

SUPREME COURT OF SOUTH AUSTRALIA

(Full Court)

LEGAL PROFESSION CONDUCT COMMISSIONER v BOJKO

[2015] SASCFC 47

Judgment of The Full Court

(The Honourable Chief Justice Kourakis, The Honourable Justice Vanstone and The Honourable Justice Nicholson)

17 April 2015

PROFESSIONS AND TRADES - LAWYERS - COMPLAINTS AND DISCIPLINE - PROFESSIONAL MISCONDUCT AND UNSATISFACTORY PROFESSIONAL CONDUCT - TRUST MONEY

The Legal Profession Conduct Commissioner brought proceedings against the defendant in relation to three alleged acts of misappropriation of trust monies. The Commissioner applies to this court for orders.

Held:

1. The defendant is struck off the Roll of Legal Practitioners.

Legal Practitioners Act 1981 (SA) s 89, referred to.

WORDS AND PHRASES CONSIDERED/DEFINED

"misappropriation of trust money", "Roll of Practitioners", "Legal Professional Conduct"

Applicant: LEGAL PROFESSION CONDUCT COMMISSIONER
Solicitor: LEGAL PROFESSION CONDUCT COMMISSIONER
Defendant: MR SIMON BOJKO **Other:** NO APPEARANCE

Counsel: NO APPEARANCE -

Hearing Date/s:

File No/s: SCCIV-14-1333

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LEGAL PROFESSION CONDUCT COMMISSIONER v BOJKO
[2015] SASFC 47

Full Court: Kourakis CJ, Vanstone and Nicholson JJ

1 **THE COURT:** This is an application by the Legal Profession Conduct Commission for the following orders:

1. The name of the defendant, Simon Bojko, be struck off the Roll of Legal Practitioners maintained by this Honourable Court pursuant to section 89(2)(d) of the *Legal Practitioners Act 1981* (SA);
2. The defendant pay the plaintiff's costs of these proceedings to be agreed or subject to adjudication.

2 The defendant is a legal practitioner admitted to the Roll of Legal Practitioners in South Australia on 10 August 2009. The defendant does not hold a current practising certificate. The last practising certificate issued to the defendant was dated 1 July 2012. The practitioner is currently 37 years of age.

3 On 18 August 2014 the Legal Practitioners Disciplinary Tribunal proved three charges of fraudulent misappropriation of trust money brought against the practitioner Mr Bojko.

4 The gravamen of the conduct is that on two separate occasions, February 2012 (Count 1) and June 2012 (Count 2), the practitioner misappropriated the sum of \$1,000 on each such occasion being trust money. In addition, Count 3 alleged that in December 2012, the practitioner fraudulently misappropriated firm money in the sum of \$1,000.

5 Mr Bojko has not filed an appearance to the Commission's application.

6 The Tribunal's findings demand the making of the orders sought by the Commission.