

**LEGAL COMPLAINTS REVIEW OFFICER
ĀPIHA AROTAKE AMUAMU Ā-TURE**

[2020] NZLCRO 79

Ref: LCRO 37/2020

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 [X]

BETWEEN

TA

Applicant

AND

SL AND ND

Respondent

DECISION

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

Introduction

[1] Mr TA has applied for a review of a decision by the [Area] Standards Committee [X] (the Committee) (the decision) to take no further action in respect of his complaint concerning conduct on the part of Ms SL and (in the name of) Mr ND (the lawyers).

Background

[2] Mr TA was a party to proceedings brought under the Property (Relationships) Act 1976 (PRA).

[3] Ms SL and Mr ND acted for the opposing party.

[4] There was a hearing before the Family Court in the course of which Mr TA says the lawyers suborned perjury. He relies on the following definition of “suborn”:

...to furnish, to incite), v.t. To procure by underhand means, esp bribery, to commit perjury or other criminal act...

[5] Mr TA understands that the lawyers were not under oath, so did not commit perjury themselves. His position on review is similar to that set out in his complaint, that he should have “satisfaction in these matters” because the lawyers suborned their client to commit perjury.

[6] The Committee understood the complaint was that the lawyers had committed perjury. That is not quite what the complaint says: the allegation was “suboration”. That appears to have been a spelling error, and Mr TA intended to complain about “subornation” by the lawyers’.

[7] Either way, Mr TA has produced no evidence that supports any aspect of the complaint. There is no logic to it. The lawyers cannot be held professionally responsible for statements made by their client under oath in a proceeding. As the Committee says, the proper place to challenge a witness’ evidence is in the course of the proceeding in which the evidence is given. In the same way that there is simply no evidence that supports the contention that the lawyers committed perjury, there is also no evidence that they procured their client to lie under oath.

Strike Out – s 205(1)(a)

[8] This review has been determined pursuant to s 205(1)(a) of the Lawyers and Conveyancers Act 2006 (the Act) which says:

(1) The Legal Complaints Review Officer may strike out, in whole or in part, an application for review if satisfied that it—

(a) discloses no reasonable cause of action;...

[9] An allegation that the lawyers suborned their client to commit perjury does not appear to me to be a reasonable cause of action under the Act. If that is not correct, in any event any reasonable cause of action would have to be supported by some evidence. Mr TA’s allegation is not.

[10] There is nothing in the materials that suggests further action on Mr TA’s complaint is appropriate or necessary. Although the Committee proceeded on the basis of a misunderstanding of the exact complaint Mr TA was making, there is no reason to disturb its finding in that regard.

[11] Although the whole of Mr TA’s application for review is struck out pursuant to s 205(1)(a) of the Act, the Committee’s decision should be read in conjunction with this

decision so it is apparent the Committee's misunderstanding of the complaint has been addressed. No purpose would be served by a referral back.

Decision

Pursuant to s 205(1)(a) of the Lawyers and Conveyancers Act 2006 Mr TA's application for review is struck out in whole because it discloses no reasonable cause of action.

DATED this 27th day of MAY 2020

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:

TA as the Applicant
SL and ND as the Respondents
JH as a related Person
[Area] Standards Committee [X]
New Zealand Law Society
Secretary for Justice