

**CONCERNING**

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

**AND**

**CONCERNING**

a determination of the Auckland Standards Committee 1

**BETWEEN**

**DJ**  
of Auckland

Applicant

**AND**

**WT**  
of Auckland

Respondent

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

**DECISION**

**Background**

[1] This matter involves a complaint by one lawyer against another. The complainant lawyer, the Applicant, filed a complaint with the New Zealand Law Society on 10 November 2009. This complaint was notified to the other lawyer, the Respondent, who asked for, and was granted, an extension of time to respond.

[2] On 20 January 2010 the Applicant sent a further letter to the New Zealand Law Society with more complaints. This letter was headed "*This letter serves as lodgement of an extension of the complaint against a fellow practitioner [the Respondent]*". These complaints were also notified to the Respondent, who was sent a copy of the Applicant's letter and asked to respond to all of the complaints contained in both letters.

[3] The Respondent eventually did in fact respond to all of the complaints and that material was before the Standards Committee at the time of its decision.

[4] When issuing its decision, by paragraph 8, the Standards Committee wrote:

*"[The Applicant] raised further incidents concerning [the Respondent] that predated this complaint. The Committee considered that the further matters should have been raised at the time they occurred. The Committee resolved it would only address those matters that formed part of the original complaint."*

[5] The Applicant's review application was confined to the above paragraph concerning the Committee having declined to consider the complaints included in his second letter.

[6] A review hearing was scheduled, and the parties notified of the details with a considerable amount of notice. Despite this, my office was informed by the Applicant that he would be overseas at the date of the hearing but could join by telephone. Arrangements were made for this to happen, and contact with the Applicant the day before the hearing confirmed his availability at the appointed time. The Respondent turned up to the hearing in person, but after several unsuccessful attempts to make contact with the Applicant, the hearing proceeded without his input.

[7] I record this because lawyers are expected to engage actively with the disciplinary process and it is therefore of some concern that the Applicant was in the event not available to participate in a hearing of a review application that he himself had filed. I also note that he contacted our office shortly afterwards, explaining that he had failed to correctly calculate the time differences (he was in the USA).

[8] At the review hearing the review issue was identified as being the Committee's failure to have included all of the Applicant's complaints in its considerations.

[9] I put it to the Respondent that the Committee had in fact received and notified the complaints in the Applicant's second letter and had obtained her response. I suggested that there seemed to be little reason for the Standards Committee then having declined to consider all of the complaints and to make a decision on all of the matters. The Respondent agreed that the Standards Committee ought to have dealt with all of the complaints at that time.

[10] I informed the Respondent that it was my intention, in the circumstances, to refer the additional matters back to the Standards Committee with a redirection order requiring the Committee complete its investigation.

[11] Although the Respondent had already responded to the additional complaint, I note that the Applicant had provided, for the review, some further comment in relation to his second complaint. The Respondent should therefore be given a further opportunity to respond to those additional matters.

[12] Since the only review issue concerned the Committees failure to have dealt with all complaints made by the Applicant, and having received no review application in relation to the decisions that it made on the complaints that it did determine, it is appropriate to confirm the Standards Committee decision in so far as relates to the complaints that the Committee considered and to redirect back to the Committee those that are still under its consideration.

### **Decision**

Pursuant to Section 211 (1)(a) of the Lawyers and Conveyancers Act 2006, and subject to the redirection order below, the Standards Committee decision is confirmed.

### **Redirection Order**

Pursuant to section 209 of the Lawyers and Conveyances Act 2006 the Standards Committee is directed to complete its investigation by considering the complaints contained in the Applicant's 20 January 2010 letter, and to make decisions on those matters which shall also be subject to a right of review.

**DATED** this 23<sup>rd</sup> day of September 2011

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Hanneke Bouchier  
**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:

DJ as the Applicant  
WT as the Respondent  
The Auckland Standards Committee 1  
The New Zealand Law Society  
The Secretary for Justice (Applicant's name anonymised)