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## Principal lawyer reprimanded for engaging in 'disgraceful' conduct w elderly client

By Naomi Neilson | 07 January 2020



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A Queensland solicitor has been publicly reprimanded and prohibited from applying to practice for a period of five years following events in which he both dealt with a lawyer's client "disgracefully" and took advantage of the ageing and unwell man.

Ivan John Poole, of Ivan Poole Lawyers, stood to profit significantly from the will of an elderly man after a series of events that saw the lawyer act for a separate client despite lacking appropriate resources and experience, adversely affect the man's relationship with his former solicitor and remove the man from hospital against medical advice.

The Legal Services Commission said Mr Poole's conduct with the elderly man – known as "ABC" – during 2013 and 2014 was "disgraceful by the standards of the profession".

"These were serious incidents of misconduct," documents from Queensland Civil and Administrative Tribunal noted in the decision. "The public interest and interests of the profession require that it be clearly understood practitioners who engage in disgraceful and dishonourable conduct, as occurred here, will be subject to serious sanctions."

ABC had extensive property interests in South East Queensland, with plans to develop a shopping centre. It was being managed by several parties, including ANZ Bank. ANZ listed in the deed that the property manager had to be experienced and qualified.

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Mr Poole was acting for clients – known as MDG – who wished to become the property manager. ANZ declined to give consent due to lack of experience, however, Mr Poole pressed ahead despite “potential conflict of the duties to act in [the] best interests” of clients.

The solicitor formerly acting for ABC, Sean McMahon, had a longstanding relationship with the client – both professionally and personally. Due to ABC’s poor health and lack of relationship with his family, Mr McMahon was appointed power of attorney.

In March 2013, ABC became unwell and was admitted to the hospital by Mr McMahon, presenting with congestive heart failure. While in hospital, he suffered a stroke.

Mr Poole became involved and, together with MDG, removed ABC from hospital. The elderly man wanted to leave but did so without the knowledge of Mr McMahon, hospital staff and medical practitioners. He also left without his medication, despite staff noting non-compliance with his medication was why he became ill in the first place.

Just one day after removing ABC from hospital, Mr Poole arranged for ABC to revoke the power of attorney and make changes to his will, including appointing Mr Poole as his new executor. This was done without the knowledge of Mr McMahon.

The Tribunal said: “Directly dealing with another solicitor’s client in this manner and in these circumstances was patently disgraceful by all acceptable standards.”

Mr McMahon made an application to the Supreme Court for a declaration due to a lack of capacity from ABC. Medical reports provided to the courts suggested ABC was not fit to revoke the power of attorney, and the revocation was declared invalid.

However, a year later, Mr Poole became aware that the will of ABC did not include any provisions for MDG. ABC informed Mr Poole that he wished to change his will so that it did and to ensure that MDG and Mr Poole were significant beneficiaries.

In March 2014, Mr Poole arranged for ABC to consult a solicitor. This solicitor was not informed about the power of attorney hearings or that ABC was vulnerable. Mr Poole instructed the solicitor to not ask ABC any questions and simply requested that he ring ABC, who at the time was in hospital and wished for someone to redo his will.

“The respondent’s conduct in arranging for ABC to see the solicitor to make a new will was also disgraceful by the standards of the profession,” the Tribunal noted.

The solicitor attended to ABC in hospital and a new will was drafted and signed. Under the changes, Mr Poole, MDG and a certain doctor stood to benefit substantially. ABC’s \$50 million estate would be partly distributed among the three, with both Mr Poole and MDG standing to receive 16 per cent of the large fortune.

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**Therese**

Should be struck off without hesitation. He is a crook and a disgrace to his profession. These lawyers get paid more than enough and to add to the damage rip innocent people off who employ you to assist them. Inexcusable behaviour.

0 Quote Reply · Wednesday, 05 February 2020



**Glen Mylne**

There are no redeeming features of this conduct. The judgment mentions in passing "the deterrent effect" the deterrent effect can only neuter the "avaricious greed effect" by a strike off!

4 Quote Reply · Thursday, 09 January 2020



**Anonymous**

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**Mark**

Wow. Often I marvel at the harshness of the punishments given to solicitors in disciplinary proceedings. In this case however, I marvel at the leniency. If the summary in this article is correct, surely this person is not fit and proper to practice again.

8 Quote Reply · Wednesday, 08 January 2020



**Peter E**

I am not a lawyer--but is this not potentially a criminal offence? Please advise

1 Quote Reply · Wednesday, 08 January 2020



**Glen Mylne**

Should have been struck off the Roll.

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