

**NEW ZEALAND LAWYERS AND
CONVEYANCERS DISCIPLINARY TRIBUNAL**

[2016] NZLCDT 10

LCDT 003/16

IN THE MATTER

of the Lawyers and Conveyancers
Act 2006

BETWEEN

**AUCKLAND STANDARDS
COMMITTEE 1**

Applicant

AND

TERRY SHANKS

Former employee of an
incorporated firm

CHAIR

Judge D F Clarkson

MEMBERS OF TRIBUNAL

Mr C Lucas

Mr G McKenzie

Ms C Rowe

Mr W Smith

HEARING at Specialist Courts and Tribunals Centre, Auckland

DATE OF HEARING 7 April 2016

DATE OF DECISION 7 April 2016

COUNSEL

Ms N Copeland for the Standards Committee

No appearance for Ms Shanks

ORAL DECISION ON PENALTY

[1] The Tribunal has been considering the charge against Terry Shanks of misconduct, pursuant to s 11(1)(a) of the Lawyers and Conveyancers Act 2006, being conduct that, had she been a practitioner, would have rendered her liable to have her name struck off the roll of barristers and solicitors.

[2] Ms Shanks was a trusted employee, a legal secretary and administrator at the firm concerned, in respect of which we propose to make a suppression order and so will not name, and over a period of approximately three months and via 16 transactions, misappropriated total funds of \$10,671.69.

[3] It's clear from emails received from Ms Shanks, who is not present today, that she accepts that she did engage in misconduct and has offered an apology to the firm and apologises again in these emails. She refers to a gambling addiction and to now suffering from anxiety attacks and depression and tells the Tribunal this by way of explanation for her absence.

[4] Certainly, we can accept that there is no challenge about the nature of the charge and we can make a firm finding of misconduct as defined in s 11(1)(a). Clearly, this is behaviour at the most serious end of the spectrum. Repeated misappropriation of funds from a position of trust in a significant amount, is a matter of which would inevitably lead to a lawyer being struck off and, in this case, the Tribunal's power is to make an order that Ms Shanks not be permitted to be employed by any law firm or that indeed no law firm be permitted to employ her.

[5] We are also asked to make an order as to compensation. We have, in the course of hearing from Ms Copeland, on behalf of the Standards Committee today, had a discussion about the quantum of compensation because there have been some repayments, not only from Ms Shanks but from her now estranged husband, to the law firm and we at this stage, consider all of those payments ought to be taken into account in calculating a compensation figure and thus, that figure we fix at \$5,280.79.

[6] So to summarise the orders in terms of penalty that we impose in relation to the finding of misconduct:

1. There will be an order pursuant to s 242(1)(h)(ii) that no practitioner or incorporated firm employ Terry Shanks in connection with the practitioner or incorporated firm's practice so long as the order remains in force;
2. We order Ms Shanks to pay compensation in the sum of \$5,280.79;
3. We order costs against Ms Shanks in relation to the New Zealand Law Society's costs, which are quantified at \$5,413.62;
4. There will be an order against the New Zealand Law Society pursuant to s 257 in a sum to be certified following the completion of this hearing for the costs of the Tribunal. These costs are certified in the sum of \$1,552;
5. Pursuant to s 249, Ms Shanks, the former employee, is to reimburse the New Zealand Law Society in full for the s 257 costs; and
6. Finally, the name of the law firm where Ms Shanks was previously employed is to be suppressed.

DATED at AUCKLAND this 7th day of April 2016

Judge D F Clarkson
Chair