring in connection with the practice of law or occurring 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.

63 Section 404 of the LP Act then provides:

Without limiting section 402 or 403, the following conduct is capable of constituting unsatisfactory professional conduct or professional misconduct -

...

- (c) conduct in respect of which there is a conviction for -
 - (i) a serious offence; or

- (ii) a tax offence; or
- (iii) an offence involving dishonesty;

...

64 The expression 'serious offence' is defined in s 3 of the LP Act to mean:

... an offence (whether committed in or outside this jurisdiction) that is -

- (a) an indictable offence against a law of the Commonwealth or any jurisdiction (whether or not the offence is or may be dealt with summarily); or
- (b) an offence against the law of another jurisdiction that would be an indictable offence against a law of this jurisdiction if committed in this jurisdiction (whether or not the offence could be dealt with summarily if committed in this jurisdiction); or
- (c) an offence against the law of a foreign country that would be an indictable offence against a law of the Commonwealth or this jurisdiction if committed in this jurisdiction (whether or not the offence could be dealt with summarily if committed in this jurisdiction)[.]

65 The Committee was established under s 555 of the LP Act. If the Committee determines that a matter concerning the conduct of an Australian legal practitioner should be heard by the Tribunal, the Committee may refer the matter to the Tribunal under s 428(1) of the LP Act.

66 Under s 438(1) of the LP Act, the Tribunal has jurisdiction to make a finding that an Australian legal practitioner has engaged in unsatisfactory professional conduct or professional misconduct.

67 Section 438(2) of the LP Act provides:

If, after it has completed a hearing in relation to a referral under this Part in respect of an Australian legal practitioner, the State Administrative Tribunal is satisfied that the practitioner is guilty of unsatisfactory professional conduct or professional misconduct, the Tribunal may -

- (a) make and transmit a report on the finding to the Supreme Court (full bench); or
- (b) make any one or more of the orders specified in sections 439, 440 and 441.

68 Section 378(7) of the Criminal Code provides:

If the offender is a clerk or servant, and the thing stolen is the property of his employer, or came into the possession of the offender on account of his employer, he is liable to imprisonment for 10 years.

Principles to be applied

69 It is well established that the purpose of disciplinary proceedings is to protect the public and not to punish the practitioner concerned; ***Khosa v Legal Profession Complaints Committee*** [2017] WASCA 192 (*Khosa*) at [37] and [188].

70 The protection of the public has various aspects. The public may be protected by preventing a person from practising a profession, by limiting the right of practice or by making it clear that certain conduct is not acceptable; ***Craig v Medical Board of South Australia*** [2001] SASC 169; (2001) 79 SASR 545 at [48].

71 Honesty and integrity are essential prerequisites to the right to practise law; ***Legal Practitioners Complaints Committee v McKerlie*** [2007] WASC 119 at [8]. A practitioner must command the personal confidence of his or her clients, fellow practitioners and judges; ***In re Davis*** [1947] HCA 53; (1947) 75 CLR 409, 420; ***Legal Practitioners Complaints Committee v Thorpe*** [2008] WASC 9 at [43].

72 A willingness to engage in dishonest behaviour is of central relevance to an assessment of a practitioner's fitness to practise; ***Council of the New South Wales Bar Association v Sahade*** [2007] NSWCA 145 at [58]. Conduct involving dishonesty, whether it occurs within or outside the profession and whether it results in a criminal conviction or not, has generally been regarded very seriously by the court; ***Legal Practitioners Complaints Committee v Palumbo*** [2005] WASCA 129 at [22]; ***Legal Practitioners Complaints Committee v De Pardo*** [2007] WASC 266 at [14].

73 The quality most likely to result in removal of a practitioner's name from the roll is conduct which undermines the trustworthiness of the practitioner or which suggests a lack of integrity, or that the practitioner cannot be trusted to deal fairly within the system in which he or she practises; ***Barristers' Board v Darveniza*** [2000] QCA 253; (2000) 112 A Crim R 488 at [33]; ***Legal Profession Complaints Committee v Brickhill*** [2013] WASC 369 at [21]; *Khosa* at [192].

Disposition

74 The Committee seeks from the Tribunal a finding of professional misconduct and an order, pursuant to s 438(2)(a) of the LP Act, that the Tribunal make and transmit a report to the Supreme Court (full bench) with a recommendation that the name of the Practitioner be removed from the roll of practitioners.

75 The Practitioner has indicated to the Tribunal that she does not oppose that order being made or the Committee tendering its book of documents, comprising a statement of material facts from the Western Australia Police, a record of conviction and a transcript of the District Court proceedings on 27 November 2018. In a letter to the Tribunal dated 21 June 2019 the Practitioner states:

I do not oppose the application of the Committee for a finding of professional misconduct by way of illegal and dishonest conduct within the meanings of sections 403, 404(c)(iii) and 438 of the Legal Profession Act 2008 or the recommendation of the Committee that the Tribunal make a report to the Full Bench of the Supreme Court recommending my name be removed from the roll of practitioners pursuant to section 438(2)(a).

I am truly sorry for my actions and do not wish to cause any further distress to ... the staff at the law firm.

...

I note that I applied to have my practice certificate cancelled in or about April 2018... and the Board duly cancelled my certificate at that time.

76 In total, the Practitioner stole \$1,967,741.51 from the trust account of the law practice where she worked. She was convicted of nine offences of stealing as a servant and was sentenced to a term of imprisonment of seven years and six months (with a non-parole period of five years and six months), indicating the serious nature of her offences.

77 In Lonsdale DCJ's sentencing remarks (ts 41, 27 November 2018), her Honour noted that, whilst there were distinguishing features, the matter of *Legal Profession Complaints Committee v Brennan* [2010] WASAT 46 (*Brennan*) is the case 'most relevant to [the practitioner's] situation ... [and] there is little distinction to be drawn in terms of [her] overall level of criminality'; ts 41, 27 November 2018.

78 We respectfully agree with Lonsdale DCJ that the current facts are analogous with the facts in *Brennan*. In that case, the practitioner concerned pleaded guilty to and was convicted of 70 counts of stealing from the estate of a single client over the course of seven years a total of almost \$900,000. He was sentenced to a term of imprisonment of seven years and six months. The Tribunal in that case made a finding that the practitioner concerned was guilty of professional misconduct by illegal conduct and, pursuant to s 438(2)(a) of the LP Act, made and transmitted a report to the Supreme Court (full bench). The Supreme Court subsequently ordered the removal of that practitioner's name from the roll of practitioners.

79 Her Honour also relevantly stated (ts 38-39, 27 November 2018) in her sentencing remarks that:

[Y]our offending was a very serious example of offending of this kind. There are a number of aggravating features. The most obvious aggravating feature is that you were a legal practitioner who your clients were entitled to trust. The gross breach of trust that you displayed towards them has no doubt destroyed their confidence in the legal profession and has the potential to ruin confidence in the legal profession more broadly

...

Your dishonesty was gross. You engaged in a sophisticated plan to deceive your clients once they began to uncover your deception. You told a number of lies and you impersonated fictitious people, being persons that you had created to cover up your dishonesty.

I have heard that you had financial pressures, but none of that provides you with any mitigation. Whilst it is submitted that you were not motivated by greed because the money was used to relieve financial pressure in your life, this does not fully explain, in my view, your purchase of two brand new cars with money belonging to others.

Whilst on the whole I am prepared to accept that you were not motivated primarily by greed but more by a desire to ensure that your family was not financially ruined, there was, in my view, an element of greed in your offending, insofar as the funds you stole were used to your ultimate benefit.

It hardly needs to be said that your victims were very vulnerable. I have read the victim impact statement from [name]... who is the power of attorney for [Ms X], the elderly client of the firm. The effect that your offending has had on her has been profound. She says:

'A solicitor has abused our trust and treated it as an opportunity to steal the life savings of an elderly person. This has had a lasting emotional and financial effect on our lives.'

Now, the victim impact statement was written before restitution was made, so the victim impact statement must be understood in that light.

Now, Ms Tolson, the targeting of vulnerable people such as the elderly is despicable behaviour. As the community becomes more aware of the issue of elder abuse it is my view that the courts need to send a strong message that those who take advantage of the elderly will be dealt with by severe punishment. Both sentencing principles of punishment and general deterrence loom large in the sentencing process.

80 We respectfully agree with her Honour's characterisation of the Practitioner's conduct. The conduct occurred in the course of legal practice and continued for a period of just under four years. Clearly, it was premeditated. The Practitioner betrayed the trust in her of her clients for her own financial benefit. The relevant conduct reveals a lack of integrity on the part of the Practitioner and a demonstrated propensity to use her position as a practitioner to take advantage of vulnerable clients in order to advance her own interests. The Practitioner's offences are serious offences and involve dishonesty. It is the Tribunal's finding that the Practitioner's conduct constitutes professional misconduct.

81 We also consider that this is a case where the Practitioner's conduct is such that a report should be transmitted to the Supreme Court (full bench) pursuant to s 438(2) of the LP Act. These reasons constitute that report. It is the Tribunal's recommendation that the name of the Practitioner be removed from the roll of practitioners.

Orders

1. Pursuant to s 438(2)(a) of the *Legal Profession Act 2008* (WA), the Tribunal makes and transmits a report in the form of its reasons published on 9 October 2019 to the Supreme Court (full bench).
2. The Tribunal recommends that the name of the Practitioner be removed from the roll of practitioners.

I certify that the preceding paragraph(s) comprise the reasons for decision of the State Administrative Tribunal.

JUDGE T SHARP, DEPUTY PRESIDENT

9 OCTOBER 2019