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SAVE LICENSE ARTICLE

Solicitor Bernard Kevin O'Donnell struck off for 'disgraceful and dishonourable conduct'



Paul Bibby



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A senior solicitor from Sydney's north shore who misappropriated thousands of dollars from an elderly client with dementia and charged him extortionate sums for simple favours such as driving to the beach has been struck off for "disgraceful and dishonourable conduct".

In June 2010 Bernard Kevin O'Donnell, a former senior adviser to the Australian Industry Group, became the solicitor and trustee for his friend and neighbour, John Martin, 78, two years after Mr Martin was diagnosed with dementia-related



Mr Martin was diagnosed with dementia-related cognitive impairment.

According to a NSW Civil and Administrative Tribunal [CAT] judgment handed down on Friday, Mr O'Donnell, a principal solicitor at KPO'Donnell in North Sydney, then proceeded to charge his ailing mate \$42,000 for services which had little or nothing to do with his role as a solicitor.

This included \$720 for attending his client's home with a locksmith and \$594 for accompanying him to a medical appointment.

The following exchange during a Guardianship tribunal hearing conducted last year before the CAT hearing demonstrated Mr O'Donnell's apparent attitude to the allegations against him, which he repeatedly denied.

"And you took him out for a drive in the car, and there's a charge for \$600 for that?" the Guardianship tribunal member asked Mr O'Donnell.



Misappropriation: Bernard Kevin O'Donnell.



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"And a visit to meeting with John, took drive to Manly, \$750 to do that. Is that what you see as a reasonable charge, Mr O'Donnell?" the tribunal member continued.

Mr O'Donnell replied: "Yes, for the amount of time that is being spent there and having regard to, you know, John's circumstances, he's certainly quite capable of, you know, affording those sorts of fees that ... in the circumstances I don't see that as extravagant."

In addition to those charges, Mr O'Donnell misappropriated \$18,000 of Mr Martin's funds, the Administrative Tribunal found.

Mr O'Donnell did this by using his position as the executor and trustee of Mr Martin's estate to transfer money from his account into a trust account and then into his own account.

The three-member panel said it was impossible to "resolve the inconsistencies" in Mr O'Donnell's various explanations for what happened to the funds, "let alone derive a coherent explanation".

It also found that Mr O'Donnell, when questioned by investigators from the Legal Services Commissioner, had deliberately misled them on a number of occasions to try to cover his tracks.

"We are satisfied that the solicitor's conduct was disgraceful and dishonourable and would be regarded as such by his brethren of good repute and competency," the tribunal said.


"We find him guilty of professional misconduct.


They agreed that Mr O'Donnell had shown no remorse, contrition or insight into his conduct.

He has now been removed from the roll of solicitors, so he cannot practise, and ordered to pay the Legal Services Commissioner's legal costs.

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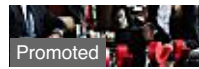
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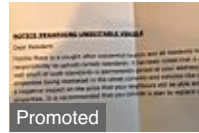
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