

12/99

WESTERN AUSTRALIA
THE LEGAL PRACTITIONERS DISCIPLINARY TRIBUNAL

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DISCIPLINARY HEARING
REPORT OF PROCEEDINGS

The practitioner, Luka Anthony Margaretic, pleaded guilty to unprofessional conduct, in that he wrongfully deducted from monies held in his trust account on behalf of a client, the sum of \$40,249 and appropriated it to his firm's general account.

The facts are that the practitioner received \$50,000 into his trust account of anticipated costs, disbursements and counsel fees on a large matter in which he was instructed. At that time, the practitioner had submitted accounts totalling \$2,803 and \$6,947. However, without instructions from his client, on the same day that he received the money into his trust account, the practitioner transferred the whole of the amount rather than the two amounts to cover the accounts already rendered into his general account.

Counsel for the Legal Practitioners Complaints Committee and for the practitioner, advised the Tribunal that the practitioner subsequently rendered monthly accounts which extinguished the amount initially paid, and that the practitioner believed that in the matter in which he was engaged, he had undertaken work and rendered, accounts which would have justified eventually the transfer from time to time to meet subsequent accounts rendered which would have extinguished the total amount paid to his trust account. At the time the money was received, the practitioner believed that he was entitled to transfer the full amount from his trust account to his general account. This belief shows a complete lack of understanding of the provisions of Section 34A of the Legal Practitioners Act 1893 in the way in which a client's money must be maintained.

The Tribunal accepts that the practitioner's conduct was due to a lack of understanding rather than any other sinister motive, and it also accepts that the practitioner has taken proper advice and put in place proper systems subsequently to deal with trust monies. Nevertheless, it is such a basic and fundamental breach of a solicitor's obligations which should be known and understood by all practitioners that this breach cannot be dealt with lightly by the Tribunal.

In the event, the practitioner was reprimanded and fined \$1,000 and ordered to pay the Complaints Committee costs which were agreed at \$1,500 and pursuant to Section 31C(5) of the Legal Practitioners Act found that the circumstances were not of a minor nature and directed publication.

A. Jane Thompson

Mrs AJ Thompson
Registrar
Legal Practitioners Disciplinary Tribunal
February 2000