# THE PROTHONOTARY OF THE SUPREME COURT OF NEW SOUTH WALES v CHAPMAN — BC9201419

SUPREME COURT OF NEW SOUTH WALES COURT OF APPEAL

PRIESTLEY (1) CLARKE (2) AND CRIPPS (3) JJA

CA 40101 of 1992

29-30 September 1992, 1 October 1992, 14 December 1992

*25 pages*

*BC9201419 at 1*

The appellant sought declarations that the respondent was not of good fame and character, was not a fit and proper person to remain on the roll of solicitors and was guilty of professional misconduct. An order was sought to remove the respondent's name from the roll of solicitors.

Senate Standing Committee on Rural and Regional Affairs and Transport
Budget estimates 2008–2009
DAFF

**Tabled document no: 1**

By: Senator Heffernan

Date: 26 May 2008

Clarke JA

I agree with Cripps JA.

Cripps JA

On 12 March 1992, the Prothonotary took proceedings in the Court by summons for declarations that Mr Chapman, a solicitor, was not of good fame and character, was not a fit and proper person to remain on the Roll of Solicitors and was guilty of professional misconduct. An order was sought that his name be removed from the Roll of Solicitors.

As originally framed, a declaration was sought that Mr Chapman had been guilty of professional misconduct as a solicitor in that: (a) he was in March 1990 convicted of keeping a brothel between 26 August 1985 and 26 January 1986; (b) he did keep a brothel between 26 August 1985 and 26 January 1986; and (c) he was actively involved in the financial administration of a brothel.

*BC9201419 at 2*

It also sought a declaration that he was not a fit and proper person to remain on the Roll of Solicitors because of the reasons set out above and because he opened and operated a bank account using fictitious names.

The summons was amended prior to the hearing and further amended during the hearing. The Prothonotary seeks the same declarations and orders but has significantly widened the particulars. He relies on the same particulars (a), (b) and (c) to support a declaration that Mr Chapman was guilty of professional misconduct as a solicitor but has added the following particulars in support of the second declaration, viz: "(e) [H]e did apply to register and use a business name making a

The grounds relied upon principally involve the conviction of the respondent of keeping a brothel and being involved in its financial administration. Other grounds include the respondent making false declarations in registering a business name; allowing clients to use false names and operating in a fictitious name himself; failing to properly advise clients and holding inadequate knowledge himself; operating a client account for the purposes of another client in order to conceal certain facts from banks and government departments; displaying a lack of candour before the Court and using clients' moneys to repay a debt owed to himself. Held: The respondent's conduct was unsatisfactory and required a reprimand. The respondent to pay the costs of the proceedings. Per Cripps JA: *If all* that was established was that the respondent was the keeper of a brothel his Honour would have dismissed *the summons. The respondent had gone further* in his misleading application under the Business Names Act, his use of false names in opening and operating a bank account and allowing one client to use another client's account.

Legal Profession Act 1987 s125, s135, s158, s164, Business Names Act

Wentworth v Bar Association of New South Wales (1992) 66 ALJR 360

Weaver v The Law Society of New South Wales (1979) 142 CLR 201

*BC9201419 at 2*

Priestley JA

I agree with Cripps JA.

*BC9201419 at 1*

false statement as the identity of the proprietor of the business name. (f) [H]e did send or caused to be sent letters of accounts by the firm of solicitors of which he was a partner to a client using a name of the client known by him to be false and to a person who was fictitious. (g) [H]e did fail to advise clients of the consequences of permitting premises owned by them to be used as a brothel. (h) [H]e did, by operating the account of International Secretarial Services on instructions of Messrs Rigby and Cropper, operate that account other than for the benefit of International Secretarial Services and its business. (I) [H]e did operate the account of International Secretarial Services on instructions of Messrs Rigby and Cropper in order to conceal from the bank and/or from the Real Estate Institute and/or from the Department of Consumer Affairs the fact that Messrs Rigby and Cropper were operating a business and an account. (j) [H]e did lack adequate knowledge of the Business Names Act, the Disorderly Houses Act and the offence of being the keeper of a brothel. (k) [H]e has demonstrated lack of candour with the District Court and/or the Court of Appeal in respect of i the receipt by him of moneys being the proceeds of the business of the brothel ii payment by him of accounts including those for advertising of prostitution iii the fact that the prostitutes were responsible for their own affairs. (1) [H]e did take moneys from a client's account, in the nature of a trust account, without instructions, to repay a debt owed to himself."

*BC9201419 at 3*

The proceedings are said to be taken pursuant to the provisions of s125 of the Legal Profession Act 1987. That is not strictly correct. S125 provides that nothing in the Legal Profession Act 1987 affects the inherent jurisdiction of the Court with respect to the discipline of barristers and solicitors. The Court is invited to exercise its inherent jurisdiction.

In March 1990, Mr Chapman was convicted of being the keeper of a brothel between 26 August 1985 and 26 January 1986. Phelan DCJ ordered that he enter into a bond to be of good behaviour for two years and, as a condition of the bond, imposed a fine of $5,000.

As will be seen, I am not prepared to make any of the declarations sought and I would not make the order that Mr Chapman's name be removed from the Roll of Solicitors. However, I have concluded that Mr Chapman's conduct was, in certain respects, relevantly unsatisfactory and, for that reason, he should be reprimanded, the parties agreeing that such an order is within the power of the Court.

*BC9201419 at 4*

Notwithstanding the course I propose to take I do not think it inappropriate to express certain views concerning what, in my opinion, is the inherently unsatisfactory nature of the present proceedings in the circumstances established bearing in mind the function the Court is obliged to perform and the fact that legal mechanisms have been established under the Legal Profession Act 1987 to deal with allegations of unsatisfactory conduct. The Court does not know whether, following Mr Chapman's conviction in March 1990, his conduct was investigated by The Law Society. It was open to it to do so. As can be seen from the summons as originally framed, the essential allegation against Mr Chapman was his involvement in and conviction for the keeping of a brothel between August 1985 and January 1986 and that in so doing he opened and operated a bank account under a fictitious name. As the case unfolded, other allegations were made against Mr Chapman. In particular, it was alleged that he practised a deception by allowing the account opened for the brothel to be used by other persons. It was alleged that he failed to give adequate advice and demonstrated lack of candour during the criminal proceedings. It was further alleged that he engaged in conduct that was tantamount to unlawfully withdrawing money from a trust account. As each additional allegation was made, Mr Garnsey QC, on behalf of Mr Chapman, protested. He did not, however, seek an adjournment. It is not hard to understand why he took the course he did. One cannot ignore the inconvenience and cost associated with an adjournment and one can sympathise with the understandable desire of a person brought before a court to have the proceedings, of the type presently before it, disposed of as quickly as possible. The nature of the proceedings and the function being undertaken by the Court obliged it to entertain the fresh allegations. There is, however, in my respectful opinion, an inherent unfairness in requiring a litigant to deal with allegations on the run where those allegations have potentially serious consequences. As will be seen, I am of the opinion that had the complaint against Mr Chapman been confined to allegations originally made, I would have dismissed the proceedings. It would seem to me that on any view of the matter, the other features of Mr Chapman's conduct would have been more appropriately dealt with under the Legal Profession Act 1987.

*BC9201419 at 5*

There is another aspect of the matter which bears on the views I have expressed although, because I have concluded that I would have dismissed the proceedings as originally framed, it does not arise in the present case. It is now more than two and a half years since Mr Chapman was convicted and more than five and a half years

since he was charged with the offence of being the keeper of a brothel. It is more than six and a half years since he last had any connection with the brothel. If Mr

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*BC9201419 at 6*

It would seem to me that the preferable course would have been for the matter to have been investigated by and dealt with under the Legal Profession Act 1987 in the first instance at least and that such a course ought ordinarily to be followed. Under the Act, there is no limitation on who may make a complaint to an appropriate council and, in any event, The Law Society Council and the Bar Council can make a complaint to the Tribunal (s135). A complainant or a counsel can appear at the hearing (s158) and the parties have an appeal to the Supreme Court against the determination of the tribunal (s164). The above remarks are directed to a case like the present. I wish to make it perfectly clear that they are not intended to embrace the case where the protection of the public interest mandates an

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*BC9201419 at 7*

Mr Chapman had acted for a number of prostitutes since 1982. In about 1985, he was approached by a prostitute, Gabriel Tilden, for advice as to how a group of prostitutes could undertake their professional activities without harassment from the police. He advised they could establish a "co-operative" or "collective" and undertake activities in a commercially zoned area. He said premises were available

prostitutes intended to put the premises. Mr Chapman arranged for a lease for a term of six months from 2 November 1985 from Keula Holdings Pty Ltd to two prostitutes, Sophie Michelle-Clare and Gabrielle Tilden. The prostitutes signed their names as Helena Brown and Claudia Pope. Mr Cropper and Mr Rigby were aware of the false names. In about May 1985 and in the course of giving advice to the prostitutes, Mr Chapman agreed with them that he would register a Business Name, "International Secretarial Services" and that "Edward Potter" would be registered as the person carrying on the business under the Business Name. It was agreed that Mr Chapman would be "Mr Potter".

*BC9201419 at 8*

Mr Chapman established credit card accounts with Amex, Bankcard and Visa and opened a bank account at the National Australia Bank at George and Hunter Streets, Sydney under the name "International Secretarial Services". The signatories on the bank account were Mr Chapman, Mr Potter, Ms Pope and Ms Brown. Mr Chapman also arranged for weekly medical examinations for the prostitutes. He lent Ms Tilden and Ms Michelle-Clare approximately $12,000 to furnish the unit so it could be used for the purpose of prostitution. The prostitutes agreed that they would each keep sixty per cent of individual takings and forty per cent would be used to maintain and run the co-operative. Its expenses included paying the rent, repayment of the loan and day-to-day running expenses. The forty per cent was to be placed in a till or box on the premises used by the prostitutes. Mr Chapman agreed to attend the premises on a regular basis, to collect moneys and to pay various expenses associated with the running of the property. The uncontradicted evidence is that he did this at the request of the women. He attended the premises one or two times a week. He collected the money, the credit card vouchers and what were described as "weekly reports". The "weekly reports" have not been the subject of much discussion and, I assume, nothing turns on their contents. Mr Chapman banked the money and paid the bills.

*BC9201419 at 9*

Mr Chapman was a partner in a firm of solicitors known as Bodors. In about June of 1985, he made application for the registration of a business name under the Business Names Act. The Business Name was described in the application as "International Secretarial Services". The address of the business was given as 5th Floor, 24 Ash Street, Sydney and the nature of the business as "casual secretarial

services, stenographers". "Edward Potter" was named as the person registered as carrying on a business under the Business Name and his address was given as 5th Floor, 24 Ash Street, Sydney. The application form was signed "E Potter". The application was stated to have been lodged by Messrs Bodors Solicitors, 24 Ash Street, Sydney.

During the period the brothel functioned, Mr Chapman dealt honestly with money he received. Although legal fees were rendered for services to "Potter" and paid out of the account, International Secretarial Services, it has not been claimed that Mr Chapman either dishonestly failed to account to the prostitutes for moneys entrusted to him or made any excessive charges so as to raise the suspicion that under the guise of charging legal fees, he was, in truth, sharing the profits of the brothel. Mr Chapman said he fully disclosed all relevant matters to the bank. That statement was not correct. At best the bank knew who to contact with respect to the account but it did not know, I infer, that the names Helena Brown and Claudia Pope were fictitious and that the name "Potter" was not only fictitious but used by Mr Chapman. I accept Mr Chapman's evidence that if an inquiry had been made for "Potter" at Bodor's office he, Mr Chapman, would have responded.

*BC9201419 at 10*

Towards the end of January 1986, Keula Holdings Ltd defaulted under the mortgage. The mortgagee went into possession and sold the unit. The brothel was closed. At that time, there was approximately $980 in the bank account and the prostitutes owed Mr Chapman approximately $10,000. The account was not a trust account. Mr Chapman withdrew the $980 and kept it as part repayment of the loan then outstanding. The bank account remained extant, but unused, for about six weeks.

It is to be recalled that Mr Cropper and Mr Rigby were the owners of the shares in a company Keula Holdings Pty Ltd. They ran a service referred to as "Property and General Private Sales". Their activities were the subject of a complaint by the Real Estate Institute to the Department of Consumer Affairs. The Commonwealth Bank had closed their account. They were having trouble opening an account elsewhere. Mr Chapman, on their behalf, took the matter up with the Department of

became overdrawn without the consent or knowledge of the owners, real or fictitious, of the Business Name. The bank sued Mr Chapman and recovered, by way of compromise, an amount of approximately $35,000. Why Mr Chapman was obliged to pay this amount has not been made clear but it is probably not stretching credulity too far to believe a significant tactical advantage enjoyed by the bank in the negotiations was the deception practised on it by Mr Chapman.

*BC9201419 at 13*

In March 1987, that is approximately fourteen months after the brothel closed down, Mr Chapman was summonsed to answer the charge that he had been the keeper of a brothel between August 1985 and January 1986. As I have said, Mr Chapman had acted for prostitutes since 1982. He said that as a result of his dealings with them, he formed the opinion that they were being unjustifiably harassed by the police. He was not challenged about his beliefs. Prior to receiving the summons in 1987, he had reported to the Parliamentary Select Committee what he claimed to be improper conduct by members of the police force. One of them was the police officer who commenced the criminal proceedings against him. Mr Chapman said he believed the proceedings were commenced in retaliation for the evidence he gave to the Parliamentary Select Committee. Mr Chapman's allegations were not investigated in these proceedings. Accordingly, it would be not proper to make any observations unfavourable to the police officer referred to in the absence of hearing his version of the events. However, Mr Chapman's belief has not been challenged by the Prothonotary. We were told by Mr Garnsey QC that Mr Chapman was the first person to be charged with the offence of keeping a brothel in New South Wales this century. Mrs Bennett, on behalf of the Prothonotary, said she had no reason to suppose that that was not correct. I do not know whether Mr Garnsey's statement is, in fact, correct or incorrect. It is, however, probably safe to assume that no one has been charged with the offence of being the keeper of a brothel for many decades.

*BC9201419 at 14*

There were two trials. The first trial was aborted after the police officer responsible for bringing the proceedings introduced evidence which Phelan DCJ at the second trial and, one assumes the trial judge at the first trial, believed was introduced unfairly and for the purpose of prejudicing Mr Chapman's defence. The Crown case against Mr Chapman in both trials was that he was involved to a much

greater extent in the running of the brothel than he claimed. It is now accepted that although his participation in the brothel was sufficient to permit the jury to conclude that he was relevantly a keeper of a brothel, it was not as great as that alleged by the Crown at the trial. He did not, for example, share in the profits and he was not running the brothel on a day-to-day basis.

I mention the above matters because Mr Chapman faces a further allegation, namely, that he endeavoured improperly to mislead the court on the occasion of his second trial. It is not alleged, as I understand it, that the evidence given before Phelan DCJ on sentence and the evidence given under oath in these proceedings is not true. However, it is alleged that when making his statement from the dock, Mr Chapman endeavoured to hide from the jury the circumstance that he banked money and paid accounts. That is, it was submitted that he endeavoured to present to the jury a version that he had no connection whatsoever with the brothel other than activities associated with its establishment. Mrs Bennett, on behalf of the Prothonotary, has referred to a part of the dock statement in which Mr Chapman said: "In relation to what happened at Broughton House I say I assisted these women in setting up their business who were responsible for their own affairs. I deny ever having taken any money from Broughton House. The girls banked their 30 to 40 per cent left over into a bank account each week from which various expenses had to be paid, rent, telephone, electricity, advertising. I had no control and never exercised control over who came in or who went out of that brothel. I never participated in the day-to-day organisation or administration such as the setting up of rosters, the allocation of work, the hiring and firing. These were not matters of concern to me. These were matters for the girls to be concerned about. I did not arrange advertising. I would say I assisted these girls to set up their own business because they were quite incapable of doing it themselves. Many of them had been my clients previously. There had been some discussion in relation to a bank account and a registered business name and I say that I assisted these girls with those facilities. The purpose of my assisting the girls was to create a buffer between the girls and the police."

BC9201419 at 15

During the present proceedings, Mr Chapman was cross examined. He endeavoured to make the point that what he was trying to convey was that his involvement was not as great as that suggested by the Crown at the time of his trial and that his role was to act as a buffer between his clients and the police. Viewed against the circumstances referred to above and bearing in mind that we cannot recapture the atmosphere of the trial, I am not prepared to hold that by reason of his statement from the dock Mr Chapman's fitness has been adversely affected. I do not see his statement as being anything more than a strong denial of what was alleged against him.

*BC9201419 at 16*

It follows from the above findings that the Prothonotary has established particulars (a), (b), (e) and (f) and (c) (to the extent referred to above, ie, that he was actively involved in the financial administration of the brothel but not to the extent alleged by the police). Mr Chapman did not fail to advise Messrs Rigby and Cropper of the consequences of the use of their unit as a brothel ((g)). I do not think he demonstrated lack of candour when making his statement from the dock and, as I have said, I do not understand Mrs Bennett to allege that he did not tell the truth under oath in this Court and before Phelan DCJ ((k)). He withdrew money from the account, International Secretarial Services, to repay a debt owing to himself but the account was not a trust account ((1)). I think it has been established he lacked adequate knowledge of the provisions of and obligations imposed under the Business Names Act and that I accept the Prothonotary's assertion if for no other reason than it is admitted by Mr Chapman that he did not know that what he was doing constituted a common law misdemeanour. He operated the account of International Secretarial Services on instructions from Messrs Rigby and Cropper and did so in order to conceal from the bank who its real customers were ((h)) and ((i)).

*BC9201419 at 17*

It can be seen that there are two distinct allegations against Mr Chapman although, to some extent, they overlap. The first is with respect to his involvement with the brothel. The second is deceptive conduct with respect to the operation of the bank account and the application under the Business Names Act.

The principles upon which the Court is required to act in applications such as this have been established in a number of cases. In Wentworth v Bar Association of New South Wales (1992) 66 ALJR 360 at 363, Dawson, Toohey and Gaudron JJ said: "Disciplinary proceedings have been described as proceedings concerned with the protection of the public (*Clyne v NSW Bar Association* (1960) 104 CLR 186 at 201-202, *New South Wales Bar Association v Evatt* (1968) 117 CLR 77 st 183-184, Weaver v The Law Society of New South Wales (1979) 142 CLR at 207, Walter v Council of Queensland Law Society (1988) 62 ALJR 153 at 157). And it has been

said that, because they have the protection of the public as one of their primary objects, they cannot necessarily be determined on the same basis as adversarial proceedings (Walter v Council of Queensland Law Society (1988) *62 ALJR at 157*)."

The power of the Court to suspend, strike off or discipline is one which, of necessity, attends a court system (see Weaver v The Law Society of New South *Wales* (1979) 142 CLR 201 at 207). Accordingly the court may adopt whatever proceedings are appropriate which, of course, necessarily makes provision for the requirements of procedural fairness.

*BC9201419 at 18*

As I have said above, if all that was established against Mr Chapman was that he was the keeper of the brothel in the circumstances referred to above and that he had been convicted of that, I would have dismissed the summons. That is to *say*, I accept his evidence that although he collected money and paid bills, he did not run the brothel in the manner contended for by *the Crown*. *Mr Le Mercier*, a solicitor, gave evidence and said that when he heard that Mr Chapman was convicted of *being* "*the keeper of a brothel*" he said he thought it sounded "terrible". However, when he became aware of all the circumstances, he concluded that it was not so. I think there is much to be said for Mr Le Mercier's initial and later, more considered, reaction. It is not unlawful for a solicitor to give advice to prostitutes.

Further, in my opinion, it is not unlawful for solicitors to advise prostitutes how they may form a corporate collective providing that that advice does not extend so as to encourage one or more of them to become the keeper of a brothel. *So* much, I think, was conceded by the way in which the case against Mr Chapman was conducted. The Crown's case was that he *did much more than give* advice to the prostitutes. The Crown's case was that he actively participated on a day-to-day basis *in* the *running* of the brothel and, by inference at least, that he participated in the profits earned. Although he was convicted by the jury, it does not follow that the jury accepted the Crown's case in its entirety. It was open to the jury to convict him of the offence of being the keeper of the brothel by reason of the participation admitted by him in his evidence in this Court. *Not only did he establish the brothel* in the sense of organising the prostitutes on a collective basis, he made arrangements *for* the *women to have regular medical* check ups, he attended the premises from time to time to collect money and he banked money and wrote

brothel. He was convicted of the offence because he went further than that but not as far as the Crown alleged. I do not think his conduct or his conviction (excluding, for the moment, his deception) is such that by reason of it he should be declared guilty of professional misconduct, and/or that he was not of good fame or character.

*BC9201419 at 19*

However, the allegation against Mr Chapman was not limited to being the keeper of a brothel. He made a misleading application under the Business Names Act and he opened and operated a bank account under false names for use by the prostitutes. He instigated and participated in a deception of the bank by allowing Messrs Rigby and Cropper to use the International Secretarial Services account for their own purposes. Whatever might have been Mr Chapman's explanation for the establishment and use of the account under false names, that excuse was not available to him after the brothel closed. Thereafter, there was no need for the account to be maintained or operated. Nonetheless, he continued to use it to permit two other people, Messrs Rigby and Cropper, to operate a bank account knowing that the bank did not wish to have dealings with them. I do not think Mr Chapman's behaviour can be dismissed upon the basis that had he been a little more sophisticated he could have created a nominee company which, in those days, could have hidden the identity of Messrs Rigby and Cropper. Apart from anything else, if a nominee company had been established, there would have been an account in the name of a recognised legal entity.

*BC9201419 at 20*

The solicitors who gave evidence on behalf of Mr Chapman made the point one way or another, as Mr Le Mercier had done, that with respect to his participation in the brothel, he had gone further than the law permitted but, they thought, without moral culpability. However, almost without exception, the lawyers called by Mr Chapman, although defensive of him, said that the making of a false application under the Business Names Act, the establishment of a bank account with a bank with three of the four signatures being fictitious, operating a bank account in these circumstances under one of those fictitious names and permitting people to use the bank account to deceive a bank which did not wish to deal with them, was something none of them would have done. It is not surprising, in my respectful opinion, why they all came to this conclusion. That conduct is not the conduct expected of a solicitor. There may be circumstances where the using of a false name

is perfectly acceptable as, for example, writing a letter to a newspaper under a pseudonym. It can be accepted also that a false name might be given to an inquirer for the purpose of legitimately avoiding being harassed. There could be many circumstances where the use of a false name would not involve any degree of moral culpability. But that cannot be said, I think, of Mr Chapman's conduct.

*BC9201419 at 21*

Mr Chapman said he honestly believed in 1985 that he was not breaking the law in assisting prostitutes in the way he did. At first blush I was tempted to disbelieve his statement. I have since revised my opinion. He did not participate in the activities of the brothel as alleged by the Crown. What he did was to overstep the dividing line between legal and illegal conduct. A submission was made to the effect that because Mr Chapman persisted in labelling his conduct with respect to the brothel as "unwise", that was a demonstration of his unfitness. I do not think that this submission can be sustained. Mr Chapman's attitude must be viewed against the background I have referred to earlier. Mr Chapman was persuaded that prostitutes were being unfairly treated by the police. Whether his perception was justified does not matter. His fault may have been that which some people on his behalf thought to be a virtue, viz, that he tended to become overcommitted to causes he believed in. With respect to people who may have different views, I am not impressed by the argument that Mr Chapman's penchant for zealotry in his clients' causes should be viewed in his favour as certain character witnesses, particularly lay witnesses, seemed to assume although doubtless it has relevance when assessing moral culpability. It would seem to me, with respect to people who have other views, that lawyers serve the public better by disinterested competence than by enthusiastic crusading.

*BC9201419 at 22*

The question is whether it is established that Mr Chapman is now not of good fame and character and is not fit to remain on the *Roll of Solicitors*. As I have said, he engaged in professional misconduct in 1985 and 1986. Since that time, his

could assist so far as banking was concerned? A: Yes. Q: That was to continue operating the same business, the subject of the proceedings. A: Yes. Q: In order to assist them to continue operating that business you allowed them to operate off the International Secretarial Services account? A: That is correct."

*BC9201419 at 11*

Two signatures were required for cheques drawn on the International Secretarial Services account when it was opened in 1985. It appears that later only one signature was required although the account remained in the four names referred to above. Mr Chapman banked money and drew cheques on the account. During the period March to May 1986, approximately $50,000 passed through the account. Mr Chapman said he signed the cheques. Mr Chapman's version has not been challenged. The cheques have not been tendered and, accordingly, I accept his evidence.

He was asked: "Q: You did not inform the bank of the change of business operation of the account? A: No I did not, because if I had, they would not have allowed the business to have been transacted. Q: In adopting the course of not informing the bank of the change of business, you were deliberately concealing from the bank a business was being conducted on that account, the bank would not have allowed you to operate through its offices? A: That is correct. Q: In continuing to sign the cheques in the name of Chapman and operating that account, you were concealing from the bank deliberately the nature of the business that was being operated. A: The Cropper and Rigby business? Q: The Cropper and Rigby business. A: That is correct."

*BC9201419 at 12*

The Court was told that as a result of complaints made by people who had paid for, but had not received, services from Messrs Cropper and Rigby, credits that had been entered by the National Bank against Bankcard vouchers were debited to the account and, presumably, repaid to the card holders. The result was that the account, International Secretarial Services, became "overdrawn" to an amount in excess of $40,000. International Secretarial Services had no overdraft facilities and had not asked for any. On the evidence before the Court I conclude that the account

corporations as an "in house" solicitor. The function of the Court is to protect members of the public. A judicial reprimand has the effect of identifying standards the establishment and maintenance of which protects the public. I do not consider it appropriate to make the declaration concerning Mr Chapman's conduct in 1985 and 1986. A finding of misconduct has been made. In the present case, I think it appropriate that Mr Chapman be reprimanded and that he be ordered to pay the costs of these proceedings.

*BC9201419 at 23*

**Order**

Solicitor reprimanded and ordered to pay the costs of the proceedings.

Counsel for the Appellant: A Bennett

Instructed by: State Crown Solicitors

Counsel for the Respondent: J Garnsey QC with J Davidson

Instructed by: Snelgrove and Partners