

LCRO 146/2016

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

BETWEEN

AZ

Applicant

AND

YB

Respondent

DECISION

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

Introduction

[1] Ms AZ has applied for a review of a decision by the [Area] Standards Committee dated 17 May 2016. The Committee decided to take no further action on Ms AZ's complaint for the reasons set out in its decision.

Review

[2] Both parties have agreed to this review being determined without a hearing pursuant to s 206(2) of the Lawyers and Conveyancers Act 2006 (the Act).

Reasons

[3] Ms AZ's application for review seeks answers to a number of issues that relate to Mr YB's conduct as a trustee in a trust of which Ms AZ and her husband were beneficiaries and joint trustees. Matters have been considered by the courts. The Committee says none of the issues raised by Ms AZ fall within its jurisdiction.

[4] Ms AZ's application for review clearly says that at all the relevant times, Mr YB was not providing regulated services, but was acting in his capacity as a trustee, or personally. There is no reason to conclude otherwise. There is no evidence of conduct on the part of Mr YB that could be unsatisfactory conduct or misconduct. That being the case, none of the conduct concerns Ms AZ raises are professional standards issues. That is consistent with the Committee's decision.

[5] The fees Mr YB charged were for carrying out his duties as a trustee. He did not act for the trust, and therefore did not provide it with regulated services. As the trust was not Mr YB's client, the fees he charged were for services he provided as a trustee. The rules that regulate the fair and reasonable fees a lawyer can charge for providing services do not appear to apply.

[6] There is no evidence, and no ground of review, that indicates further inquiry is necessary or appropriate.

[7] In the circumstances, I agree with the Committee's determination, and the reasons it gave, that further action is not necessary or appropriate.

Decision

Pursuant to s 211(1)(a) of the Lawyers and Conveyancers Act 2006 the decision of the Standards Committee is confirmed.

DATED this 31st day of October 2017

D Thresher
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:

Ms AZ as the Applicant
Mr YB as the Respondent
[Area] Standards Committee
The New Zealand Law Society