

Certificate cancelled

Council of the Law Society last month unanimously resolved that a Darwin practitioner was not a fit and proper person to hold a practising certificate and subsequently resolved to cancel his certificate forthwith.

Included in Council's reasons for the decision was Justice David Angel's finding delivered earlier in the month that Andrew Gordon Rogerson had deliberately attempted to mislead the Court and had given false evidence in the matter of *Tchia & Ors v Rogerson*.

That was a contempt action alleging Rogerson had breached an injunction.

It was also alleged that Rogerson had sought to avoid service of the injunction by Tchia's solicitors.

"I am bound to say that I am surprised that the defendant, a practitioner of this court, should seek to persuade the court that personal service had not been effected," Justice Angel said.

He described Rogerson's evidence in relation to whether he had physically held the relevant documents as "fanciful."

"That he was a legal practitioner actively seeking to evade service and to employ technicalities over substance to his own ends is further justification for the court exercising its discretion...in a manner adverse to him," he said.

Justice Angel found "at some time between 10.00am and 10.30am the defendant personally locked the front doors of his office premises and instructed his staff to keep them locked.

"The doors remained locked until some time after 1.30pm that day.

"The defendant in evidence was

surprisingly reluctant to agree that this was a most unusual thing for a solicitor to do during ordinary business hours."

Justice Angel was critical of Rogerson's response to questions he asked about normal office practice in relation to locking doors.

"Those answers were consciously evasive and misleading, and unworthy of a practitioner of this court," he said.

Justice Angel found that when the plaintiff's solicitors attempted to send copies of the documents by facsimile later in the day, Rogerson "turned off or instructed his staff to turn off his facsimile machine in the course of transmission."

He found that Rogerson "was at all material times a legal practitioner and an officer of the court, who full well knew the ramifications of service of process - witnessed by his artfully dodging communication with Mildrens - and, he knew or can be taken to have known the potential consequences of not abiding by orders of the court..."

He further found that Rogerson had "deliberately attempted to mislead the court and has given false evidence. I have reached this regrettable conclusion beyond reasonable doubt and after a careful consideration of the evidence, and I have steadily borne in mind that such a conclusion is not to be reached lightly...I regret to say that in the present case I think the defendant has deliberately lied and consciously sought to mislead the court."

Justice Angel found that Rogerson had acted out of self-interest and contrary to his duty as a legal practitioner.

"It should also be mentioned that ex

facie the defendant's demands of Tchia were extortionate and grossly excessive..." he said.

Justice Angel said the contempt warranted penalty and fined Rogerson \$5000.

Council of the Society convened later in the day of Justice Angel's decision (a Friday) and gave Rogerson the opportunity to be heard.

He requested that the hearing be deferred because of his involvement in a criminal trial.

Council agreed, and resolved to convene on the following Monday, at which time Rogerson was again invited to appear.

He did not.

He has lodged a notice of appeal in relation to Justice Angel's decision. That appeal is unlikely to be heard before March next year.

Following the cancellation of Rogerson's practising certificate, the Master of the Supreme Court applied to have a Receiver appointed to Rogerson's firm, Loftus and Cameron.

The Full Court heard the matter at 4.00pm that day and granted the application.

At the same hearing, Rogerson made applications under sections 29(5) and 30 of the *Legal Practitioners Act*, the former dealing with revocation of cancellation of a certificate and the latter dealing with deeming a certificate to be held.

The section 29(5) application was set aside and will be heard separately.

The section 30 application was refused, the Court saying "In the final analysis, we were not persuaded that any sufficient reason had been shown for the grant of relief pursuant to s30 of the Act, and accordingly the application was dismissed."