

**NEW ZEALAND LAWYERS AND
CONVEYANCERS DISCIPLINARY TRIBUNAL**

[2017] NZLCDT 16

LCDT 009/17

BETWEEN

**AUCKLAND STANDARDS
COMMITTEE 2**

Applicant

AND

RICHARD JAMES WOODHOUSE

Respondent

CHAIR

Judge BJ Kendall (retired)

MEMBERS OF TRIBUNAL

Ms F Freeman

Mr G McKenzie

Ms C Rowe

Mr I Williams

HEARING at the District Court, Auckland

DATE 6 July 2017

DATE OF DECISION 11 July 2017

COUNSEL

Mr S Waalkens for the Applicant

No appearance of the Respondent

**REASONS FOR THE DECISION OF THE NEW ZEALAND LAWYERS AND
CONVEYANCERS DISCIPLINARY TRIBUNAL CONCERNING PENALTY**

[1] The respondent former practitioner has admitted a charge of misconduct within the meaning of s 7(1)(a)(i) of the Lawyers and Conveyancers Act 2006 (Act).

[2] The charge arises out of the respondent's misappropriation of funds which, by agreement, he held in trust for SL. He failed to account for the funds at the time he ceased practise and closed his trust account in June 2009. He had not contacted SL about the funds at any time between August 2006 and October 2015 and then only after SL had complained to the New Zealand Law Society.

[3] The respondent paid SL \$1,000 on 27 October 2015 and \$16,000 on 9 November 2015. The complainant reported that the sums paid represented the funds previously held in trust and accumulated interest.

[4] The respondent has not explained why the funds were not paid to SL in June 2009. He has not explained what happened to the funds when his trust account was closed in June 2009. He has not explained where the funds were between June 2009 and October 2015.

[5] The respondent provided a written submission to the Tribunal on 21 June 2017 in which he set out his financial position, but provided no explanation as to what happened to the funds.

[6] The Tribunal concluded that the only available inference is that the respondent deliberately misappropriated the funds for his own purposes.

[7] The Tribunal was unanimous in concluding that the respondent is not a fit and proper person to be a practitioner. It made an order for strike-off.

[8] In making that unanimous decision, the Tribunal had regard to its decision in *Auckland Standards Committee 1 v Hackshaw*¹ where it was said:

“[13] The solicitor’s trust account has long been regarded as sacrosanct such that dealing with its funds for personal use is considered to be at the highest level of professional misconduct and culpability.

[14] Strike off is the only response to dishonesty involving the misuse of funds held on behalf of clients.”

[9] The applicant asked for an order for the payment of its costs amounting to \$13,079.83. The Tribunal fixed them at \$8,500.00 after taking into account the respondent’s difficult financial circumstances; the fact of his admission of the charge; and that he has repaid the funds to the complainant.

[10] The Tribunal made the following orders against the respondent:

1. Strike-off pursuant to s 242(1)(c).
2. Costs of \$8,500.00 payable to the New Zealand Law Society.
3. Reimburse the New Zealand Law Society the Tribunal’s costs which are certified in the sum of \$860.00.

[11] There is an order for the non-publication of the name of the complainant SL.

DATED at AUCKLAND this 11th day of July 2017

BJ Kendall
Chairperson

¹ *Auckland Standards Committee 1 v Hackshaw* [2016] NZLCDT 18 at [13]-[14].