

EUROPE / ASIA LEGAL CONFERENCE
MEDICAL AND LEGAL REGULATORY UPDATE

Positano, Italy – 20 June 2022

Judge Kent QC

Introduction

- [1] One of the characteristics of professions such as law and medicine is that they are regulated by bodies created for the purpose, to do so in the public interest. It is an important aspect of such bodies that the penalties or other orders which they hand down are intended not, or not only, as punishment;¹ rather the over-riding interest is the protection of the public, by regulating professionals and their ability to conduct, and the conditions of, their professional practice. There is also the consideration of maintaining public confidence in the reputation of the profession.² I will give examples of past and recent cases to demonstrate this process and, in the course of doing so, to further demonstrate what not to do.
- [2] It is convenient to examine these in various categories of misbehaviour, to observe the different ways they are treated by Courts and Tribunals. Notably, not all of the misbehaviour is necessarily in the conduct of the profession; separate conduct, if sufficiently serious, may be disqualifying, for example where it causes serious concerns as to character.

Wrongly Holding Out as a Registered Practitioner/ Practicing Unregistered

- [3] This is a basic aspect of professional responsibility. A professional must obviously be registered in good standing in order to practice; it is one of the defining features of a profession that only qualified people may practice it.

Australian Health Practitioner Regulation Agency (AHPRA) v Sevdalis

¹ Although sanctions such as suspension or striking off have a necessarily punitive consequence; *Law Society of New South Wales* [1994] 34 NSWLR 408 at 413 per Kirby P

² See e.g. *Southern Law Society of Tasmania v Westbrook* (1910) 10 CLR 609 per O'Connor J

- [4] Dr Sevdalis is a Melbourne-based medical practitioner. He continued to practice after having been suspended. The suspension was imposed by a Victorian Civil and Administrative Tribunal (VCAT) in October 2018 for six months, following findings that he had provided care to family members in circumstances that were avoidable, and further that his clinical management of 23 patients was not clinically justified and indeed exposed patients to potential harm.
- [5] Suspended practitioners, of course, cannot practice or hold themselves out as being registered to do so. If a practitioner's registration is suspended this is reflected on the National Register of Practitioners.
- [6] Despite the suspension, Dr Sevdalis continued to practice from the Fairfield Family Health Centre and presented himself as a registered medical practitioner, including to patients, a pharmacist and entities such as the Transport Accident Commission ("TAC") and Vic Roads. He consulted and treated patients, issued a medical certificate, authorised the dispensing of medication, reported to Vic Roads on patients' fitness to drive and license issues and liaised with the TAC and a vocational rehabilitation firm on behalf of patients.
- [7] In April 2019, AHPRA executed a search warrant at the practice as part of its investigations into allegations that Dr Sevdalis had been practising whilst suspended. During the execution of the warrant, he obstructed an AHPRA investigator from seizing a document by taking it and locking himself in a bathroom. He remained there for 15 minutes and emerged minus the coversheet of the document.
- [8] Thus on 9 May 2019, after the previous suspension ended, the doctor's registration was again suspended by the Medical Board of Australia under immediate action to protect public health or safety. He pleaded guilty to eight charges of holding himself out as a registered practitioner on various dates between December 2018 and August 2019, and one charge of obstructing an AHPRA inspector. He was convicted and subjected to a 24-month community corrections order, requiring 300 hours of community service. He was ordered to pay AHPRA's legal costs of \$30,603.07.
- [9] The presiding magistrate described the offending as "brazen" and observed that while his conduct may have been intended to assist others, his preparedness to hold himself

out whilst suspended “takes breathtaking attitude and a defiant, if not contemptuous, attitude towards the regulator.” The Chair of the Medical Board, Dr Anne Tonkin, said:

“To continue to practice after you have had your registration suspended is unacceptable. Falsely claiming to be registered erased the high trust the public places in the medical profession.”

This case exemplifies the principles that regulation of a profession is for the public benefit and it is important for such a profession to maintain a high degree of public trust. Practising unregistered attracts a heavy penalty. Also, don’t try to flush evidence during a search warrant execution.

*Legal Services Commissioner v Bui*³

- [10] Mr Bui was a solicitor, admitted as such in Queensland on 31 July 2000. He held various levels of practising certificates issued by the Queensland Law Society from July 2003. Between 2010 and 2017 he practised under the name “Benson Lawyers” based at Inala in Brisbane. On 18 December 2017, he was issued with a restricted practising certificate.
- [11] In December 2018 he was dealt with by QCAT for other disciplinary charges, related to the payment of overdue taxes from his trust account and his failure to respond to correspondence sent by the Legal Services Commissioner requiring explanation of this conduct. That matter proceeded to hearing and he was found guilty of professional misconduct and his practising certificate cancelled. He thus did not hold a practising certificate from 3 December 2018 onwards.
- [12] The six charges in the 2021 application arose out of three separate instances post cancellation of respondent both engaging in legal practice and holding himself out as being entitled to do so, in breach of ss 24 and 25 of the *Legal Profession Act*.
- [13] The first two charges arose in April and June 2019. Mr Bui prepared and witnessed an affidavit in relation to divorce proceedings in the Federal Circuit Court, as a “lawyer”. He purported to witness the wife’s signature despite not actually being present when she signed the affidavit. He further prepared and witnessed an affidavit of translation of a marriage certificate in relation to the same proceedings in which he referred to himself as both a “solicitor” and “lawyer” for the applicants. Then, in June 2019, in the same

³ [2021] QCAT 93.

proceeding, he prepared a “notice of discontinuance” which he signed, nominating that he was both lawyer for the applicant and lawyer for the respondent. The Tribunal found that he clearly had engaged in legal practice and represented that he was entitled to do so.

- [14] He then conducted a conveyancing transaction in May and June 2019. He sent email correspondence, purportedly on behalf of a client, to the solicitor for the other party, as “Andrew Bui – Solicitor”. He both engaged in legal practice and, by describing himself as he did in correspondence, represented that he was entitled to do so, again in breach of ss 24 and 25.
- [15] Charges 5 and 6 arose out of another conveyancing transaction where, similarly, Mr Bui purported to act for purchasers and corresponded with the other side. It was not until the solicitor for the other party requested that he provide “the usual undertakings” given by purchasers’ solicitors in conveyancing matters (well known to competent practitioners) that Mr Bui revealed he did not know what these undertakings were. The other side were alerted; noted that the Register of Legal Practitioners did not include Mr Bui’s name; and the matter was reported to authorities.
- [16] Subsequently, the Legal Services Commissioner contacted Mr Bui for an explanation, with no response. This resulted in three further charges. The Tribunal (constituted by Justice Daubney and two assistants) concluded that the respondent had engaged in professional misconduct and his name was removed from the Roll of Legal Practitioners in Queensland.
- [17] As in *Sevdalis*, this case exemplifies the (trite) proposition that one may not represent oneself as a registered professional when this is not the case; and, of course, co-operation with an investigating body is also essential. Being struck off is a heavier penalty than occurred in *Sevdalis*.

AHPRA v Gzhi Sin Lee

- [18] In 2020 Ms Lee was part way through a medical degree at the University of New South Wales, but failed a number of disciplines and was advised she would not be eligible to graduate. Nevertheless she accepted a position as a medical intern at Bankstown-Lidcombe hospital and worked 126 shifts between 18 January and 9 August 2021. She

was dismissed when the hospital discovered she was not registered. She pleaded guilty to one count of falsely claiming to be qualified to practice in breach of s 116 of the National Law. She was sentenced to two years imprisonment to be served by an intensive corrections order and was fined \$10,000. She was ordered to pay AHPRA's legal costs of \$3,400. Because she was not part of the profession she suffered purely criminal penalties.

Professional Negligence Amounting to Misconduct

- [19] This category of misbehaviour is often litigated, and arguments arise as to the applicable test. Negligence of a serious degree may go as far as demonstrating professional misconduct or unsatisfactory professional conduct, attracting regulatory consequences as well as, for example, liability in tort.

*Graham v Queensland Nursing Council*⁴

- [20] This case involved alleged professional negligence of a severe degree. Ms Graham was a registered nurse employed at a Brisbane prison. She attended, at the request of officials, on the cell of a 29 year old inmate in relation to concerns as to his health during drug withdrawal; his cellmate was very concerned. She declined the offer to open his cell door for an assessment; she did it from outside the cell through the cell door window, apparently concluding that no medical intervention was necessary – she thought it was normal drug withdrawal. He died later that morning, of a rare combination of complications of drug withdrawal including a rare side effect of a drug used to treat the symptoms thereof (Clonidine). The Nursing Tribunal found her guilty of unsatisfactory professional conduct in that her conduct was discreditable to a registered nurse as described in the *Nursing Act 1976* – the relevant particulars apparently being that she should have conducted a proper clinical assessment, presumably by entering the cell – and her registration was cancelled, not to re-apply for two years on various conditions.
- [21] She succeeded on appeal to the District Court, overturning the finding of guilt. The Queensland Nursing Council appealed to the Court of Appeal, unsuccessfully (by a majority). The findings in the Court of Appeal were that although she conducted an inadequate examination, her conduct was not premeditated, reckless or done in blatant

⁴ [2010] 2 Qd R 157

disregard of an obvious risk or of an instruction; further there was no reason why she should have suspected his true condition, which was very rare; thus her conduct could not be described as gross negligence. Therefore in the absence of moral or other impropriety, the conduct did not injure the credit or standing of a nurse in her professional capacity to a greater extent than an ordinary act of negligence; therefore she was not guilty of conduct discreditable to a registered nurse. There was evidence that visual observations of patients and conversing with them as to symptoms is a frequent practice, particularly where, as here, the nurse was familiar with the patient and his condition. Further caution was expressed as to reasoning in hindsight from the disastrous and tragic conclusion for the patient.

- [22] The test enunciated for discreditable conduct was: conduct which would reasonably be regarded as calculated to destroy or lower public confidence in a nurse or which injures the credit or standing of a nurse in his or her professional capacity.⁵

*Medical Board of Australia v Parhar*⁶

- [23] Dr Parhar was the director of obstetrics and gynaecology at a Victorian hospital between 2008 and 2015. He surrendered his medical registration following a cluster of newborn and stillborn deaths at the hospital. An extensive review resulted in conclusions that he was responsible for failure to ensure adequate clinical reviews of 19 perinatal deaths; failure to ensure adequate open disclosure in relation to 15 perinatal deaths; failing to ensure necessary policies were in place to improve patient safety; inadequate supervision of three junior doctors; failure to improve or maintain his own professional performance; record keeping deficiencies and deficiencies in his direct clinical care of one patient. He admitted that these matters constituted professional misconduct. He was disqualified for applying for registration for 12 years. This perhaps highlights the responsibilities of senior practitioners with supervisory roles.

Unsatisfactory Professional Conduct / Professional Misconduct Generally

- [24] There are many formulations, including statutory examples, of these concepts, professional misconduct being more serious. An example is the *Legal Profession Act* 2007 (Qld):

⁵ At [108] per Fryberg J.
⁶ [2021] VCAT 1295

S 418

Unsatisfactory professional conduct includes conduct of an Australian legal practitioner happening in connection with the practice of law that falls short of the standard of competence and diligence that a member of the public is entitled to expect of a reasonably competent Australian legal practitioner.

S 419

1. Professional misconduct includes—

(a) unsatisfactory professional conduct of an Australian legal practitioner, if the conduct involves a substantial or consistent failure to reach or keep a reasonable standard of competence and diligence; and

(b) conduct of an Australian legal practitioner, whether happening in connection with the practice of law or happening otherwise than in connection with the practice of law that would, if established, justify a finding that the practitioner is not a fit and proper person to engage in legal practice.

Again, it is helpful to examine these concepts in categories of misbehaviour.

Defamatory or Scandalous Conduct and Failure to Supervise

*Legal Services Commissioner v Sewell*⁷

[25] The discipline application alleged professional misconduct or unsatisfactory professional conduct, including breaching her duty *to the profession* in 2014 by sending “false and defamatory” letters about a former employee she had dismissed in 2012 to his current employer; and failing to act with a professional degree of competence and diligence, contrary to her duty *to the client*, by permitting him to file an affidavit in a family provision application that she did not, but should have, known was materially false.

[26] The first charge referred to an employee, XY whom the practitioner described from August 2011 as a “graduate solicitor”, although this was misleading as XY did not

⁷ [2017] QCAT 387.

complete his degree until December 2011. His employment was terminated in January 2012 in acrimonious circumstances and thereafter the practitioner alleged misconduct against him including removing client files from the premises, breaching obligations of confidence, false timesheet entries, over 300 defamatory text messages on a company iPhone, use of said iPhone for pornography and improperly retaining company property following his termination.

- [27] XY responded, admitted some inappropriate behaviour and apologised for some matters. He explained other aspects of the complaint. Then in October that year he sent an email to another firm of solicitors referring to the practitioner's wrong description of him as a graduate solicitor. Subsequently, the practitioner opposed his admission in April 2013, although he was later admitted in 2014. The practitioner then wrote to his new employer setting out that XY suffered from mental illness and had been an inpatient – this had been necessarily revealed by XY during the admission process. The Supreme Court had nevertheless found him to be suitable for admission.

- [28] The Commissioner argued that the practitioner used her status as a solicitor and the letterhead of her firm to lend weight to unfounded and scurrilous allegations concerning a young former employee more than two years after his employment, and his mental health issue, had both ended. She pursued him vindictively by writing to his employer on more than one occasion, which would be regarded as a disgrace by a practitioner of good repute. It was said to undermine the reputation of the legal profession and was likely to a material degree to bring the profession into disrepute.

- [29] The allegation failed, the tribunal (chaired by Justice Carmody, as the previous Chief Justice then was) finding that even if the attacks on XY's character were defamatory in a broad sense, the Commissioner's case impermissibly assumed the truth of his unsworn denials to establish falsity instead of leading direct evidence. In essence, the Commissioner should have called XY. This is despite the features that the statements were clearly in fact made and were capable of causing reputational damage to XY.

- [30] The second charge involved an affidavit prepared by the practitioner's firm, but not by her, in a family maintenance application. This was said to be false and misleading, something of which the practitioner, so the Commissioner argued, ought to have been

aware. Permitting such material to be filed and conducting the litigation on the basis of it was said to be a significant departure from accepted standards.

[31] Importantly, it was not alleged that the respondent prepared that affidavit nor that she knew it was false and misleading at any relevant time. There was no allegation that any duties owed to the court were breached. The Commissioner argued that there was a duty to *investigate* the truth of contents of an affidavit sworn by a client, despite the absence of any suspicion as to its falsity. The Tribunal found that this proposed too high a standard, in that a practitioner would be forced to guarantee, not merely witness or even verify the truth of, every client affidavit. Thus the Commissioner did not prove that the applicant permitted the false affidavit to be filed due to a relevant lack of competence or diligence.

[32] This conclusion was despite the backdrop of rule 37 of the Australian Solicitors Conduct Rules:

“37. Supervision of legal services

37.1 A solicitor with designated responsibility for a matter must exercise reasonable supervision over solicitors and all other employees engaged in the provision of the legal services for that matter.”

[33] Although the practitioner failed to review what was proposed to be filed, and to bring her skill and insight as a professional to bear upon the content of the evidence, this was not the charge she faced. She was in no position to correct the statement in the affidavit where she relied on the client and an unqualified staff member to ensure the accuracy and sufficiency of the affidavits, which, nevertheless, the practitioner witnessed the execution of.

[34] Thus the second charge failed for want of proof; the inference seems to be that the Commissioner may have succeeded on a different charge. The application failed, not because the charged conduct may not have amounted to unsatisfactory professional conduct or indeed professional misconduct, but rather the evidence led in support of the allegations was lacking and/or the charge was wrongly particularised.

[35] I note that the practitioner was represented by my colleague Judge Jackson QC when his Honour was still a member of the bar. One thing this case may exemplify is that if one is in professional difficulties, it is worthwhile investing in quality representation.

Trust account and other monetary irregularities

- [36] The fraudulent misappropriation of money received on behalf of another person (usually referred to as “trust money”) is clearly professional misconduct.⁸ It usually justifies striking off, particularly if repeated over a period of time.⁹ Technical breaches of trust account requirements without dishonesty, particularly if isolated, may not justify suspension or disbarment, although they may still attract a restriction on the practicing certificate and/or the fulfilment of additional educational requirements.¹⁰
- [37] Even where there is no proven dishonest intention, such matters are serious because if money is mishandled there is usually at least a suggestion of fraud on the part of the lawyer.

*Legal Practitioners Complaints Committee v Chang*¹¹

- [38] The practitioner was employed by a firm and acted for a client in relation to proposed Family Court proceedings. The practitioner deposited cheques which the client had given her into the practitioner’s personal bank account. She accepted that this was unprofessional conduct despite holding the client’s written instructions and authority for that conduct. She paid the amount of one of the cheques into the firm’s trust account from her own funds but set aside the amount of the other one (\$750) in cash.
- [39] She was also found to be guilty of unprofessional conduct by not making an adequate record of the receipt or of the disposition of the \$750. The practitioner was reprimanded and fined the sum of \$6 000 as well as being required to pay the costs of the committee in the sum of \$25 000. This indicates the seriousness of such conduct, even where there is no proven dishonest intention.

Sexual Misconduct in the Workplace

*Dental Board of Australia v Michael*¹²

- [40] Mr Michael was a dentist. In November 2018 he was convicted in the County Court of Victoria of nine charges of indecent assault. These occurred over a 19-year period against

⁸ See e.g. *Jones v Law Society of New South Wales* [1982]2NSWLR1 at [14] – [15] per Moffitt P

⁹ See *Prothonotary of Supreme Court New South Wales v Dimitriou* [2015] NSWCA258

¹⁰ See *Law Society of NSW v Lee* [2005] NSWADT 242

¹¹ [2007] WASAT 86

¹² [2021] VCAT 1337

nine different complainants, eight patients and a staff member. He was sentenced to seven years and three months imprisonment with a non-parole period of four and a half years. The Tribunal ordered that he be reprimanded, disqualified from applying for a registration for 15 years and prohibited from providing any health service for 15 years. The conduct was completely incompatible with him being a fit and proper person to hold registration.

*Medical Board of Australia v Menon*¹³

- [41] The general practitioner engaged in professional misconduct by making Facebook and Instagram communications with a patient, in breach of the board's guidelines as to sexual boundaries in the doctor-patient relationship. He made several attempts to communicate with the patient over social media platforms, including sexualised and inappropriate comments, often late at night or in the early hours of the morning. Conditions were placed on his registration including non-contact with female patients and practicing only at approved locations. He had undergone counselling, completed relevant education courses and studied literature concerning professional boundaries and professional ethics. He also stopped using social media. He was to be mentored for six months. It is noteworthy that this case mentions the Medical Board's published Guidelines as to sexual boundaries in the doctor – patient relationship.

*Conduct **Unconnected** with the Profession*

Driving

*Ziems v Prothonotary of the Supreme Court of New South Wales*¹⁴

- [42] The High Court considered the case of a barrister who had been permanently disbarred following a conviction for manslaughter. The circumstances were that Ziems had appeared in court on a particular day and then driven to Newcastle where he was to stay at an hotel. He remained in the hotel drinking for a period of time. Late in the evening, about 10.00pm, trouble arose with a man described as a seaman. He was violent and destructive and Ziems felt called upon to intervene, which he did. In the course of this, and at a time when a police officer had been called to the scene, the man violently

¹³ [2021] VR 85

¹⁴ [1957] 97 CLR 279

attached Ziems, punching him heavily about the head and upper body. The officer then advised Ziems to go to the hospital for his injuries. He sat down for a time but then apparently drove off in his car towards another hotel where accommodation had been arranged. During that drive, and whilst intoxicated, he crossed onto the wrong side of the road colliding with a motorcyclist who was killed.

- [43] Ziems had no memory of the events and his case at trial, which was unsuccessful, was that he was suffering from shock and concussion, and not responsible for the accident. The trial was noteworthy for the refusal of the prosecutor to call the police officer from the scene, forcing the defence to call that person who could not then be cross examined, with the result that a less favourable version of the facts emerged at trial than should have been the case. Nevertheless the conviction was not challenged.
- [44] The Supreme Court, in striking Ziems off, refused to look behind the circumstances of the conviction. This was felt by the majority of the High Court to be incorrect.
- [45] Clearly the offending behaviour was unconnected with the practitioner's professional practice. The reasoning of Justice Fullagar, for example, referred to the distinction, for a professional, between personal misconduct and professional misconduct. Personal misconduct may be a ground for disbarring, because it may show that the person guilty of it is not a fit and proper person to practice as a barrister. However, the approach to such a case must be very different from that to a case of professional misconduct which clearly has a much more direct bearing on fitness to practice. His Honour referred to the attack on Ziems at the hotel and the lack of any proper explanation for the police officer not to have been called by the Crown; clearly a breach of traditional considerations of fairness. There was also severe criticism on the summing up of the trial judge which misrepresented the nature of Ziems' case to the jury. These matters were relevant because they diluted the importance of the conviction, for practical purposes, to the question of disbarment. As the injuries received were probably a material contributing factor to Ziems' behaviour, it was in error to conclude that as a result of the events he ought be disbarred. He was suspended for two years, the period of his imprisonment. Justice Taylor agreed, and Justice Kitto also agreed in the result, although His Honour felt that the High Court should not go behind the fact of the conviction.

- [46] If such a case were litigated in 2022, there would likely be detailed medical evidence about the effects of the head injury.

Child Pornography

*Medical Board of Australia v Yu*¹⁵

- [47] Doctor Yu was employed at a hospital. He pleaded guilty to possession of child exploitation material (on his personal computer, at home) and was sentenced in March 2017 to a suspended term of imprisonment. The Tribunal found that his conduct constituted professional misconduct and demonstrated that he lacked the good character and integrity to practice as a professional in relation to children and other vulnerable persons. His conduct was also found to be such as to bring the medical profession into disrepute. His registration was cancelled and he was disqualified from reapplying for a period of eight years.

Violence

*Medical Board of Australia v Holder*¹⁶

- [48] The South Australian Civil and Administrative Tribunal cancelled the doctor's registration for 25 years. Holder had been a general practitioner at a medical centre in Morphett Vale, south of Adelaide. He was reported to AHPRA for over prescribing benzodiazepines and pain killers to a group of Aboriginal women from Port Lincoln. AHPRA found a significant pattern of overprescribing not only to those women but to other patients in the practice. Thus AHPRA limited Holder's ability to prescribe.
- [49] Four days later he travelled to Port Lincoln to seek revenge on the pharmacist who had reported him. He employed a private investigator to discover her home address and drove past her house before going to the pharmacy where she worked. He attended the pharmacy with a bunch of carnations and a 15cm filleting knife in his suit pocket. He requested to see her and held the flowers out towards her with his left hand, whilst with his right hand taking the knife and striking at her in several motions, aimed at her throat and neck. The victim defended herself effectively. He ran off and was later found unconscious in a hotel room. He was found guilty – after a trial, limited to the issue of

¹⁵ [2020] SACAT 123

¹⁶ [2021] SACAT 47; see also *R v Holder* [2019] SASFC 73

his mental state at the time - of attempted murder and sentenced to 15 years imprisonment with a non-parole period of ten years for his deliberate, planned revenge. There was evidence he had a schizoid personality disorder and/or autism spectrum disorder; however very concerning for the courts was his total lack of remorse.

- [50] Accordingly the Tribunal cancelled his registration and he was banned from applying for re registration or providing any health services for 25 years. Apart from the attempted murder, he was dealt with for inappropriate prescribing and providing misleading information about his conduct to AHPRA and the Medical Board of Australia. It is noteworthy that this case, after a letter from the trial judge, prompted AHPRA in 2019 to review and reform the confidentiality procedures for notifiers.

*Nursing and Midwifery Board of Australia v Freeman*¹⁷

- [51] Mr Freeman was an enrolled nurse. On 7 December 2017 he attempted to murder his then wife, slashing her with a knife, cutting her right hand and stabbing her in the left shoulder. She collapsed. He left without rendering assistance, but spoke to the victim's father telling him what had happened. He then further injured her, but later did call for an ambulance, admitting what he had done. He still did not render any physical assistance to the victim. Her life was saved by emergency services.
- [52] He was sentenced to imprisonment for nine years and ten months with a non parole period of five years six months. His registration was cancelled with disqualification from re registration for 15 years.

*Legal Services Commissioner v SD*¹⁸

- [53] The solicitor was admitted in 2014. In 2019 he was convicted of common assault, being a domestic violence offence, which occurred in breach of a protection order. He had grabbed the complainant by the hair with both hands and dragged her for one and a half meters. He was convicted after a trial in the Magistrates Court and fined. He was found guilty of professional misconduct and was struck off. He did not take any part in the disciplinary process.

Drugs

¹⁷ [2020] SACAT 88
¹⁸ [2021] QCAT 204

*Legal Services Commissioner v Munt*¹⁹

- [54] The practitioner was sentenced for trafficking in methylamphetamines, supplying methylamphetamines and supplying cannabis, to a head sentence of three years imprisonment wholly suspended for an operational period of four years. He had been a successful solicitor practicing in personal injuries. In 2006 his marriage broke up and he took up with a female, Vikki Taylor. She had a history of drug addiction and association with a serious criminal, a Mr Cant. The couple had a son and daughter, but Ms Taylor's drug problems continued. Cant was released from prison and came to live with the couple. Munt was by then working as a costs assessor, having profited from the sale of his previous firm. Through Ms Taylor and Mr Cant, he became involved in drug offending. After his arrest he sought treatment for his drug use and committed to a regime of regular drug testing. He completed a total of 144 drug tests between his arrest and the day of his sentence. There was a positive report from his treating psychiatrist with a good prognosis.
- [55] The Tribunal found that he had engaged in professional misconduct. After considering comparable cases, the conclusions were that he not be granted a practicing certificate for five years commencing 8 April 2015, he be publicly reprimanded and pay the costs of the proceedings.

Conclusion

- [56] This brief overview hopefully provides some guidance as to conduct. Some of the more extreme examples are overly obvious – presumably professionals don't normally set out to murder people, for example. But some of the less serious examples of misconduct demonstrate the degree and ways in which regulatory bodies control conduct, for the protection of the public as well as the reputation of professions.

¹⁹ [2019] QCAT 160