

# Media Release



Government of South Australia

Office of Consumer and  
Business Affairs

3 September 2010

## CONVEYANCER FINED OVER CONFLICT OF INTEREST

The Office of Consumer and Business Affairs (OCBA) is warning conveyancers of their legal duty to declare any relevant interests on properties they deal with, following successful disciplinary action in the District Court.

Today Judge Wayne Chivell officially reprimanded **Bernard Ignatius Flood** and fined him \$2000 as a result of Mr Flood acting unlawfully and negligently in his practice as a conveyancer.

Mr. Flood has operated a conveyancing business in Mount Gambier but the court was told that as well as carrying on business as a conveyancer, he bought and sold residential and commercial properties for investment purposes. He did so as director and shareholder of a number of companies.

The matter came to OCBA's attention during investigations into another issue, and the court heard that on three occasions, when acting as conveyancer for both the purchaser and vendor in a transaction, Mr. Flood also had a pecuniary interest in the properties being sold.

This arose because a company of which he was director and shareholder was the purchaser of the property on each occasion.

The court was told that despite the conflicts of interest, Mr. Flood continued to act for both parties to the transaction, which, as is clear from the Regulations, he could not do.

It heard the defendant also acted negligently in the course of conducting his business as a conveyancer.

This arose from his breach of fiduciary obligations to a vendor in failing to disclose that he had a pecuniary interest in the property that was being sold.

In imposing penalty today, Judge Chivell said a registered conveyancer should not have "divided loyalties":

*"It is vital that conveyancers meet high ethical standards, that they be aware of their professional responsibilities, that their office systems and methods be such that conflicts of interest such as the ones involved here be avoided and that necessary disclosures to clients be full and frank."*

The Commissioner for Consumer and Business Affairs, David Green said the case highlights the clear need for transparency in such business dealings and the consequences of failing to do so.

Details on the obligations of registered conveyancers in South Australia can be found on the OCBA website ([www.ocba.sa.gov.au](http://www.ocba.sa.gov.au)). To report concerns about suspect conveyancers, people can call OCBA on 8204 9777 or 131 882 for regional callers.