

LEGAL PRACTICE COMMITTEE OF QUEENSLAND

OFFICE: Brisbane
NUMBER: 05/2016 and
02/2014

Applicant: LEGAL SERVICES COMMISSIONER

AND

Respondent: ANNE CUNNINGHAM

ORDER

Before: P M Schmidt (Chair), B Houlihan (Solicitor member)
L Lynch (Lay member)

Date: 17 November

Basis for Judgement: Discipline Application as amended and filed on 21
October 2016

THE ORDER, FINDINGS AND REASONS OF THE COMMITTEE:

The Respondent was first admitted to practice as a solicitor in Western Australia in 1994 and was admitted to practice in Queensland in 2003. She was born on 5 August 1949 and is aged 67. The Respondent is an Australian lawyer within the meaning of section 5 (1) of the Legal Profession Act 2007.

The amended charges brought by the Legal Services Commissioner against the Respondent are:-

1. Between 8 August 2011 and 20 October 2012, the Respondent failed to include with the bills sent to her client a notification of client's rights, in contravention of section 331 of the Legal Profession Act 2007.
2. Between 13 June 2012 and 20 October 2012, the Respondent failed to disclose to her client any revised estimate of costs, in contravention of section 315 of the Legal Profession Act 2007.

The particulars of charge 1 are detailed in paragraphs 1.2 and 1.3 of the amended Discipline Application. During the stated period, the Respondent rendered 10 invoices to the client without the required written statement as to notification of client's rights.

The particulars of charge 2 are detailed in paragraphs 2.2 to 2.8 of the amended Discipline Application. During the stated period, the Respondent rendered 5 invoices to the client and did not give the client any revised estimate of costs.

The Respondent admits the charges and particulars as alleged and that the conduct in each respect amounts to unsatisfactory professional conduct within the meaning of the Legal Profession Act 2007 (Qld).

The Committee finds the conduct of the Respondent amounts to unsatisfactory professional conduct and finds the Respondent guilty of unsatisfactory professional conduct.

In determining penalty, the Committee is mindful of the objective of protection of the public and the maintenance of proper professional standards by way of both personal and general deterrence. The Committee is guided by Legal Services Commissioner v Hannant (2016) QCAT 30 as to the role that imposition of a fine plays in respect of general deterrence.

The Committee has taken into account the following factors:

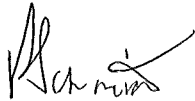
1. The Respondent has no previous finding by a disciplinary body.
2. The conduct occurred between just over four and five years ago.
3. The Respondent has retired and has not renewed her practising certificate.
4. There is no evidence before the Committee of any inability on the part of the Respondent to attend to payment of any fine.

The Committee orders:

1. The Respondent is publicly reprimanded.
2. The Respondent is ordered to pay a fine of \$1,000 payable within 30 days of today's date.

As the parties have agreed that each party will bear their own costs, exceptional circumstances exist and there will be no order as to costs.

We direct that this order be placed on the Committee's website.



Chairperson

18 November, 2016

Date