

**NEW ZEALAND LAWYERS AND  
CONVEYANCERS DISCIPLINARY TRIBUNAL**

[2020] NZLCDT 22  
LCDT 016/18 and 009/19

**IN THE MATTER**

of the Lawyers and Conveyancers  
Act 2006

**BETWEEN**

**AUCKLAND STANDARDS  
COMMITTEE 1**

Applicant

**AND**

**BRETT DEAN RAVELICH**

Practitioner

**CHAIR**

Judge D F Clarkson

**MEMBERS OF TRIBUNAL**

Ms S Hughes QC

Mr W Smith

Ms S Stuart

Mr I Williams

**DATE OF HEARING** 2 June 2020

**HELD AT** Auckland District Court

**DATE OF DECISION** 16 July 2020

**COUNSEL**

Mr P Collins for the Standards Committee

Mr J Wiles for the Practitioner

## **DECISION OF THE TRIBUNAL ON PENALTY**

### ***Introduction***

[1] The two matters before the Tribunal have had a somewhat tortured history. The first set of proceedings was filed in late 2018. When it appeared that there was the likelihood of further charges, that matter was delayed and it was agreed that a consolidated hearing of the two sets of charges would be held. That hearing took place in July 2019. For various reasons which have been provided to the parties, the Tribunal's decision was reserved for a period considerably longer than our usual tolerance for such. It was delivered on 22 January 2020. Comprehensive submissions on penalty were subsequently received but the penalty hearing was delayed by the onset of the Covid-19 virus. Finally, the penalty hearing was held on 2 June 2020.

### ***Penalty Hearing***

[2] Because of the background to the two sets of charges, and because Mr Ravelich's previous offending had a connection with his alcoholism, the Tribunal sought further information from Mr Ravelich, on oath, at the penalty hearing. In particular we wished to know what sort of plan Mr Ravelich had for managing his addiction. This was prompted by the need to understand the disconnect between the information about the nature of the offending on the one hand (which was by this stage somewhat historical),<sup>1</sup> and on the other hand reports from a number of colleagues about the high standard of legal work currently being undertaken by Mr Ravelich.

[3] In evidence at the penalty hearing Mr Ravelich spoke warmly about his current work as a duty solicitor and criminal legal aid lawyer in mainly the Papakura and Pukekohe Courts. These are Courts which are busy, challenging and certainly require lawyers prepared to carry out high quality representation on behalf of the

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<sup>1</sup> The 2019 charges related to conduct dating back to 2011. The 2018 proceedings related to conduct in 2016.

people appearing there. Notwithstanding this, Mr Ravelich plainly relished his work in those courts.

[4] On the other hand, we were somewhat alarmed about the quantity of alcohol consumed by Mr Ravelich, albeit that he said this was always at home, with food and was wine only. He described himself as a “functioning alcoholic” who never drank during the day and was never publicly intoxicated after 2011 when he was censured and suspended by the Tribunal for his conduct.

[5] Mr Ravelich assured us that he was no longer involved in the liquor industry.

### ***Submissions and Amended Submissions***

[6] Comprehensive submissions had been filed by both parties. At the penalty hearing Mr Collins had submitted that a period of suspension was required and that even strike-off would not be necessarily too harsh a penalty.

[7] Because of the subsequent discussion between the parties and the careful plan for support, counselling, monitoring and mentoring devised by Mr Ravelich, his counsel and the New Zealand Law Society representatives, it is not necessary to address all of the matters set out in the earlier penalty submissions. Suffice it to say that the penalty hearing was adjourned for those discussions, and subsequent documents have been received, including a joint memorandum setting out an agreed arrangement and undertakings to the New Zealand Law Society and to the Tribunal.

[8] These arrangements are put before the Tribunal on the basis that, if acceptable to the Tribunal, they be taken into account in the final determination of penalty. Mr Ravelich swore a further affidavit to which he annexed undertakings of Ms Megan Jenkins who was to act as his mentor, as well as attaching evidence of his enrolment in a programme with CADS.<sup>2</sup>

[9] It is extremely heartening to note that an experienced practitioner such as Ms Jenkins is prepared to commit to support a colleague in the manner in which she has. Ms Jenkins has undertaken to meet with Mr Ravelich “*formally at least once a month to discuss the mentoring and will be available to him at any time during the*

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<sup>2</sup> Central Alcohol and Drug Service.

*working day or after hours. I will be able to openly discuss with him his sobriety and commitment to CADS counselling. I will ask for confirmation of his attendance at that and any other professional support.”* Ms Jenkins goes on to indicate she will prepare a summary report each month for the New Zealand Law Society or the Tribunal as required and would be happy to meet at any review of Mr Ravelich’s position.

[10] Ms Jenkins confirms that Mr Ravelich is a valued member of the duty lawyer team in South Auckland and other lawyers have also commented on his “thoughtful and considerate” approach to clients, his ability to tackle difficult cases, his punctuality, attention to detail, work ethic, courtesy and high quality service.

[11] On the basis of the plan and undertakings provided to the Tribunal, Mr Collins varied his submission to note that the Standards Committee would instead seek orders for censure and costs only. Costs were at an agreed sum of \$20,000.

### ***Undertakings***

[12] Mr Collins went on to emphasise the need for a strong censure and including a final warning for this practitioner who is now 54 years of age and has amassed not only criminal convictions in the past but also disciplinary findings against him.

[13] The Tribunal has carefully considered the supplementary submissions and the plan and undertakings provided to it. We endorse the plan and record the undertakings.

[14] Specifically, we incorporate paragraphs (a) to (e) inclusive in our decision as follows:

- (a) The practitioner will attend and complete a rehabilitative and support programme operated by Community Alcohol and Drug Services (Waitemata District Health Board) known as “Getting Started”. This is an 8-week course and the practitioner began attending on 22 June 2020. The content of the course is described in a booklet produced as exhibit “C” to the practitioner’s affidavit;
- (b) He will participate in a mentoring relationship with Megan Jenkins, barrister and solicitor, in terms described in her letter which is exhibit “B” to the practitioner’s affidavit. Ms Jenkins will meet with the practitioner not less frequently than every month from July 2020, for a minimum period of 12 months. She will report to Justin Kleinbaum, National Prosecutions Manager of the New Zealand Law Society, monthly or at

such additional times as might be warranted by events. Those reports will refer to the practitioner's confirmation, reported to Ms Jenkins by him, concerning his attendance at and completion of the CADS Getting Started programme and to his adherence to sobriety generally (if that is the case). Her reporting duties are not constrained by any obligation of confidentiality to the practitioner in that context. She and the practitioner will consult with the New Zealand Law Society after her report is submitted for the month of June 2021 to determine whether the mentoring arrangement should continue. It will only be discontinued with the approval of the New Zealand Law Society. Ms Jenkins and the practitioner will be informed separately about their contact person for reporting purposes;

- (c) In addition to those matters, the practitioner expresses his underlying commitment to a life of sobriety in which his personal and professional dealings are not subject to the adverse influence liquor has had on him at times in the past. He is committed to a successful and contributing legal career free from those influences. To the extent that is within his control, he is determined to ensure that he will not again come to the attention of the disciplinary institutions of his profession;
- (d) He undertakes to the Tribunal and to the New Zealand Law Society that he will diligently attend and complete the Getting Started course and that he will co-operate in the mentoring relationship with Ms Jenkins;
- (e) He understands that any significant non-compliance with the terms of this arrangement may be referred to a Standards Committee as a potential disciplinary matter in its own right.

### ***Relevant Considerations***

[15] In the light of the compassionate and sensible approach adopted by counsel for the Standards Committee and the Committee itself, we simply wish now to highlight certain matters which bear on the proper, and least restrictive penalty in relation to the findings of misconduct and unsatisfactory conduct made in the January 2020 decision.

### ***Rehabilitation***

[16] One of the primary purposes of penalty – once protection of the public is assured – is that of rehabilitation of the practitioner. Not only is this a human response by the disciplinary process, but it is also a sensible and practical factor given the years and cost of training of a lawyer and the loss to the public if a good lawyer is no longer able to continue to practice. It is proper, that if safeguards can be put in place (which we will later discuss), that a lawyer be able to continue to serve

his or her community provided he or she addresses the underlying issues which have brought him or her to the notice of the disciplinary body.

[17] We are satisfied that public protection is not an issue in this case. We refer to the references from Mr Ravelich's colleagues as to the standard of his work. We consider these, together with the attached plan and undertakings given, do address any aspect of public protection, and in addition the protection of the reputation of the profession.

### ***Safeguards***

1. We have set out above the counselling and support programme to be entered into by Mr Ravelich.
2. We consider that this together with the excellent mentoring arrangements provided by the generosity of Ms Megan Jenkins provides sufficient safeguards.

### ***Further Matters***

[18] Further matters that we have taken account of are the nature of the offending and the low probability of those sorts of difficulties being encountered by the practitioner in the future.

[19] We take particular account of the time which has elapsed since the offending.

[20] We take account of the previous disciplinary history of the practitioner which of course is an aggravating factor. However, we also take account of mitigating factors such as his willingness to engage in rehabilitation and the need of the South Auckland community for competent criminal barristers with the sort of enthusiasm shown by Mr Ravelich.

[21] Taking account of these matters, although suspension would have been a likely outcome in the absence of the arrangements which have been reached, we agree with counsel for the Standards Committee and with Mr Wiles that it is no longer necessary to reflect a proper response to Mr Ravelich's conduct and an alternative

penalty has the advantage in maintaining an effective practitioner in service of the community.

### ***Censure***

[22] We agree with Mr Collins that a firm censure, including a final warning to this practitioner needs to be delivered. The form of censure is as follows:

Mr Ravelich, you are now a mature practitioner of 54 years of age, you were admitted 18 years ago but were suspended in 2011 following criminal convictions relating to your alcoholism. In our decision of January 2020 we found that your conduct fell below the standards expected of you and although you did not consider that conduct to be connected with your alcoholism, it arose out of business relationships in the liquor industry. We accept that the conduct occurred at a time in your life when you were at a low ebb and that that was not necessarily of your making. However, you have now re-established yourself and the Tribunal does not expect to see you return before it again. Should further professional or personal lapses bring you back before the Tribunal you must expect that this will result in a restriction on, or ending of your ability to practice as a lawyer.

You have the opportunity, with the support mechanisms in place and with collegial support to continue to carry out good work for the community in South Auckland. This must be your first priority and you must adhere to the undertakings given and set out above in order to achieve your goal of continued sobriety and high professional standards.

### ***Costs***

[23] We endorse the agreed costs order in favour of the Standards Committee in the sum of \$20,000 to be paid by the practitioner. The Tribunal costs are fixed at \$11,138.00. Having regard to Mr Ravelich's personal circumstances we fix the amount of reimbursement by the practitioner to the New Zealand Law Society at 75 per cent of the Tribunal costs.

**Orders**

1. Censure as set out above.
2. Costs under s 249 in favour of the Standards Committee to be paid by the practitioner of \$20,000.00.
3. The s 257 costs to be paid by the New Zealand Law Society are certified at \$11,138.00.
4. The practitioner to reimburse the New Zealand Law Society 75 per cent of the Tribunal costs (namely, \$8,353.50).

**DATED** at AUCKLAND this 16<sup>th</sup> day of July 2020

Judge D F Clarkson  
Chair