

**LEGAL PRACTITIONERS'
DISCIPLINARY TRIBUNAL
AT DARWIN**

CITATION: *Law Society NT v David Story*
2023-03204-SC

PARTIES: **LAW SOCIETY NORTHERN TERRITORY**
Applicant
v
DAVID CHARLES STORY
Respondent
HANDE CAGANLI (formerly HANDE BAYRAM)
Interested Party

FILE NUMBER 2023-03204-SC
HEARING DATE 7 February 2025
DELIVERED 19 September 2025

TRIBUNAL MEMBERS: MR ALASTAIR SHIELDS (CHAIR)
MS HEATHER KING (MEMBER)
MR TOM KORECKI (MEMBER)

REPRESENTATION:

APPLICANT: Mr Joshua Ingrames, Counsel
Ms Aislinn McIntyre

RESPONDENT: Mr David Alderman, Counsel

INTERESTED PARTY: Self

REASONS FOR DECISION

1. On 12 September 2023, the Law Society Northern Territory (**Law Society**) made an application to commence disciplinary proceedings in the Legal Practitioners' Disciplinary Tribunal (**the Tribunal**) against David Charles Story (**the Respondent**).
2. The application by the Law Society followed a decision of the Tribunal dated 15 August 2023 (in proceedings 2022-01445-SC) in which the Law Society was directed by the Tribunal in accordance with section 511(1)(a)(ii) of the Act to start disciplinary proceedings in the Tribunal. Leave was granted pursuant to section 519 of the LPA by the Tribunal on 17 May 2024 to file and serve an amended disciplinary application, and leave was again granted by the Tribunal to file a further amended disciplinary application in court on 1 July 2024.
3. The Tribunal decision dated 15 August 2023 was the outcome of a successful appeal by Ms Hande Caganli (formerly known as Ms Hande Bayram) (**the Interested Party**) against the decision of the Law Society concerning a complaint made against the Respondent by the Interested Party.
4. The further amended application by the Law Society alleged that, in the period from about 24 March 2019 until 29 September 2020, the Respondent, as an Australian Legal Practitioner, engaged in unsatisfactory professional conduct pursuant to section 464 of the *Legal Profession Act 2006* (**the LPA**) and/or professional misconduct pursuant to section 465 of the LPA.
5. The application by the Law Society was originally scheduled for hearing on 1 and 2 July 2024, however, on 1 July 2024 the Law Society and the Respondent were granted leave to file an instrument of consent under section 527 of the LPA, seeking orders by the Tribunal finding the Respondent guilty of unsatisfactory professional conduct pursuant to section 464 of the LPA in relation to the allegations made in the further amended application for these disciplinary proceedings. Leave was also granted on 1 July 2024 for the parties to file a Statement of Agreed Facts for Instrument of Consent.
6. After carefully considering the instrument of consent and the Statement of Agreed Facts for Instrument of Consent, the Tribunal was satisfied that the allegations had been made out, the procedural requirements of section 527 of the LPA had been complied with, and that there was no public interest requirement for a hearing to determine guilt.
7. On 1 July 2024, the Tribunal therefore ordered that, pursuant to section 527 of the LPA, the Tribunal is satisfied that the Respondent David Charles Story is guilty of unsatisfactory professional conduct, pursuant to section 464 of the LPA, for and in respect of Allegation 1 of the Further Amended Disciplinary Application filed on 1 July 2024. The hearing date on 2 July 2024 was vacated,

and the matter was subsequently listed for hearing of submissions on penalty on 7 February 2025.

8. An application for a compensation order by the Interested Party pursuant to section 534 of the LPA was also listed for hearing on 7 February 2025.

Particulars of Disciplinary Application

9. The further amended application for disciplinary action filed by the Law Society alleged that: "From on or about 24 March 2019 to 29 September 2020 the Respondent engaged in unsatisfactory professional conduct or professional misconduct by:
 - 1) Failing to inform Mrs Franz either immediately before or immediately after the Valuer Delivered Jewellery and Coins came into his possession; and
 - 2) Further, or in the alternative, failing to inform Mrs Franz on the next business day, being 25 March 2019, or at all until at least 4 April 2019, that the Valuer Delivered Jewellery and Coins were in his possession;
 - 3) By the above failure(s), allowing the Husband to file an Application in the FCC, which included, among other things, allegations regarding missing items from the valuation report, when the Valuer Delivered Jewellery and Coins were in his safe; and
 - 4) By the above failure(s), causing the Wife emotional stress for the period that she sought and was unable to locate the Wife Jewellery and Coins being the items that she had delivered to the Valuer."
10. The relevant facts for these allegations are set out in the Statement of Agreed Facts for Instrument of Consent filed with the Tribunal on 1 July 2024, and which are set out in full below:

The practitioner

1. David Charles STORY is a 72 year old man who was admitted to practice as a legal practitioner in the State of Victoria on 3 April 1978.
2. Mr Story was admitted in the Northern Territory as a legal practitioner under mutual recognition laws on 2 June 1997.
3. From that time (with various absences from the Northern Territory during the early parts of the 2000's but continuously from at least about 17 February 2003) to date, Mr Story has held a local practising certificate in the category Unrestricted, entitling him to practice as a legal practitioner in the Northern Territory.
4. Mr Story established his law practice, Story & Associates, on 17 February 2003, as a sole practitioner. From time to time, Mr Story has employed other legal practitioners and assistants to work for him in the law practice.

5. Mr Story has extensive experience, having been a legal practitioner for approximately 47 years. He has worked in many areas of law but now confines his practice to the areas of conveyancing, probate, wills, family law and some minor criminal law matters.
6. Mr Story has previously and continues to conduct some matters on a pro bono basis.
7. Mr Story runs a busy practice.

Family Law Proceedings

8. On 14 August 2018 Mr Story received instructions to act for Mr Barbaros Bayram (**Mr Bayram or the Husband**) in disputed matrimonial proceedings before the, then, Federal Circuit Court of Australia (being proceedings numbered DNC 227/2018), with his former spouse, Mrs Hande Bayram (**Mrs Bayram or the Wife**) (to be called "**the proceedings**").
9. Mrs Julie Franz was acting for the Wife from about mid-January 2019. Prior to this, and until around December 2018, the Wife was represented by Mr Simon Caldwell of the Northern Territory Legal Aid Commission.
10. The proceedings related to parenting and matrimonial property issues. They were notably complex, marked by high contention and numerous disputes, including parenting disagreements over a young child and allegations of domestic violence. The proceedings also took place over an extended period of time.
11. The property dispute was highly contentious and involved a complex property pool, including trusts, properties locally and overseas, various cars, and disputes about loan(s). The amount of the property pool was found to be \$361,706.58.
12. The property dispute was also characterised by a significant and ongoing disagreement over the itemisation and whereabouts of jewellery and gold coins and their division between the parties. This dispute remained ongoing until the final hearing.

Jewellery and Coins – Valuation Required

13. The Wife left the matrimonial home on 28 March 2018 and took with her various items of jewellery and coins, the identification, ownership and value of which was in issue as part of the proceedings.
14. On 18 October 2018, the Wife filed an affidavit in the proceedings that provided an inventory of the jewellery and coins in her possession, including colour photographs.

15. The Wife disclosed in the October 2018 affidavit that she had sold 2, 5 gram gold bars, which the Husband had purchased as an investment. The gold bars generated a total of \$520.00 in value retained by Mrs Bayram. The sale of these items was undertaken without the knowledge or consent of the Husband.
16. From at least November 2018 an issue arose in the proceedings regarding what jewellery and coins were possessed by the Wife (with suspicion by the Husband that undisclosed items had also been sold and that the Wife took more jewellery and gold coins from the matrimonial home than disclosed), as well as the value of the jewellery and gold in each of the Husband and the Wife's possession. An itemisation and valuation was required.
17. On 27 November 2018 Mr Story wrote to Mrs Bayram's then lawyer, Mr Caldwell, and raised the topic of a valuation with Gaynor Elmslie, at Pearl Galleria, setting out a mode by which that could occur and the anticipated costs.
18. On 28 November 2018 Mr Caldwell replied and confirmed that Mrs Bayram was agreeable to attending Pearl Galleria for the purpose of obtaining valuations. Mr Caldwell did not otherwise materially address Mr Story's questions about the property.
19. On 10 December 2018 Mr Story wrote again to Mr Caldwell about the valuation with the valuer at the Pearl Galleria saying the establishment was going to close at the end of December 2018 and requesting Mrs Bayram deliver the Gold to the valuer in the next day or so.
20. On 14 December 2018, Mr Caldwell filed a Notice of Withdrawal as Lawyer. Mrs Bayram had no legal representation from this time up to early January 2019 when Mrs Franz was engaged.
21. On 22 January 2019 (by a letter dated 21 January 2019) Mr Story wrote to Mrs Franz about the valuation of the jewellery and coins including expressing urgency for the valuation given the only valuer in Darwin was closing their shop soon. Mrs Bayram agreed that it was best for the jewellery and coins to be valued in Darwin and not interstate.
22. On 8 February 2019 Mrs Franz replied to Mr Story by letter confirming agreement to the valuation and that Mrs Bayram would deliver the jewellery and coins in her possession to the valuer. The letter also noted to the effect that Mrs Bayram had been safely storing the items of jewellery and coins that she had taken from the matrimonial home in her friend's safe.

Delivery of the Jewellery and Coins

23. On 11 February 2019 Mrs Bayram attended at her friend's home and collected some of the jewellery and coins from the safe. She took those items to the Pearl Galleria on 12 February 2019.
24. Later on 12 February 2019 Mrs Bayram attended again at her friend's home and collected another bag of jewellery and coins from the safe that she had missed. She also took those items to the Pearl Galleria on 13 February 2019.
25. On 12 and 13 February 2019 during her attendances at the Pearl Galleria with the valuer, Mrs Bayram together with the valuer, prepared an inventory of the items she was delivering. Each item of jewellery and coins delivered to the valuer appeared in the inventory, which was by way of pages of marked photographs. There was a total of 10 pages of photographs of items, marked "A" through to "J". The valuer produced receipts to Mrs Bayram, noting her receipt of the items in the photographs. The inventory list and receipts created by Mrs Bayram and the valuer on 12 and 13 February 2019 were provided to Mrs Franz but not provided to Mr Story.
26. On 13 February 2019 Mrs Bayram said to the valuer words to the effect: *I will collect the jewellery and coins. My ex will pay but do not hand the items over to him.* The valuer replied saying to the effect: Yes.

Jewellery and Coins – whereabouts unknown by Mrs Bayram

27. On 21 March 2019 Mrs Bayram received an email from the valuer confirming that the valuation was complete, and the jewellery and coins were ready for collection. Mrs Bayram sent Mr Bayram a text message asking him to pay the \$4,200.00 for the valuation.
28. During the period between 21 March 2019 and 19 April 2019 Mrs Bayram did not know where the jewellery and coins that she had delivered to the valuer were.
29. Over the period of late February to mid-April 2019, Mrs Bayram made efforts to keep track of, and then locate, the items including as follows:
 - a. On 25 February 2019 Mrs Bayram sent a text message to the valuer asking to the effect of, whether the valuation had been completed and if she could collect the items she had delivered. The valuer did not reply to the text message.
 - b. On or about 6 March 2019 Mrs Bayram attended at Pearl Galleria to look for the valuer and the items she had delivered. She did not locate the valuer or the items. That day Mrs Bayram told her lawyer by email that she was quite concerned about this and was considering going to the police.

- c. On 25 March 2019 Mrs Bayram sent a text message to the valuer asking to the effect of whether the valuation had been paid for and when she could collect the items she had delivered. The valuer did not reply to this text message.
 - d. On 26 March 2019 Mrs Bayram emailed Mrs Franz about the items she had delivered to the valuer. Mrs Franz confirmed for Mrs Bayram that she had informed Mr Story (by way of an email on 22 March 2019) *that the Wife did not agree to place the jewellery and coins into a safety deposit box.*
 - e. On 4 April 2019 at 12:54 pm Mrs Bayram emailed the valuer asking when she could come and collect the items she had delivered to the valuer. The valuer did not reply.
 - f. On 9 April 2019 Mrs Bayram sent a text message to the valuer advising that she would be coming to the shop to collect the items on 11 April 2019 as she understood the valuation had been paid for on 22 March 2019. The valuer did not reply to the text message.
 - g. On 11 April 2019 Mrs Bayram emailed the valuer asking them to contact her and deliver the items or that she would complain to the police.
 - h. On 12 April 2019 Mrs Bayram emailed Mr Bayram to ask if he knew the whereabouts of the gold jewellery that she had given to the valuer as the valuer was not responding to her correspondence. Mr Bayram replied that he did not have it but he did not inform Mrs Bayram that it was with Mr Story. Mr Story and Mrs Franz were copied into this correspondence between the parties, and Mrs Franz emailed Mr Story directly to ask for a copy of the valuation and if he could advise where the jewellery was then located. Mr Story did not reply to this email at all.
30. Mrs Bayram experienced concern while she did not know where the jewellery was located. Mrs Bayram did not know if the valuer had disappeared and stolen the items.
31. It was not until 19 April 2019 that Mrs Bayram became aware that the items she had delivered to the valuer were in Mr Story's safe. While working on an affidavit with Mrs Franz that day (which was Good Friday), Mrs Franz told Mrs Bayram that she had spoken to Mr Story (also that day) and he had informed her he had the items she had delivered to the valuer.

Jewellery and Coins – payment and collection

32. As a result of Mrs Bayram's message to him on 21 March 2019 (referred to at [27] above), on Sunday, 24 March 2019 Mr Bayram attended at the Pearl Galleria. The valuer telephoned Mr Story while Mr Bayram was present there and Mr Story attended.

33. Upon his attendance at the Pearl Galleria Mr Story:
- a. Noted that it was the last day of trade for the Pearl Galleria;
 - b. Noted that the store was extremely busy;
 - c. Noted that Mr Bayram had already paid the invoice for the valuation;
 - d. Was informed by the valuer that they agreed to pass the bag of jewellery to Mr Story but not to any other person present at the time;
 - e. Was informed by the valuer that if he did not accept the bag of jewellery, the valuer would take the bag to Queensland;
 - f. Was aware of the sentimental value of the items and the ongoing dispute between the parties regarding their possession; and
 - g. The bag of jewellery was sealed and Mr Story did not open it up or look inside it before taking possession of it.
34. Mr Story did not contact Mrs Franz to inform her of the events unfolding at the Pearl Galleria that day; nor did he ask his client, Mr Bayram, to telephone Mrs Bayram to inform her of the events unfolding at the Pearl Galleria that day.
35. Mr Story took the bag of jewellery and deposited it in the safe at his office shortly thereafter, on 24 March 2019.
36. Mr Story felt enormously uncomfortable collecting and retaining the bag of jewellery in such *emergency or unusual circumstances*; yet Mr Story did not take any action to alleviate his discomfort by contacting Mrs Franz to advise that he had taken possession of the jewellery.
37. Later, on 24 March 2019, Mr Bayram instructed Mr Story not to inform Mrs Bayram that Mr Story had taken possession of the bag of jewellery and coins for at least a week. Mr Story followed those instructions without challenging his client. However, Mr Story recognises that he should have advised his client of the inappropriateness of not informing Mrs Franz on behalf of Mrs Bayram.

Valuation report and Application in a Case

38. Mr Story received a valuation report from the valuer which contained photographs of most of the items that Mrs Bayram had delivered to the valuer (other than a broken baby bracelet which was not pictured, and noting that some items pictured were not actually valued, including a gold necklace and a coin, apparently in error by the valuer). The valuation report valued the items set out in the report at approximately \$54,500.00.
39. On 31 March 2019, Mr Bayram instructed Mr Story to file an Application in a Case. The Application was filed on 5 April 2019 and it sought orders as follows:
- a. This matter be dealt with on an urgent basis and all times for service the (sic) abridged.

- b. That the [Wife] return all jewellery presently in her possession to either of her solicitor or the solicitor for the [Husband].
- c. That the [Wife] provide a full accounting with respect to all jewellery sold including the date of sale, the price realised, the identity of the object sold and any valuation that she had of the sold item prior to its sale.
- d. That the [Wife] provide details of her present living arrangements to the [Husband] including details of who resides at her residence and the address of such residence.

(referred to hereafter as the **Application**)

40. The Application was supported by an affidavit made by Mr Bayram on 31 March 2019. Mr Story assisted Mr Bayram to prepare that affidavit. At paragraph 6 the affidavit read:

"I have carefully read the valuations and have taken notice of the photographs of each item. The photographs of the items valued do not match with the photographs contained in Hande's affidavit of the 18 October 2018 and there are many items missing."

41. The Application made no mention that Mr Story was holding the items Mrs Bayram had delivered to the valuer in his safe.

42. On 24 April 2019 Mrs Bayram responded to the Application stating that she did not agree to the orders sought by the Husband in the Application and seeking an order that Mr Bayram and his solicitor do all acts and things to return to Mrs Bayram the items which she had delivered to the valuer (by this time, being aware that they were in Mr Story's safe – see [31] above).

43. In the court documents for the Application, both the Husband and Wife agreed that there appeared to be some errors in the valuation report. The parties considered that some of the items that Mrs Bayram had taken from the matrimonial home were missing from the valuation report. These items were a broken baby bracelet, a large gold coin on a necklace and a separate gold women's chain. Throughout the relevant time of the Complaint, the Husband thought that the items were missing because Mrs Bayram was selling off the items without permission.

Story correspondence including letter from Mr Story about location of the items

44. On 27 November 2018, Mr Story had emailed Mr Caldwell about placing the jewellery and coins into the custody of the Court or a bank vault.

45. On 22 March 2019, (as set out at [29 (d)] above) Mrs Franz advised Mr Story by email that Mrs Bayram did not wish for the jewellery and coins to be placed in a safety deposit box as the items had been itemised, valued and

would be kept in a safe place by her. Mrs Bayram offered an undertaking with the court not to dispose of the items until the finalisation of the proceedings.

46. On Sunday, 31 March 2019 Mr Story drafted three letters which he sent by email directly to Mrs Franz.
47. On 1 April 2019 Mr Story's office also emailed those three letters dated 31 March 2019 to Mrs Franz at the email address admin@darwinfamilylaw.com.au. They made no mention of the location of the jewellery or coins.
48. On 4 April 2019 Mr Story emailed Mrs Franz directly at 8:49 am and Mrs Franz replied at 11:04 am. The relevant parts of each of that correspondence were:

a. Mr Story's email:

I have received the valuation of the jewellery from Pearl Galleria. I presume that you have received a copy but if you have not please let me know.

It is apparent from the valuation and from the photographs that your client annexed to her affidavit that there are many items missing.

I have therefore received instructions from my client to issue an Application in a Case, seeking amongst other things, that all the jewellery that your client has in her possession still be returned to a nominated recipient, probably you and me and that there be a full accounting with respect to the jewellery that your client has sold. Some items have been identified as being available for sale over the Internet...

b. Mrs Franz's reply:

Valuation of Jewellery

I have not received the valuation for the jewellery. Could you please forward it to me? Can you also advise if the valuer still has the jewellery. My client has tried to contact the jeweller without success.

...

49. On 4 April 2019 at 3:31 pm Mr Story's office emailed a letter, dated Sunday 31 March 2019, to Mrs Franz (**Disclosure Letter**). The Disclosure Letter included the following information:

*"I acknowledge receipt of your email correspondence of 11.04 am today. I **attach** a copy of the Valuation of the jewellery.*

I advise that the valuer contacted me and was concerned that my client was insisting that the jewellery be released to him.

I prevailed upon him to release it to me and I attended the jewellery store on its last day of trading and received a plastic bag (of the zip-lock type) and in front of the jeweller I put staples through it so it could not be opened. It is now in a secure place. I do not wish to have the responsibility for it. Perhaps when we attend Court on the return date of my application in the case then that can be raised with the Judge..."

50. For reasons unknown, Ms Franz says the Disclosure Letter was not received by her or her law practice reception that day or at all until the Society's investigation of the Complaint.
51. On 12 April 2019 (as set out at [29 (h)] above) Mrs Franz again asked for a copy of the valuation and about the whereabouts of the jewellery and coins by email to Mr Story.
52. On 18 April 2019 Mr Story's office emailed a copy of the valuation to Mrs Franz.
53. On 19 April 2019 (as set out at [31] above) Mr Story spoke to Mrs Franz and informed her he had the jewellery and coins in his safe.

Court Appearances, Orders and Audit

54. On 29 April 2019 the Application was listed before Judge Young. There was no interim hearing on the Application as the parties agreed that it would need to be resolved at a final hearing. Mr Story raised the possibility of it being resolved at the conciliation conference the next day.
55. On 30 April 2019 a conciliation conference was held between the parties. The whereabouts of the jewellery and coins was raised by Mrs Bayram and the Registrar commented to the effect that they were safe where they were in Mr Story's safe.
56. For the duration of the proceedings, the parties were focused on their separate allegations regarding the retention of a quantity of jewellery. The parties also remained at a stalemate as to the division of jewellery.
57. Mr Story raised the topic of conducting an audit of the jewellery and coins that Mr Story had collected from the valuer (originally delivered by Mrs Bayram) and all items "in Mrs Bayram's possession still" on several occasions from April 2019 to September 2020 but agreement for it to proceed was not reached and Mr Story applied to the Court for orders that an audit proceed.

58. On or before 2 September 2020 Mr Story proposed to deliver the jewellery and coins that he had in his safe, to Mrs Franz for safekeeping but Mrs Franz on instructions refused to take delivery. This was noted by Judge Young on the Court Order of 2 September 2020. Judge Young ordered on the application of the Respondent:
- a. That on or before 7 days from the date hereof, the parties respective lawyers and an agreed third party, independent to the parties herein, attend at the Darwin Land Title office at 9:00 am to inspect and photograph the said jewellery which is to be provided by Mr Story.
 - b. That each item of jewellery shall be photographed and shall be checked against the items of jewellery as contained in the valuation from Pearl Galleria.
59. On 29 September 2020 an independent audit of the jewellery and coins which had been in Mr Story's safe was carried out in accordance with the Court Order of 2 September 2020. During the audit it was found that the items that Mr Story had collected from the Pearl Galleria matched the items that Mrs Bayram had delivered to the valuer.
60. The items were then deposited in a safety deposit box at the Commonwealth Bank in the joint names of Mrs Bayram and Mr Bayram.
61. The final hearing of the proceedings occurred on 19 to 22 July 2021. Judgement was delivered on 1 October 2021. By that time, Ms Farmer of Withnalls Lawyers was acting for Mr Bayram.
62. At the conclusion of the proceedings, as a result of the audit, the dispute had been narrowed down to two types of jewellery over which the parties could not agree. The issue was finally determined by the Court.

The Complaint and Appeal

63. On 14 May 2019 Mrs Bayram lodged her complaint with the Applicant under section 471 of the Legal Profession Act 2006 (**LPA**) (**Complaint**).
64. There were periods of delay during the Society's investigation of the complaint due to its problems with retaining staff members investigating the Complaint. The Complaint was ultimately thoroughly investigated by Mr Desmond Crowe.
65. On 6 August 2020 Mr Story was notified of the complaint informally by telephone call about 449 days after the Society's receipt of the complaint. Formal written notice of the complaint to Mr Story followed on 7 August 2020.
66. Mr Story withdrew from the proceedings shortly after this time.

67. On 24 February 2022 the Society decided the Complaint. It dismissed Grounds 1, 2, 3 and 5 of the Complaint and upheld Ground 4 in part, dealing with it under section 499 of the LPA.

68. On 17 May 2022 the Society issued its statement of reasons for decision.

69. Mrs Bayram appealed the Society's decision to the Tribunal on 6 June 2022 (with an amended notice of appeal filed on 8 June 2022).

70. The Tribunal heard the appeal on 9 February 2023.

71. The Tribunal issued its decision on 15 August 2023 directing the Society to take disciplinary action which is now before the Tribunal."

Decision of Disciplinary Tribunal on Penalty

11. Section 525 of the LPA sets out the range of orders that the Tribunal may make following a finding that a practitioner is guilty of unsatisfactory professional conduct or professional misconduct.
12. The Law Society submitted that the Tribunal might consider an order for a public reprimand under section 525(3)(e) of the LPA, together with a fine under section 525(5)(a)(i) at the higher end of the maximum fine of 100 penalty units, to be the minimum appropriate orders for this matter, and that the Tribunal might also consider imposing a period of suspension pursuant to section 525(3)(b) of the LPA.
13. The Tribunal has considered the need for both specific and general deterrence in the making of orders on penalty for this matter.
14. On the one hand, the Tribunal notes that Respondent has practised law for approximately 47 years, 27 of them in the Northern Territory, and that he has provided references that attest to pro bono legal work he has undertaken while managing a busy practice.
15. On the other hand, the Respondent has been admonished by the Law Society for improper conduct in the practice of law on 8 occasions prior to the actions that gave rise to these proceedings in 2020.
16. Additionally, the Respondent did not concede that his actions in blindly following his client's instructions and failing to advise the Interested Party that he had taken possession of the jewellery were such that he should concede that he was guilty of unsatisfactory professional conduct until just prior to the scheduled hearing for this matter, and he has not shown remorse for his actions.
17. This is against the backdrop of his knowledge that the family law proceedings were notably complex, marked by high contention and numerous disputes, and

that his failure to promptly advise the Interested Party or her legal advisor was likely to add additional stress to an already stressful situation.

18. The Respondent's actions, together with his failure to promptly accept that they amounted to unsatisfactory professional conduct or express remorse for his actions, suggest to the Tribunal either an indifference to adherence to professional standards, or a lack of understanding of the applicable professional standards.
19. The Tribunal is therefore of the view that the Respondent's breaches are at the higher end of the scale of this type of unsatisfactory professional conduct.
20. In all the circumstances, the Tribunal considers that an order publicly reprimanding the Respondent, together with orders that the Respondent pay a fine of 100 penalty units, and undertake an appropriate course of study in Legal Ethics to be agreed with the Law Society, are the appropriate orders in this matter.

Costs

21. Section 529(1) of the LPA requires the Tribunal to make an order requiring a practitioner to pay costs (including the costs of the Law Society and the complainant) where the practitioner has been found guilty of unsatisfactory professional conduct or professional misconduct, unless the Tribunal is satisfied that exceptional circumstances exist.
22. The Law Society has made application for an order requiring the Respondent to pay its costs of these proceedings. The Respondent has submitted that exceptional circumstances exist in this case, due to the delays in him being notified about the original complaint, and delays in investigation of the complaint and bringing this application to the Tribunal. It was also submitted that the Respondent suffered a detriment to his mental health because of the protracted proceedings and was put to additional costs because of the appeal by the Interested Person of the decision of the Law Society, which ultimately led to these proceedings being initiated by the Law Society.
23. The Tribunal is satisfied that none of these factors meet the threshold for the Tribunal to be satisfied that exceptional circumstances exist. This case is clearly distinguishable from previous Tribunal decisions, such as *Law Society Northern Territory v Geoffrey Clift [2020]*, and *Law Society NT v Marguerite Blanka Bowen [2025]*, where the personal financial circumstances of the practitioners and their future prospects featured prominently in the reasoning of the Tribunal.
24. The Tribunal therefore proposes to make an order that the Respondent pay the costs of the Law Society in respect of this application. Those costs have been quantified by the Law Society, based on invoices from Counsel, and reduced from \$38,885 to \$32,065, to allow for any possible overlap in fees due to a

change in Counsel for the Law Society during these proceedings. The Tribunal considers that \$32,065 is the appropriate amount for the Respondent to pay the Law Society for the Law Society's costs in these proceedings.

Compensation Application

25. Section 536(2) of the LPA provides that the Tribunal may make a compensation order if it has found an Australian legal practitioner guilty of unsatisfactory professional conduct or professional misconduct. Given the order made by the Tribunal on 1 July 2024 that the Respondent was guilty of unsatisfactory professional conduct in respect of the complaint made by the Interested Party, the Tribunal has jurisdiction to consider an application for compensation by the Interested Party.
26. The Interested Party seeks compensation of \$10,000 for emotional distress, and \$22,500 which represents half of her legal fees of the family law application. She has advised the Tribunal that she would reduce the amount claimed by her as compensation to \$22,500 in total if the Respondent makes a public apology.
27. Section 535(3) of the LPA has the effect of limiting the amount of compensation that the Tribunal can award to \$10,000, unless the Respondent and the Interested Person both agree to an award exceeding that amount. The Respondent has advised that he does not consent to an award exceeding \$10,000, which means that the maximum amount of compensation that can be awarded by the Tribunal in this case is \$10,000.
28. It is common ground between the Respondent and the Interested Parties that the family law proceedings that gave rise to the complaint to the Law Society were highly contentious and involved high levels of conflict. The Interested Party has submitted that the Respondent's actions caused her additional expense in what was an already stressful and contentious matter, while the Respondent's submissions are that, given the existing levels of contention and conflict, it is unclear how and to what extent the Respondent's actions caused additional expense.
29. The purpose of an award of compensation order is to compensate the Interested party for loss, rather than to punish the Respondent for the additional distress and concern that the Respondent caused the Interested Party because of his action.
30. In the Tribunal's assessment, a compensation order in this case could include matters such as the cost of counselling required because of the Respondent's action, and the additional legal costs incurred by the Interested party as a result of the Respondent's action.
31. The Tribunal notes that the Interested Party undertook counselling which she says was required because of the additional stress and concern she experienced as a result of the Respondent's delay in advising that he had

possession of the jewellery. The Tribunal is satisfied that additional legal expenses were also incurred by the Interested Party due to the increased conflict and animosity between the parties as a result of the Respondent's actions, in responding to the application in a case made to the Family Court (noting that a significant part of the application dealt with the jewellery), and as a result of the Respondent withdrawing from the family law matter after he became aware of the complaint by the Interested Party to the Law Society, which caused a delay in finalising the property dispute.

32. Given the \$10,000 cap on any award of compensation that can be awarded by the Tribunal, the Tribunal does not consider that a forensic analysis of the additional legal costs incurred by the Interested Party is warranted or necessary. The Tribunal is comfortably satisfied that the actions of the Respondent caused more than \$10,000 in additional legal costs to be incurred by the Interested Party.

33. Accordingly, the Tribunal awards \$10,000 in compensation to be paid by the Respondent to the Interested Party.

Orders

34. The Tribunal makes the following orders:

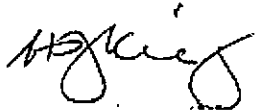
- 1) The order made by the Tribunal on 1 July 2024 pursuant to section 527 of the LPA that the Respondent David Charles Story is guilty of unsatisfactory professional conduct pursuant to section 464 of the LPA is confirmed.
- 2) Pursuant to section 525(3)(e) of the LPA, the Tribunal orders that the Respondent be publicly reprimanded.
- 3) Pursuant to section 525(5)(a)(i) of the LPA, the Tribunal orders that the Respondent pay a fine of 100 penalty units within 28 days of the date of this order (a penalty unit was valued at \$155 at the time of the actions that gave rise to these proceedings, which means that the total amount of the fine is \$15,500).
- 4) Pursuant to section 525(5)(b) of the LPA, the Tribunal orders that the Respondent undertake and complete a course of further legal studies in the subject of Legal Ethics, within 12 months of the date of this order, such course to be agreed between the Respondent and the Law Society, and failing agreement, to be determined by the Tribunal.
- 5) Pursuant to sections 534 and 536 of the LPA the Respondent is ordered to pay compensation to the interested party in the sum of \$10,000 within 28 days of the date of this order.

- 6) Pursuant to section 529 of the LPA the Respondent is ordered to pay the costs of the Law Society in the sum of \$32,065 within 28 days of the date of this order.
- 7) The parties have liberty to apply.

Alastair Shields (Chair)



Heather King (Member)



Tom Korecki (Member)

