

SUPREME COURT OF SOUTH AUSTRALIA
(Full Court)

THE LAW SOCIETY OF SOUTH AUSTRALIA v TEMPLETON

[2007] SASC 372

Judgment of The Full Court (*ex tempore*)

(The Honourable Chief Justice Doyle, The Honourable Justice Anderson and The Honourable Justice White)

12 October 2007

**PROFESSIONS AND TRADES - LAWYERS - MISCONDUCT,
UNFITNESS AND DISCIPLINE - DISCIPLINARY PROCEEDINGS -
STATUTORY PROCEEDINGS - SOUTH AUSTRALIA**

Application by the Law Society for order striking name of practitioner off the roll of legal practitioners - application directly to the Full Court - practitioner convicted of dishonestly dealing with property being money in trust accounts - practitioner demonstrably not fit to practice law.

Held: The Court orders that the practitioner's name be struck off.

Legal Practitioners Act 1981 (SA) s 89; Criminal Law Consolidation Act 1935 (SA) s 134(1), referred to.

Re A Practitioner (unreported, Judgment No S5629, 13 May 1996); *Law Society of South Australia v Rodda* (2002) 83 SASR 541; *Law Society of South Australia v Liddy* [2003] SASC 379, considered.

Applicant: THE LAW SOCIETY OF SOUTH AUSTRALIA
LAW SOCIETY OF SOUTH AUSTRALIA
Respondent: PHILIP ARTHUR TEMPLETON No Attendance

Counsel: MR A WARD - Solicitor: THE

Hearing Date/s: 12/10/2007

File No/s: SCCIV-07-653

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THE LAW SOCIETY OF SOUTH AUSTRALIA v TEMPLETON
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Full Court: Doyle CJ, Anderson and White JJ

1 **DOYLE CJ:** This is an application by the Law Society of South Australia for an order striking the name of the practitioner off the roll of legal practitioners. The application is made under s 89 of the *Legal Practitioners Act 1981* (SA).

2 The application has been made directly to the Full Court supported by an affidavit. The conduct of Mr Templeton, the practitioner on which the application is based, has not been the subject of charges considered by the Legal Practitioners Disciplinary Tribunal and accordingly the Court does not have the benefit of a report from the Tribunal.

3 As the Court has said on a number of occasions, usually it will consider an application to strike the name of a practitioner off the roll of practitioners only with the benefit of a report from the Tribunal. That process reduces the risk of the Court deciding such an application on incomplete information. However, it is appropriate to depart from the usual practice in this case.

4 The practitioner has not appeared in the proceedings and does not oppose the making of the order. The conduct on which the application is based has been the subject of criminal charges to which Mr Templeton pleaded guilty. He has been sentenced by the District Court. The relevant circumstances are clear.

5 In other similar cases the Court has dealt with a strike-off application without the benefit of a report from the Tribunal and I refer to the decisions in *Re A Practitioner* (unreported, Judgment No S5629, 13 May 1996); *Law Society of South Australia v Rodda* [2002] SASC 274, (2002) 83 SASR 541; *Law Society of South Australia v Liddy* [2003] SASC 379.

6 Mr Templeton pleaded guilty in the District Court to five counts of dishonestly dealing with property contrary to s 134(1) of the *Criminal Law Consolidation Act 1935* (SA). In each case Mr Templeton dishonestly misappropriated money held in the trust account which he operated in the course of his legal practice. The money was the money of clients of his. In each case he took money from the trust account without any lawful justification and paid the money into an account in his own name. The offences occurred between July 2005 and December 2005. The amounts involved were: \$150,375.54, \$61,165.03, \$15,000, \$33,892.50 and again \$33,892.50. The total amount is between \$290,000 and \$300,000, a very substantial amount.

7 The circumstances in which the offences were committed and the background to the offending conduct, are set out in the sentencing remarks of the District Court Judge who sentenced Mr Templeton. He sentenced Mr Templeton

to imprisonment for four years and fixed a non-parole period of two years and six months. But for the plea of guilty the sentence would have been heavier.

8 As is often the case in these matters, Mr Templeton's circumstances are sad. For many years he successfully conducted a legal practice and was well regarded by those who knew him. He has practised the law since early 1983. But from about 1995 a series of events occurred in his life through no fault of his, some of them involving family members, that put Mr Templeton under considerable pressure. By the time of the offending conduct he was no longer able to cope with the pressures on him.

9 Unfortunately he failed to seek and to obtain the sort of professional advice and support that might have helped him through this difficult period. His work as a practitioner suffered, and according to the Judge he dealt with the problems that he faced by ignoring them. Mr Templeton misappropriated the money in question to buy various luxuries, apparently as a form of escapism. It was inevitable that Mr Templeton would be detected. He made full admissions when he was detected.

10 Mr Templeton's unfortunate circumstances cannot be allowed to divert attention from the fact that he has inflicted significant losses on the clients in question. No doubt they have suffered as a result of this, and as a result of learning how he betrayed their trust.

11 Mr Templeton betrayed the trust that is at the core of the relationship between a solicitor and the solicitor's client. His dishonesty involved conduct of a kind incompatible with membership of the legal profession. It was a serious case of dishonesty as the District Court Judge recognised.

12 There can be no doubt that Mr Templeton's conduct amounts to unprofessional conduct. While the circumstances to which I have referred explain how this came about, none of those circumstances can alter the characterisation of his conduct or the seriousness of it. Mr Templeton has demonstrated that he is not fit to practise the law, nor could the public be confident in the legal profession if the Court allowed Mr Templeton to remain a member under these circumstances.

13 Accordingly I would order that the name of Philip Arthur Templeton be struck off the roll of practitioners, and that he pay the costs of the Legal Society of the application and of the order.

14 **ANDERSON J:** I agree with the order proposed by the Chief Justice and I agree with the Chief Justice's reasons.

15 **WHITE J:** I agree with the order proposed by the Chief Justice and also with his reasons.

16 **DOYLE CJ:** Accordingly, the order of the Court is:

- 1 That the name of Philip Arthur Templeton be struck off the roll of practitioners.
- 2 That Mr Templeton pay the costs of the Law Society of the application and of the order.