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Sydney Lawyer Struck Off for Defrauding Elderly Client (<https://www.sydneycriminallawyers.com.au/blog/sydney-lawyer-struck-off-for-defrauding-elderly-client/>)

By [Sydney Criminal Lawyers](https://www.sydneycriminallawyers.com.au/blog/author/sydney-criminal-lawyers/) | 09/01/2018 | 1 Comment

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Sydney lawyer Victor Berger has been [removed from the roll of legal practitioners](http://www.smh.com.au/nsw/sydney-lawyer-victor-berger-struck-off-for-overcharging-elderly-woman-137543-20180107-h0emgp.html) after over-charging an elderly client \$137,543.

The solicitor made regular phone calls to the frail woman in her nineties, checking on her health, her relationship with her children, and her housework.

Then in 2012, some months before the woman died, the lawyer sent members of her family an invoice for \$176,800, which detailed \$90,527 for “non-legal work” including the personal phone calls.

Mr Berger was also found to have directed the buyer of his client’s home to pay \$154,000 into his bank account, despite it being trust money belonging to the client’s estate. He later had \$20,000 of that sum transferred into his son-in-law’s account.

Ripping off the vulnerable

This was not the first time Mr Berger was found to have taken advantage of vulnerable people.

Five years earlier, the lawyer had a client who was in intensive care suffering from dementia sign over power of attorney to her daughter, without the lawyer having spoken to medical staff about his client's ability to understand her decision.

The daughter then took \$1 million to put into her own superannuation, and sold millions of dollars worth of her mother's shares.

The Guardianship Tribunal found that the elderly woman did not have the capacity to sign over power of attorney to her daughter. Mr Berger was ultimately cautioned by the Legal Services Commissioner.

These cases were amongst a dossier of more than 70 complaints against Mr Berger between 1996 and 2013.

Last week, the NSW Civil and Administrative Tribunal (NCAT) ordered that Berger be removed from the roll of lawyers, after finding him guilty of professional misconduct including overcharging, misappropriating funds and failing to disclose costs.

While the lawyer provided the tribunal with 12 character references from prominent people, including senior barristers, a federal MP and a retired Supreme Court judge, the tribunal found that while he posed as a charitable, he was in fact ripping off his clients.

Lawyers on the wrong side of the law

Lawyer misconduct, including [fraud](https://www.sydneycriminallawyers.com.au/criminal/offences/fraud-charges/fraud-s192e/), can and should be treated very seriously by both professional regulatory bodies and the criminal justice system.

[Last year in Queensland](https://www.sydneycriminallawyers.com.au/blog/criminal-lawyers-charged-with-fraud/), criminal defence lawyer Michael Bosscher and two employees of law firm Bosscher Lawyers, were charged with fraud offences after a joint investigation by the Crime and Corruption Commission (CCC) and Queensland Police Service (QPS).

Mr Bosscher, the firm's principal, has been charged with 'aggravated fraud' arising from allegations that he dishonestly applied trust funds. If found guilty, he faces up to 14 years behind bars.

He has also been charged with eight counts of fraudulently falsifying records, which carries a maximum penalty of 10 years in prison.

Bosscher's employee, 32-year old solicitor Alex Jones, and former law clerk 29-year old Tom Strofield, have also been charged with aggravated fraud.

Only months earlier, a senior solicitor of the same firm, [Tim Meehan](https://www.sydneycriminallawyers.com.au/blog/pure-greed-criminal-lawyer-imprisoned-for-fraud/), was sentenced to five and a half years in prison after pleading guilty to a scheme whereby he took "well in excess of \$600,000" from 19 clients and failed to deposit the money into the firm's trust account.

It was a massive downfall for Mr Meehan, who at the peak of his career defended Daniel Morecomb's killer.

Also in Queensland, former [Lawyer Russel Biddle](https://www.sydneycriminallawyers.com.au/blog/lawyer-sent-to-prison-for-defrauding-clients-of-1-8-million/) was sent prison for defrauding his clients of \$1.8m.

And recently in New South Wales, lawyer [Tereze Dzitaris](https://www.sydneycriminallawyers.com.au/blog/sydney-lawyer-struck-off-for-stealing-client-funds/) was struck off, after a case against her proved misappropriation of funds totalling \$300,000.

Damage to the profession

When lawyers do fall on the wrong side of the law, it can bring the entire legal profession into disrepute.

As one judge remarked, "It feeds the public perception that lawyers are greedy and self-serving, whereas by ethical obligations and statute and their obligation to the legal profession and the court, they must not be."

But the reality is that the vast majority of lawyers act in accordance with the law and their [strict professional obligations](https://www.sydneycriminallawyers.com.au/blog/the-duties-of-lawyers-in-nsw/). Over and above this, Australian lawyers are leading the way in providing free (pro bono) work to less fortunate members of the community – something which very few other professions or trades provide on a regular basis.

[A global study conducted in 2016](https://www.sydneycriminallawyers.com.au/blog/australian-lawyers-lead-the-way-in-pro-bono-work/) found that Australian lawyers are not only leading the world in the provision of free legal work, but their overall contribution of free services to the public is at the top of all industries.

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 **Bill** January 9th, 2018 (<https://www.sydneycriminallawyers.com.au/blog/sydney-lawyer-struck-off-for-defrauding-elderly-client/#comment-7060>)
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