

CONCERNING

an application for review pursuant to section 193 of the Lawyers and Conveyancers Act 2006

AND

CONCERNING

a determination of the [Area] Standards Committee

BETWTDN

RB

Applicant

AND

ZB

Respondent

DECISION

The names and identifying details of the parties in this decision have been changed

Introduction

[1] Mr RB has applied for a review of a decision by the [Area] Standards Committee that no further action in respect of his complaint concerning the conduct of Mr ZB was necessary or appropriate.

[2] Mr RB and his former relationship partner, Ms TB, had separated in August 2007. Mr TC, a member of Mr ZB's firm at the time, acted for them from April 2009 until the end of February 2010 on the division of their relationship property.

[3] In October 2013 Mr RB engaged Mr TD, a barrister, to act for him in relation to a proposed claim in negligence against Mr ZB concerning Mr TC's handling of the division of relationship property matter. Mr RB alleged that Mr TC had provided negligent tax advice, and had failed to make provision in the Relationship Property Agreement for the creation of a right of way over a property which was to be transferred to Ms TB in favour of an adjoining property which was to be transferred to Mr RB.

[4] For that purpose, in early November 2013, Mr TD requested Mr RB's file from Mr ZB.

[5] Mr RB issued proceedings against Mr ZB. A judicial settlement conference took place in December 2014. Towards the end of 2015 a settlement of those proceedings was reached.

The complaint

[6] Mr RB's complaint was lodged with the New Zealand Law Society Complaints Service on 1 December 2015. He complained that:

- (a) There was undue delay by Mr ZB in handing over Mr RB's file following Mr TD's request to do so on 30 October 2013.
- (b) "Someone at [Mr] ZB's office remove[d] Mr TC's file notes relating to the tax issues, and transfer of shares because the file notes would have been prejudicial to [Mr] ZB's firm."¹ The Transfer of shares related to shares held by Ms TB in [Firm A] ([Firm A]) which Mr RB claims were to be transferred to him. Mr RB states that Mr TC had met with him "around eight occasions during 2009 to 2010 to discuss the division of the properties" and had made "file notes during those meetings, handwriting the notes in pencil on foolscap paper".²
- (c) Mr ZB had made disparaging remarks about Mr RB at the judicial settlement conference of Mr RB's proceedings against Mr ZB.

[7] Mr RB also raised concerns about Mr TC's representation of him and Ms TB on the division of relationship property owned by them:

- (a) He did not receive a letter of engagement from Mr TC.
- (b) He questioned "who was [Mr TC] acting for when he prepared [the Relationship Property Agreement]. Is there another file, the [Ms TB] file?"³
- (c) Neither the Property Dissolution Agreement nor the Relationship Property Agreement drafted by Mr TC and/or Mr ZB made provision for the creation of a right of way easement. Mr RB believes that Mr TC's

¹ Complaint, at [12].

² At [11].

³ Letter RB to Lawyers Complaints Service (29 January 2016) at 1.

missing file notes would show that he and Ms TB agreed that Ms TB would grant that right of way easement.

Standards Committee decision

[8] In its decision of 11 May 2016, the Standards Committee determined, pursuant to s 138(2) of the Lawyers and Conveyancers Act 2006 (the Act), that no further action on the complaint was necessary or appropriate.

[9] The Committee identified three issues for consideration:⁴

- (a) Whether there was undue delay by Mr ZB in providing Mr RB's file to [Mr TD] upon request.
- (b) Whether Mr ZB had improperly removed or instructed someone to improperly remove damaging file notes prepared by Mr TC from Mr RB's file before it was provided to [Mr TD]; and
- (c) Whether Mr ZB acted inappropriately at a judicial settlement conference by attacking Mr RB's personal credibility and attempting to smear him.

Handing over Mr RB's file

[10] The Committee noted that:

- (a) Mr TD's request for Mr RB's file was received by Mr ZB on 4 November 2013.
- (b) Mr RB stated that the file was not provided until 24 January 2014.
- (c) Mr ZB believed that he had provided the file to Mr TD in December 2013.

[11] The Committee concluded that the file was provided within a reasonable time of the request. Its reasons for that decision were:

- (a) The file "had to be retrieved from the archives and would, given the complexity of [the] matter, have been a reasonably sizeable file that would have taken some time to photocopy".⁵
- (b) The intervention of the Christmas holiday would have drawn matters out and it was "difficult to see what prejudice Mr RB would have suffered

⁴ Standards Committee decision at [8].

⁵ At [10].

given that it is unlikely ... [Mr TD] or the Courts would have been progressing the matter within the holiday period in any event”.⁶

Whether Mr ZB improperly removed Mr TC’s file notes?

[12] The Committee was not satisfied that there was sufficient evidence to show that any file notes had been removed from the file.

[13] The Committee relied on the fact that in February 2011, a year after Mr RB and Ms TB had signed the Relationship Property Agreement, Mr RB had enquired of Mr ZB about the transfer of Ms TB’s shares to him. In the Committee’s view Mr RB’s enquiry explained how Mr ZB knew about the transfer of shares independent of any file notes made by Mr TC.

Whether Mr ZB acted inappropriately at a judicial settlement conference?

[14] Mr RB alleged that “Mr ZB smeared him by calling him an opportunist who was simply out for his money”. The Committee observed that the parties were adversaries in litigation, and stated that “if there was anything which truly crossed the line in what Mr ZB said one would expect that opposing counsel or even the Judge would have made an issue of it”.⁷ The Committee concluded that there is no evidence of that occurring.

[15] Concerning Mr RB’s allegation that Mr ZB inappropriately attacked Mr RB’s credibility, the Committee similarly concluded that there were “insufficient particulars ... to make any findings against Mr ZB”.⁸

[16] The Committee did not consider Mr RB’s concerns about Mr TC’s conduct in his representation of Mr RB in its decision.

Application for review

[17] Mr RB filed an application for review on 10 June 2016. He seeks:

- (a) “an unbiased and thorough review of [Mr ZB’s] performance in this matter and the determination of the Committee to be reviewed”; and

⁶ At [11]

⁷ At [21].

⁸ At [22].

- (b) “compensation ... and the additional expense [he] incurred in litigating because of the missing file notes”.

Mr TC's file notes

[18] Mr RB contends that Mr TC's file notes existed up until sometime after Mr TC left Mr ZB's firm. He does not accept that his email of 21 February 2011 prompted Ms TE, a lawyer who was employed by Mr ZB at the relevant time, to action the share transfer.

[19] He claims that this is supported by:

- (a) Ms TE's enquiry of Ms TB concerning the transfer of shares in [Firm A] notwithstanding Ms TE's statement claiming no knowledge of any file notes.
- (b) The Relationship Property Agreement signed on 27 February 2010 which does not provide for the transfer of Ms TB's shares to him.
- (c) Ms TB having “resisted signing off on this transfer until 2012, after she became aware of an impending investigation by IRD”.
- (d) No “mention of any transfer” on the file.
- (e) The accountants being unaware of the transfer of shares “until contacted by [Mr ZB] in 2011”, and having “asked for the necessary documentation to be supplied by [Mr ZB] which was eventually produced in 2012”.

Right of way easement

[20] Mr RB contends that, although not provided for in the Relationship Property Agreement, Mr TC acknowledged on two occasions that Mr RB and Ms TB had agreed that Ms TB would grant the right of way easement. He claims that this acknowledgement is further evidence that the file notes were on the file at the time Mr TC left Mr ZB's firm.

Mr ZB's response

[21] Acting on Mr ZB's behalf, his lawyers state that Mr ZB's position was fully set out in their response to the complaint and attached statement of Ms TE provided to the Committee.⁹

Request to uplift Mr RB's file

[22] Mr ZB's lawyers reiterate that "it is believed" that the file was provided to Mr RB's solicitor in or around December 2013.

Mr TC's file notes

[23] They state that Mr ZB denies removing any documents, file notes or otherwise, from the file and has no knowledge of any other person doing anything of the sort either. Furthermore, they state that the files have not been altered or improperly interfered with by, or at the instruction of, Mr ZB in any way.

Review on the papers

[24] Mr RB and Mr ZB agreed to the review being dealt with on the papers. This review has been undertaken on the papers pursuant to s 206(2) of the Act, which allows a Legal Complaints Review Officer (LCRO) to conduct the review on the basis of all the information available if the LCRO considers that the review can be adequately determined in the absence of the parties.

Nature and scope of review

[25] The nature and scope of a review have been discussed by the High Court, which said of the process of review under the Act:¹⁰

... the power of review conferred upon Review Officers is not appropriately equated with a general appeal. The obligations and powers of the Review Officer as described in the Act create a very particular statutory process.

The Review Officer has broad powers to conduct his or her own investigations including the power to exercise for that purpose all the powers of a Standards Committee or an investigator and seek and receive evidence. These powers extend to "any review" ...

... the power of review is much broader than an appeal. It gives the Review Officer discretion as to the approach to be taken on any particular review as to the extent of the investigations necessary to conduct that review, and therefore

⁹ TG, Lawyers (TG) to LCRO letter (19 July 2016).

¹⁰ *Deliu v Hong* [2012] NZHC 158, [2012] NZAR 209 at [39]-[41].

clearly contemplates the Review Officer reaching his or her own view on the evidence before her. Nevertheless, as the Guidelines properly recognise, where the review is of the exercise of a discretion, it is appropriate for the Review Officer to exercise some particular caution before substituting his or her own judgment without good reason.

[26] More recently, the High Court has described a review by this Office in the following way:¹¹

A review by the LCRO is neither a judicial review nor an appeal. Those seeking a review of a Committee determination are entitled to a review based on the LCRO's own opinion rather than on deference to the view of the Committee. A review by the LCRO is informal, inquisitorial and robust. It involves the LCRO coming to his or her own view of the fairness of the substance and process of a Committee's determination.

[27] Those directions, the approach on this review, based on my own view of the fairness of the substance and process of the Committee's determination, has been to:

- (a) consider all of the available material afresh, including the Committee's decision; and
- (b) provide an independent opinion based on those materials.

Analysis

Request to uplift Mr RB's file – whether there was undue delay

[28] The issue is whether there was undue delay by Mr ZB in handing over Mr RB's file to Mr TD following receipt of Mr TD's request.

[29] Rule 4.4.1 of the Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008 (the rules) spells out how the lawyer concerned must respond to a request from a client's new lawyer to uplift the client's files and records:

Subject to any statutory provisions to the contrary, upon changing lawyers a client has the right either in person or through the new lawyer to uplift all documents, records, funds, or property held on the client's behalf. The former lawyer must act upon any written request to uplift documents without undue delay subject only to any lien that the former lawyer may claim.

[30] The High Court in *Wilson v Legal Complaints Review Officer* has held that the phrase "undue delay" "carries its ordinary meaning of inappropriate or unjustifiable. Unjustifiable, in turn, means inexcusable or unacceptable".¹²

¹¹ *Deliu v Connell* [2016] NZHC 361, [2016] NZAR 475 at [2].

¹² *Wilson v Legal Complaints Review Officer* [2016] NZHC 2288 at [41] per Hinton J.

[31] The Court stated that “what is ‘undue’ is dependent on context”.¹³ Having referred to previous statements by the Court that the rules were to be “applied as specifically as possible”, the Court added that “[the rules] are also to be applied as sensibly and fairly as possible”.¹⁴

[32] It follows that the phrase “act upon” must sensibly be read as “attending to the request to uplift, not some more limited action”, and that the word “uplift” clearly incorporates within reason, the word “deliver”.¹⁵

[33] Having observed that a delay of “one month will often be undue, sometimes even less”,¹⁶ the Court stated that whether there was undue delay in a particular case “has to be looked at in context and in a way that is not unduly technical, literal or absolute”.¹⁷ The Court explained that “there is a difference between unsatisfactory conduct [the result of undue delay], and excusable slippage”.¹⁸

Letter of request to uplift

[34] Mr TD’s letter of 30 October 2013 to Mr ZB, which was sent by post, requested Mr ZB to forward to him “any files in [Mr ZB’s] possession relating to the services provided to Mr RB ... as soon as reasonably practicable but in any event by no later than Thursday 31 October 2013”.

[35] Because Mr TD’s request was not received by Mr ZB until 4 November, it was neither possible for Mr ZB to meet, nor realistic for Mr TD to expect, that his 31 October deadline could be met by Mr ZB.

[36] Mr TD did not inform Mr ZB that his request was urgent in which case rule 4.4.2 would have applied. It followed that Mr TD’s request was to be complied with as soon as reasonably practicable. In this context the ordinary meaning of the word “practicable” is “able to be put into practice”, or “able to be effected, accomplished or done” or “feasible”.¹⁹ The qualification by the word “reasonably” suggests some leeway or allowance with compliance.

¹³ At [42].

¹⁴ At [43].

¹⁵ At [44].

¹⁶ At [47].

¹⁷ At [48].

¹⁸ At [49].

¹⁹ Shorter Oxford English Dictionary, Oxford University Press, Fifth edition, 2002, at page 2309.

Date of handover of file

[37] Mr ZB says that “it is believed” that he provided the file to Mr TD on an unspecified date “in or around December 2013”.²⁰ However, evidence provided by Mr TD’s office shows that the file was received by Mr TD on 24 January 2014.²¹

[38] Mr ZB’s explanation for the time taken to provide the file to Mr TD was:

- (a) The time required in order to retrieve the files from archives and arrange for the photocopying of the files before they were provided to Mr TD.
- (b) Mr ZB or another employee of his would have directed “a secretary to copy the file ... in its exact form, without any suggestion or request to remove any documents”.²²
- (c) Mr TD had not raised “concerns ... in respect of the time to provide the files and there were no adverse consequences in respect of the proceedings”.²³

[39] In support of Mr ZB’s position, Ms TE states that it would have taken some time to retrieve the file from archives and, as it was quite a large file, would have taken some time to then be photocopied. Although Mr RB’s file would no doubt have included correspondence, and drafts of the two agreements signed by Mr RB and Ms TB, this was quite unlike the position in *Wilson* where there many files.

[40] In disciplinary hearings, “the standard of proof to be applied is the civil standard of a ‘balance of probabilities’ applied flexibly to the seriousness of the matter”.²⁴ Applying that standard, the following events lead me to the conclusion that the files were received by Mr TD on 24 January 2014:

- (a) Mr TD’s letter of request for the file was received by Mr ZB on Monday, 4 November 2013.
- (b) On 15 November 2013 Mr TF, a barrister working with Mr TD’s office, informed Mr RB that he would “chase up” the request during the (working) week commencing 18 November 2013.²⁵

²⁰ Letter TG to Lawyers Complaints Service (21 December 2015), 3.2.

²¹ Email TF to RB (24 January 2014).

²² Letter TG to LCRO (19 July 2016).

²³ Letter TG to Lawyers Complaints Service (21 December 2015), 3, paragraph 3.4.

²⁴ *Z v Dental Complaints Assessment Committee* [2008] NZSC 55.

²⁵ Email TF to RB (15 November 2013).

- (c) Mr TF followed up the request again by phone on 18 December 2013. Mr TF says that Mr ZB “promised” that the files would be available by the end of that week.²⁶
- (d) On 15 January 2014, following the Christmas/New Year holiday period, Mr TF spoke to a member of Mr ZB’s office who informed him that the photocopying was still being done and again “promised” that the file “will be [with Mr TD] by then end of this week”, 17 January 2014.²⁷
- (e) By 20 January Mr RB was becoming impatient. He enquired with the Auckland District Law Society about making a complaint against Mr ZB.²⁸
- (f) Mr TF informed Mr RB on 21 January that Mr ZB’s office had completed photocopying and the file would be couriered to Mr TD that day.²⁹
- (g) The file was received by Mr TD three days later on 24 January 2014.³⁰

Whether there was “undue delay”

[41] After deducting three weeks for the Christmas/New Year holiday period, the elapsed time between receipt of Mr TD’s request by Mr ZB on 4 November, and the handover by him of the files to Mr TD on 24 January, is eight weeks and four days.

[42] Throughout that time all communications were initiated by Mr TF to Mr ZB. The follow ups by Mr TF – at intervals of two and a half weeks, three and a half weeks, one week (after deducting the Christmas holiday period), and finally six days – both confirmed and reinforced Mr TD’s request that Mr RB’s file was required from Mr ZB. This can be distinguished from *Wilson* where the Court held that the client’s “silence [was] material as to whether there was ‘undue delay’, particularly given the ambiguity that had arisen”.³¹

[43] Whilst the requirement for the file “as soon as reasonably practicable” suggests some flexibility or leeway to comply with the request, there is no suggestion in

²⁶ Email TF to RB (18 December 2013).

²⁷ Email TF to RB (16 January 2014).

²⁸ Email RB to Auckland District Law Society Inc. (20 January 2014) – Mr RB’s enquiry was re-directed to the Lawyers Complaints Service.

²⁹ Email TF to RB (21 January 2014).

³⁰ Email TF to RB (24 January 2014).

³¹ Above n 12, at [53](c).

Mr TF's record of those communications that because the deadline of 31 October had passed that the files were not required.

[44] I do not consider that the follow-ups by Mr TF for progress reports on availability of the files support Mr ZB's contention that Mr TD had not raised concerns in respect of the time to provide the files. It is clear that Mr TF expected Mr ZB to comply with Mr TD's request and provide the file.

Conclusion

[45] From time to time clients change their lawyers. They require their files to be sent to their new lawyer. It is not an uncommon request in the practice of law. Lawyers are familiar with the file handover process. In my assessment of the facts upon receipt of Mr TD's request, what was required of Mr ZB was to obtain the file, photocopy such material as he considered necessary, and hand over the file to Mr TD.

[46] Mr ZB does not say whether the file was archived on his premises, or off-site. Regardless, both retrieving a file from archives and photocopying the relevant file material is a routine task. Apart from the time he says that it took him to retrieve and photocopy the file material, Mr ZB does not offer any other reason that explains why it took him more than eight weeks to complete that task and then provide the file to Mr TD.

[47] Overall, I am not persuaded by Mr ZB's response that the eight weeks he took to retrieve the file and photocopy the relevant file material in order to comply with Mr TD's request was excusable or acceptable. In my view there was delay by Mr ZB in providing Mr RB's file to Mr TD that does not fall into the category of "excusable slippage". The delay was inexcusable or unacceptable, and undue thereby constituting a contravention of rule 4.4.1.

Removal of file notes

[48] Mr RB claims that the file notes Mr TC made when acting for Mr RB and Ms TB, were not on the file when it was received by Mr TD. He alleges that someone at Mr ZB's office removed the file notes "relating to the tax issues and transfer of shares because the file notes would have been prejudicial to [Mr] ZB's firm".³²

[49] On 21 February 2011, 12 months after Mr RB and Ms TB signed the Relationship Property Agreement, Mr RB enquired of Mr ZB about the transfer to him of

³² Complaint at [11]-[12].

Ms TB's shares in [Firm A]. He stated that one of the properties, which was owned by [Firm A], was to be transferred to him, and that his accountant had advised him that "the best way ... was to simply transfer [Ms TB's] shares to [him]". He asked Mr ZB to "get Ms TE to check out and let [his accountant] know".³³

[50] Two months later, on 19 May, Ms TE informed Ms TB that Mr TC had left the firm. She stated that "the Share Transfer for [Firm A] ... was never completed in respect of the relationship property agreement. As you will recall, the shares in this company were to transfer to [Mr RB]".³⁴

[51] Later that year Ms TE enquired of Mr RB's accountant whether Mr RB's shares in [Firm A] were held by Mr RB personally, or as a trustee for his family trust. Mr RB queried whether an error had been made, namely, that one of the properties had been transferred to Mr RB personally and not to his family trust.³⁵

[52] In support of his claim Mr RB largely relies on Ms TE's letter to Ms TB. He states that Ms TE would not have known about the requirement for Ms TB to transfer her shares in [Firm A] to him unless she had seen Mr TC's file notes.

[53] Mr ZB denies this allegation. He says that no one at his office removed anything from the file which was not altered or improperly interfered with. He refers to Mr RB's enquiry of 21 February that requested Ms TE look into the matter, and to clause 2.3(c) of the Relationship Property Agreement which provides that the shares in [Firm A] are Mr RB's separate property. In support of Mr ZB's position, Ms TE states that she "did not remove any file notes from Mr RB's file or tamper or improperly interfere with the file in any way". She says that she was not instructed by Mr ZB to remove any file notes and had no knowledge of anyone else removing file notes or being instructed to.³⁶

[54] In reaching its decision the Standards Committee relied on Ms TE's statement, and Mr ZB's explanation, that Ms TE's letter of 19 May to Ms TB resulted from Mr RB's enquiry of 21 February to Mr ZB.

[55] The evidence given by each party on this issue is in direct opposition to the other. Mr RB claims that Mr TC made file notes. Mr ZB denies their existence. In the absence of probative evidence one way or the other from either party I am not able to

³³ Email RB to ZB (21 February 2011).

³⁴ Letter TE to TB (19 May 2011).

³⁵ Email TE to RB (14 December 2011).

³⁶ Statement TE (18 December 2015).

reconcile their respective positions. In such circumstances it is not possible for me to pursue this matter further.

Disparaging remarks by Mr ZB at judicial settlement conference

[56] Mr ZB was a defendant in civil proceedings brought against him by Mr RB arising out of Mr TC having acted for Mr RB and Ms TB on the division of their relationship property.

[57] Mr RB claims that at the judicial settlement conference Mr ZB began with an attack on Mr RB's credibility and attempted to smear him as an opportunist after Mr ZB's money.

[58] Mr ZB states that he was separately represented, his involvement at the mediation was minimal, and that he was not providing legal services to Mr RB. He denies that he said anything that "could remotely be regarded as improper or unprofessional". He says that "there were differing recollections of events that were fundamental to the dispute" which explains why Mr RB "felt that there was an attack on his personal credibility" but that he had not "personally made any comments that could be regarded as unprofessional or unprincipled".³⁷

[59] In the Committee's view the parties were on opposing sides of litigation; Mr RB's counsel or the Judge would have "made an issue" of any comments considered inappropriate; there was no evidence of any such comments; and Mr RB had not provided sufficient particulars in support of this allegation.

[60] As a defendant in legal proceedings brought against him by a former client in respect of legal work provided by his firm, Mr ZB was not carrying out legal work for Mr RB, and therefore was not providing regulated services to Mr RB, which is required for a finding of unsatisfactory conduct under ss 12(a) and (b) of the Act.

[61] The category of unsatisfactory conduct under s 12(c) includes "conduct consisting of a contravention of [the] Act or of any regulations or practice rules made under [the] Act that apply to the lawyer ..."

[62] The only conduct rule which might be relevant is rule 12 of the rules which provides that a lawyer must, when acting in a professional capacity, conduct dealings with others, including self-represented persons, with integrity, respect, and courtesy.

³⁷ Letter TG to Lawyers Complaints Service (21 December 2015), 5, paragraphs 4.11 - 4.15.

[63] In a previous decision from this Office a complaint had similarly been made by a former client about remarks a lawyer, who was a member of a firm the former client was suing, had made to the former client ahead of a judicial settlement conference concerning those proceedings. The LCRO stated that the rule “clearly contemplates the lawyer providing regulated services” and that it was “doubtful that the rule could apply in the present circumstances where the practitioner’s behaviour was connected to his personal involvement as a party to litigation”.³⁸

[64] This issue aside, whilst remarks made by a lawyer of the kind attributed to Mr ZB by Mr RB are not to be condoned, it is my view that in these particular circumstances, Mr ZB’s conduct does reach the threshold such as would warrant a disciplinary response.

Mr TC’s conduct

[65] Mr RB’s complaint also registers his concerns about the conduct of Mr TC in acting for him and Ms TB on the division of their relationship property.

[66] From the Committee’s file material provided to this Office it does not appear that those concerns were put to Mr TC for his response. Because they were not considered by the Committee as a separate complaint against Mr TC this Office does not have jurisdiction to consider those concerns as part of this review.

[67] For these reasons I direct that the Committee reconsider and determine Mr RB’s complaints in respect of Mr TC.³⁹

Decision

[68] For the above reasons, pursuant to s 211(1)(a) of the Lawyers and Conveyancers Act 2006:

- (a) Concerning the request to uplift Mr RB’s file, the decision of the Standards Committee is reversed and substituted with a finding of unsatisfactory conduct pursuant to section 12(c) of the Act.
- (b) Concerning the removal of file notes issue the decision of the Standards Committee is confirmed.

³⁸ *JQ v QMLCRO* 97/2011 (August 2012).

³⁹ Section 209.

- (c) Concerning the disparaging remarks issue the decision of the Standards Committee is confirmed.

Orders

[1] In giving consideration as to whether it is appropriate to order a penalty, it is to be noted that the function of the disciplinary process is protective, not punitive.⁴⁰ In these particular circumstances, other than the public interest in lawyers maintaining professional standards and ensuring compliance with the rules, no broader issues of consumer protection or public welfare are directly raised by this review. In my view a finding of a contravention of the rule which constitutes unsatisfactory conduct is sufficient in itself without additional penalty.

[2] Where an adverse finding is made costs will be awarded in accordance with the LCRO Costs Orders Guidelines. Pursuant to s 201(3), Mr ZB is to pay the costs of this hearing, in accordance with the Cost Orders Guidelines, of \$900.00.

DATED this 28th day of June 2017

B A Galloway
Legal Complaints Review Officer

In accordance with s 213 of the Lawyers and Conveyancers Act 2006 copies of this decision are to be provided to:

Mr RB as the Applicant
Mr ZB as the Respondent
[Area] Standards Committee
The New Zealand Law Society

⁴⁰ *Daniels v Standards Committee (2) of the Canterbury-Westland Branch of the New Zealand Law Society* [2013] NZHC 349, [2013] NZAR 416.