

DISCIPLINARY HEARING
REPORT OF PROCEEDINGS

The practitioner, Bruce William Duckham, was acting for clients who had entered into a contract to purchase the freehold of property they had occupied as lessees. The contract contained a provision which stated that a deposit of \$100,000 had been paid. This provision for payment of the deposit was inserted simply to assist the purchasers in obtaining finance. In the event, the sale fell through. The practitioner's clients were also forcibly dispossessed and the parties began arguing about monies claimed by the practitioner's clients when they were lessees.

The landlord refused to meet any claim. The practitioner issued a bankruptcy notice against the landlord company under the provisions of Section 364 Companies Code based on a claim to the refund of deposit of \$100,000.

The Tribunal found that the practitioner was at all times aware that this notice claiming a refund of deposit was false. The practitioner endeavored to justify the claim by alleging that the clients were entitled to more than \$100,000 in damages although he accepted that a bankruptcy notice under Section 364 had to be for a liquidated debt. The Tribunal found that the practitioner deliberately used a false notice to try and obtain a commercial benefit for his clients and found him guilty of unprofessional conduct.

The events the subject of this Reference occurred some 13 years ago and the practitioner has not been before the Tribunal before, having been in practice for some 37 years. In the circumstances, the Tribunal reprimanded the practitioner, fined him the sum of \$1,500 and ordered that he pay the costs of the Legal Practitioners Complaints Committee which were agreed at

\$8,568.15. The circumstances of this finding did not disclose a minor matter and publication pursuant to the Act was ordered.

Mary-Anne Paton
Registrar
Legal Practitioners Disciplinary Tribunal
18 March 2004