

**LEGAL PRACTITIONERS'
DISCIPLINARY TRIBUNAL
AT DARWIN**

CITATION: *Law Society NT v Marguerite Bowen*
2024-03881-SC

PARTIES: **LAW SOCIETY NORTHERN TERRITORY**
Applicant
v
MARGUERITE BLANKA BOWEN
Respondent

FILE NUMBER: 2024-03881-SC

HEARING DATE: 10 March 2025

DELIVERED: 20 June 2025

TRIBUNAL MEMBERS: MR ALASTAIR SHIELDS (CHAIR)
MS TRISH SLOCUM (MEMBER)
MR RICHARD GILES (MEMBER)

REPRESENTATION:

APPLICANT: Mr Joshua Ingrames, Counsel
Ms Aislinn McIntyre

RESPONDENT: Self

REASONS FOR DECISION

1. On 17 December 2024, the Law Society Northern Territory (**Law Society**) made an application to start disciplinary proceedings in the Legal Practitioners'

Disciplinary Tribunal (**the Tribunal**) against Marguerite Blanka Bowen (**the Respondent**).

2. The application by the Law Society alleged that, in the period from about 14 June 2023 until 1 August 2024, 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, constituted by breaches of the LPA and the *Legal Profession Regulations 2007* (**the LPR**).
3. The Respondent did not contest the factual circumstances of the allegations, and a statement of agreed facts dated 30 January 2025 was filed on 14 February 2025.
4. On 14 February 2025, the parties also filed 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 each of the 3 allegations made in the application for these disciplinary proceedings.
5. The application was heard on 10 March 2025. Interim orders were made pursuant to section 526 of the LPA on that date as follows:
 - 1) Pursuant to section 527 of the LPA, and having regard to the Statement of Agreed Facts dated 30 January 2025 and the Instrument of Consent dated 14 February 2025, the Tribunal is satisfied that the Respondent Marguerite Blanka Bowen is guilty of unsatisfactory professional conduct, pursuant to section 464 of the LPA, for and in respect of Allegation 1, Allegation 2 and Allegation 3 of the Disciplinary Application filed on 17 December 2024.
 - 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)(h) of the LPA, the Tribunal orders that the Respondent seek advice in relation to the Respondent's practice from a person qualified to give advice on trust account operations, with the person to be agreed between the Applicant and the Respondent by 31 March 2025, and the advice to be provided by 30 April 2025. The costs of the provision of the advice are to be met by the Respondent and the costs of preparation of the materials to provide the advice are to be met by the Applicant.
 - 4) Having regard to the personal circumstances of the Respondent, including the Respondent's financial capacity, and that the Applicant could have dealt with the disciplinary matter under section 499 of the LPA, the Tribunal is satisfied that exceptional circumstances exist and orders that each party bear their own costs.
 - 5) The parties have liberty to apply.
 - 6) Written reasons for decision are reserved.
6. Following a written application by the Law Society on 13 March 2025, order 4 of the interim orders was amended by the Tribunal on 21 May 2025 to read as follows:
 - 4) Having regard to the personal circumstances of the Respondent, including the Respondent's financial capacity, the Tribunal is satisfied

that exceptional circumstances exist and orders that each party bear their own costs.

Background

7. The application for disciplinary action filed by the Law Society made the following 3 allegations:
 - 1) The Respondent made cash withdrawals from the Bowen Lawyers law practice trust account (Trust Account) on 14 June 2023 and 20 June 2023 contrary to regulation 45 of the LPR.
 - 2) The Respondent failed to notify the Society of cash withdrawals having been made from the Trust Account contrary to regulation 45 of the LPR within a timely manner or at all, contrary to section 256 of the LPA.
 - 3) The Respondent failed to account for trust money as required by the LPR, contrary to section 247(3) of the LPA.
8. The relevant facts for these allegations are set out in the Statement of Agreed facts dated 30 January 2025, and which are set out in full below:
 - 1) "The Respondent is an Australian Legal Practitioner under the Legal Profession Act 2006 (NT) (LPA), having been admitted to practice as an Australian lawyer (or the equivalent phrase under the then applicable legislation) by the Supreme Court of the Northern Territory on 7 March 2000.
 - 2) The Respondent holds a Northern Territory Practising Certificate and is a "law practice" pursuant to s 4 of the LPA, having practiced law as a sole practitioner in the Northern Territory as Bowen Lawyers since 28 November 2005.
 - 3) The Respondent has held an Unrestricted Practising Certificate issued by the Applicant consistently since 7 November 2005.
 - 4) The Respondent is also a "legal practitioner associate of a law practice" pursuant to s 7(2)(a) of the LPA.
 - 5) In her capacity as a law practice, the Respondent operated a Trust Account, as a general trust account, pursuant to s 245 of the LPA and reg 41 of the Legal Profession Regulations 2007 (NT) (LPR). (Trust Account).
 - 6) From around 15 December 2022 the Respondent was engaged by Mr Kazimierz Bernard Chodnicki, a Polish national, to provide legal services in relation to the estate of his late aunt Halina Koncula. Letters of Administration were obtained from the Supreme Court on 24 May 2023 and the Respondent was, as instructed by Mr Chodnicki, and as approved by the Supreme Court of the NT, appointed as the Administrator of the Late Halina Koncula's Estate. Mr Chodnicki was the sole beneficiary of the estate.
 - 7) Mr Chodnicki had arrived in Darwin from Warsaw towards the end of April 2023 to attend to the internment of his late Aunt's ashes on 8 May 2023. He arrived on a 3 month visa, which was subsequently extended by a further 3 months. Mr Chodnicki departed Darwin in October 2023 to return to Warsaw.

- 8) On 7 June 2023, \$58,476.53 was deposited into the Respondent's Trust Account relating to the administration of Ms Koncula's Estate (Mr Chodnicki's late aunt).
- 9) Mr Chodnicki provided to the Respondent a BSB and Account number for a Commonwealth Bank account he said was held in his name. However, when the Respondent searched for that account with the bank it could not be found.
- 10) On 14 June 2023 Mr Chodnicki requested \$2,000 out of the funds held in the Trust Account. The Respondent attended on the Commonwealth Bank branch in Darwin and made a cash withdrawal from the Trust Account in the amount of \$2,000.
- 11) The withdrawal was a breach of reg 45(1) of the LPR. The Respondent was not aware her conduct was a breach of the LPR at the time.
- 12) The \$2,000 was provided to Mr Chodnicki the same day by the Respondent handing the \$2,000 to him.
- 13) On 19 June 2023 the Respondent attended with Mr Chodnicki at the Commonwealth Bank branch in Darwin to attempt to open an Australian bank account for him.
- 14) The bank staff asked Mr Chodnicki for his Polish Identification number, required to open an Australian bank account. Mr Chodnicki refused to disclose that number. A bank account was not able to be opened without the number being disclosed.
- 15) On 20 June 2023 Mr Chodnicki again requested that the Respondent attend at the Commonwealth Bank to withdraw \$45,000 from the funds held in the Trust Account. Later that day, the Respondent attended the Commonwealth Bank branch in Darwin with Mr Chodnicki. Mr Chodnicki changed his request to be for the withdrawal of \$36,000 and the Respondent made a cash withdrawal, from the Trust Account, in the amount of \$36,000.
- 16) The withdrawal was a breach of reg 45(1) of the LPR. The Respondent was not aware her conduct was a breach of the LPR at the time.
- 17) The \$36,000 was again handed to Mr Chodnicki by the Respondent.
- 18) Both transactions were recorded by the Respondent in the Trust Account Payments Cash Book and the Trust Account Ledger, operated by the Respondent, as "cash withdrawals". Mr Chodnicki also signed an Acknowledgement of Receipt on 20 June 2023 for the two amounts received (on 14 June 2023 and 20 June 2023). The Acknowledgment was written in both Polish and English.
- 19) The cash withdrawals from the Trust Account were irregularities in the Bowen Lawyers trust accounts which required the Respondent to, as soon as practicable after becoming aware of the irregularity, give written notice of that irregularity to the Society.
- 20) The Respondent was not aware that it was a breach of reg 45(1) of the LPR to withdraw trust money from a general trust account in cash.
- 21) Consequently, the Respondent failed to notify the Society of either of the cash withdrawals having been made from the Trust Account contrary to reg 45 of the LPR, within a timely manner, or at all, contrary to s 256 LPA.

- 22) On 23 May 2024, an external examiner of the Trust Account submitted a report to the Society which identified the cash withdrawals in breach of reg 45 of the LPR.
- 23) On 16 July 2024, the Society issued a Notice of its own motion complaint to the Respondent, pursuant to s 475 of the LPA, inviting submissions from the Respondent regarding the cash withdrawals discovered by the external examiner.
- 24) On 1 August 2024, the Respondent acknowledged the two cash withdrawals had been made by her from the Trust Account, explained the circumstances of those withdrawals, and advised she made no notification to the Society because she was not aware that it was a breach of the LPR to make the withdrawals.
- 25) In making the cash withdrawals contrary to regulation 45 of the LPR, the Respondent has failed to account for the trust money she held in the Trust Account as required by the LPR.
- 26) The accounting practice for withdrawals from the Trust Account, required by reg 45(1) of the LPR, required the Respondent to write out a cheque, in accordance with reg 46, or make an electronic funds transfer, in accordance with reg 47.
- 27) While the Respondent withdrew the cash in accordance with directions given by Mr Chodnicki, and s 247(1)(b) of the LPA provides that trust money must only be disbursed in accordance with directions by the person on whose behalf the money is held, s 247(3) provides that trust money must be accounted for in accordance with the LPR and reg 45(6) provides that the prohibition in reg 45 applies despite anything to the contrary in any such direction.
- 28) Regulation 45(2)(a) of the LPR expressly prohibited any withdrawals from a general trust account in the form of cash withdrawals.
- 29) Consequently, the Respondent failed to account for trust money as required by the LPR, contrary to s 247(3) of the LPA.
- 30) The Respondent's conduct, constituting breaches of both the LPA and LPR, occurred from about 14 June 2023 until 1 August 2024."

Findings of Unsatisfactory Professional Conduct

9. Having carefully considered the statement of agreed facts dated 30 January 2025 and the instrument of consent dated 14 February 2025, the Tribunal is satisfied that allegations have been made out, the procedural requirements of section 527 of the LPA have been complied with, and that there is no public interest requirement for a hearing to determine guilt.
10. The Tribunal therefore confirms the interim order dated 10 March 2025 that pursuant to section 527 of the LPA, and having regard to the Statement of Agreed Facts dated 30 January 2025 and the Instrument of Consent dated 14 February 2025, the Tribunal is satisfied that the Respondent Marguerite Blanka Bowen is guilty of unsatisfactory professional conduct, pursuant to section 464 of the LPA, for and in respect of Allegation 1, Allegation 2 and Allegation 3 of the Disciplinary Application filed on 17 December 2024.

Decision of Disciplinary Tribunal

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, having regard to the need for both specific and general deterrence in making orders, the Tribunal might consider an order for a public reprimand under section 525(3)(e) of the LPA, together with either or both of an order that the Respondent undertake and complete a specified course of further legal education (pursuant to section 525(5)(b)) and an order that the Respondent seek advice in relation to the management of the Respondent's legal practice from a specified person (pursuant to section 525(5)(h)).
13. The Tribunal considers that any breach of the trust account provisions of the LPA and the LPR is a serious disciplinary matter.
14. In this case, the Tribunal notes that the circumstances leading to the breaches under consideration appear to be an isolated incident, and there is no suggestion that there has been any dishonesty on the part of the Respondent.
15. Additionally, there has been no loss of trust funds suffered by any person, there is no complaint from a client, and the primary reason for the breach was that the Respondent sought to assist her client obtain funds from her trust account that he was entitled to.
16. The Tribunal is therefore of the view that the Respondent's breaches are at the lower end of the scale of trust account breaches.
17. It is clear that the Respondent has accepted full responsibility for the breaches, has expressed remorse for her actions, and has cooperated fully with the investigation by the Law Society.
18. The Tribunal agrees with the Law Society's submission that the Respondent's lack of awareness of the prohibition on withdrawing cash from solicitor's trust accounts is not a sufficient reason for the breaches, having regard to how crucial the integrity of trust account dealings is to the protection of the public and the administration of justice.
19. The Tribunal has been made aware of 3 other substantiated complaints against the Respondent in her approximately 25 years of legal practice. In 2006, the Respondent was found guilty of unsatisfactory professional conduct and admonished by the Law Society for failing to provide a costs estimate in a family law matter.
20. A further finding of unsatisfactory professional conduct was made by the Law Society in 2009, and the Respondent was again admonished. The circumstances in that case were that the Respondent made a number of failures in providing advice about the spouse's superannuation in a family law matter.
21. In 2024, the Law Society found the Respondent again guilty of unsatisfactory professional conduct for some technical trust account breaches, and fined the Respondent \$1760 and publicly reprimanded the Respondent.

22. The Tribunal notes that each of the 3 substantiated complaints was dealt with summarily by the Law Society, and that the most relevant matter involved technical breaches of trust account requirements.
23. In all of the circumstances, the Tribunal considers that an order publicly reprimanding the Respondent, together with an order that the Respondent seek advice in relation to her management of her legal practice as proposed by the Law Society, are the appropriate orders in this matter.
24. The Tribunal notes that the Law Society is prepared to fund the costs of the preparation of materials to provide the advice, on the basis that the costs of providing the advice are met by the Respondent. The Tribunal further notes that the Respondent has agreed to that approach.

Costs

25. 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) where the practitioner has been found guilty of unsatisfactory professional conduct or professional misconduct, unless the Tribunal is satisfied that exceptional circumstances exist.
26. In support of her submission that exceptional circumstances exist, the Respondent has stated that she is 67 years of age, and that she proposes to wind down her legal practice in order to concentrate on the care of her grandchildren. She stated that, after payment of expenses, there would be approximately \$1500.00 remaining in her business bank account. She also stated that she is required to be away from her practice in order to attend to the administration of her late mother's modest estate in Poland, and that she would need to incur travel and other costs for this purpose. The Respondent also stated that her younger sister is ill with cancer and requires assistance.
27. The Tribunal is satisfied that, having regard to her personal circumstances, including her financial capacity, exceptional circumstances exist that warrant the making of an order that each party bear their own costs.

Orders

28. The Tribunal confirms the interim orders made on 10 March 2025, and amended on 21 May 2025 as follows:
 - 1) Pursuant to section 527 of the LPA, and having regard to the Statement of Agreed Facts dated 30 January 2025 and the Instrument of Consent dated 14 February 2025, the Tribunal is satisfied that the Respondent Marguerite Blanka Bowen is guilty of unsatisfactory professional conduct, pursuant to section 464 of the LPA, for and in respect of Allegation 1, Allegation 2 and Allegation 3 of the Disciplinary Application filed on 17 December 2024.
 - 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)(h) of the LPA, the Tribunal orders that the Respondent seek advice in relation to the Respondent's practice from a person qualified to give advice on trust account operations, with the

person to be agreed between the Applicant and the Respondent by 31 March 2025, and the advice to be provided by 30 April 2025. The costs of the provision of the advice are to be met by the Respondent and the costs of preparation of the materials to provide the advice are to be met by the Applicant.

- 4) Having regard to the personal circumstances of the Respondent, including the Respondent's financial capacity, the Tribunal is satisfied that exceptional circumstances exist and orders that each party bear their own costs.
- 5) The parties have liberty to apply.

Alastair Shields (Chair)



Trish Slocum (Member)



Richard Giles (Member)

