

SUPREME COURT OF SOUTH AUSTRALIA

(Full Court)

LEGAL PROFESSION CONDUCT COMMISSIONER v DORRIAN

[2020] SASCFC 81

Judgment of The Full Court

(The Honourable Justice Peek, The Honourable Justice Stanley and The Honourable Justice Parker)

4 September 2020

**PROFESSIONS AND TRADES - LAWYERS - COMPLAINTS AND
DISCIPLINE - PROFESSIONAL MISCONDUCT**

**PROFESSIONS AND TRADES - LAWYERS - COMPLAINTS AND
DISCIPLINE - DISCIPLINARY PROCEEDINGS - SOUTH AUSTRALIA -
ORDERS**

This is an application that the name of the respondent, Colin Edward Dorrian, be struck off the Role of Practitioners.

The respondent was charged by the applicant and found guilty by the Legal Practitioners Disciplinary Tribunal of 11 counts of professional misconduct. This included five counts of failing to comply with requests by the applicant for information or a response to a complaint, three counts of failing to comply with a notice served pursuant to clause 4 of Schedule 4 of the Legal Practitioners Act 1981 (SA) (the Act), one count of breaching his own written undertaking to the applicant, one count of knowingly breaching s 22 of the Act by practising while his practicing certificate was suspended, and one count of lying to the Law Society thereby breaching the Australian Solicitors Conduct Rules. Further, the respondent is in contravention of an order of the applicant that he pay a \$1000.00 fine for a failure to pay counsel fees incurred in connection with his legal practice.

The respondent does not oppose the application.

Held (per curiam):

1. The respondent has demonstrated a lack of fitness to remain on the Roll of Practitioners. His name is to be struck off.
2. The respondent is to pay the Commissioner's costs of and incidental to this application on the Fast Track ordinary scale.

Applicant: LEGAL PROFESSION CONDUCT COMMISSIONER

Respondent: COLIN EDWARD DORRIAN

Hearing Date/s:

File No/s: CIV-20-00632

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Legal Practitioners Act 1982 (SA) s 88A, s 89; Uniform Civil Rules 2020 (SA) r 261.2, referred to.

LEGAL PROFESSION CONDUCT COMMISSIONER v DORRIAN
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Full Court: Peek, Stanley and Parker JJ

1 **THE COURT:** This is an application by the Legal Profession
Conduct Commissioner (the Commissioner) that the name of Colin Edward
Dorrian (the respondent) be struck off the Roll of Practitioners.

2 The application is made pursuant to ss 88A and 89(1) of the *Legal*
Practitioners Act 1981 (SA) (the Act).

3 The application is supported by an affidavit of Philippa Joan Branson, a
solicitor employed by the Commissioner, deposed on 9 June 2020.

4 On 15 April 2020 the Legal Practitioners Disciplinary Tribunal (the
Tribunal) published reasons for its determination that the respondent was guilty
of 11 counts of professional misconduct. The Tribunal recommended that
disciplinary proceedings be issued in this Court.

5 There are five counts of the respondent failing to comply with requests by
the Commissioner for information or a response to a complaint during the course
of an investigation. There are three counts of failing to comply with a notice
served pursuant to cl 4 of Schedule 4 of the Act, and one count of the respondent
breaching his own written undertaking to the Commissioner. These counts relate
to five different complaints which the Commissioner was attempting to
investigate.

6 The Tribunal found that it was appropriate to treat all nine counts as a
course of conduct, each count having been separately established on the evidence
contained in the exhibits before the Tribunal. The Tribunal found that the
conduct of the respondent frustrated and impeded the Commissioner's ability to
investigate at least five complaints. The respondent provided no reason or
excuse for his multiple failures. The Tribunal found that this conduct amounted
to professional misconduct as defined in s 69 of the Act. The Tribunal held
further that the respondent's breach of his undertaking was a serious matter. The
breach contravened the *Australian Solicitors Conduct Rules* and was capable of
amounting to professional misconduct.

7 In addition, the Tribunal found the respondent guilty of two further counts
of professional misconduct. The practitioner was found to have knowingly
breached s 22 of the Act, in practising while his practising certificate was
suspended pursuant to an order of a Judge of this Court. The respondent also
was found to have lied to the Law Society in breach of the *Australian Solicitors*
Conduct Rules.

8 The respondent is also in contravention of an order by the Commissioner that he pay a fine of \$1,000 for a failure to pay counsel fees incurred in connection with the respondent's legal practice. The respondent's conduct in this regard is a contravention of s 77J(10) of the Act which itself constitutes professional misconduct.

9 We are satisfied that by reason of the respondent's failure to engage in the investigation process of the Commissioner; his failure to comply with the order of a Judge of this Court suspending his practising certificate; his failure to engage in the disciplinary process of the Tribunal; his commission of several breaches of the Act and the *Australian Solicitors Conduct Rules*; and his professional misconduct in respect of the 11 counts referred to above, he has demonstrated a lack of fitness to remain on the Roll of Practitioners.

10 By letter to the Commissioner dated 22 July 2020, the practitioner advised that he did not oppose the application for his name to be struck from the Roll and he did not intend to attend any further hearings in the matter.

11 The respondent's professional conduct falls far below the standard expected of a practitioner of this Court. The protection of the public and the maintenance of high professional standards requires that his name be removed from the Roll of Practitioners.

12 In the circumstances, we are satisfied that the Commissioner's application should be granted. Pursuant to r 261.2(1)(a), we would order that the respondent's name be struck off the Roll of Practitioners and that he pay the Commissioner's costs of and incidental to this application on the Fast Track ordinary scale.