

**NEW ZEALAND LAWYERS AND
CONVEYANCERS DISCIPLINARY TRIBUNAL**

Decision No. [2010] NZLCDT 5

LCDT 028/09

IN THE MATTER

of the Lawyers and Conveyancers
Act 2006

BETWEEN

**AUCKLAND STANDARDS
COMMITTEE**

Applicant

AND

SHERAZUL RAHEMAN

Respondent

CHAIR

Judge D F Clarkson

MEMBERS OF TRIBUNAL

Mr W Chapman

Mr J Clarke

Mr P Radich

Mr W Smith

HEARING at AUCKLAND on 31 March 2010

APPEARANCES

Mr P N Collins on behalf of Auckland Standards Committee

The respondent in person

**ORAL DECISION OF NEW ZEALAND LAWYERS AND
CONVEYANCERS TRIBUNAL**

Introduction

[1] This morning the Tribunal sits to consider two charges brought under the Lawyers and Conveyancers Act 2006 against the respondent Mr Raheman. The hearing commenced at about 9.40 am with Mr Collins representing the Standards Committee of the New Zealand Law Society and beginning his submissions, but Mr Raheman arrived shortly after that time and so the charges were formally read to him and he has pleaded guilty to both of the charges.

[2] He has then had the opportunity to respond to Mr Collins' submissions and make his plea to the Disciplinary Tribunal for what he refers to as a second chance in this profession.

Charges

[3] The two charges are very serious and both involve dishonesty as an employee of a sole practitioner. They involve deception of a bank by writing to the bank saying that a deposit for the purchase of a property had been paid and they involve forgery in that the two letters at the heart of the charges were signed in the name of his employer by Mr Raheman.

[4] Mr Raheman was employed as an unqualified legal assistant and he tells us that he first began working in the legal profession as an employee in the United Kingdom and has worked for some seven years including his time with the sole practitioner concerned in New Zealand.

[5] The jurisdiction for the Tribunal considering his status within the profession and his employment is contained in ss.241 and 242(1)(h) and of course the definition of misconduct in s.11 is extended to include employees.

[6] Charge one, during the course of his employment in the legal practice of XY barrister and solicitor, he prepared and sent a letter to the bank dated 24 February 2009

- [a] On the letterhead of his employer and in the name of his employer, falsely stating that he had deposited the sum of \$90,000 into his employer's trust account for the purchase of a property;
- [b] In the context of a financing application intending it to be relied on by the bank as a representation by his employer that funds in the sum of \$90,000 were held in his employer's trust account for the purpose of the transaction to which the finance application related, which was untrue and which was known by him to be untrue;
- [c] Without the knowledge or authority of his employer.

[7] Charge 2 is identical except that the amount represented is \$60,000.

[8] As indicated Mr Raheman accepts that he wrote the two letters concerned, that what he represented to the banks was untrue, and that he forged his employer's signature. In doing so he has effectively misappropriated a total of \$150,000 being two unpaid deposits which he certified to have been paid from the respective vendors in the sum of \$90,000 and \$60,000 respectively and as a result of his actions in misleading the bank, received funds advanced by the bank of \$355,000 and \$230,000 respectively. His actions in that regard of course will be the subject of civil proceedings which he is in the process of facing as we understand it.

[9] There is no doubt that the definition of misconduct and serious misconduct is met by these actions. It is of a most serious kind, probably the most serious that is seen by the Tribunal and again that is accepted by Mr Raheman who at least has had the decency to appear today and to acknowledge his guilt and express his regrets for his actions.

[10] He submits to the Tribunal that this is the first time that he had breached the trust reposed in him by the legal system and by his employer in seven years of employment. He is clearly a person who has enjoyed working in the legal field. But he acknowledges that he lost his way and became greedy about his financial position and thus took the steps that he did. He tells us that he has, after a period of some depression and heavy drinking, sought proper advice, has learned his lesson and will not transgress again in future.

[11] As to his financial circumstances Mr Raheman is not currently working and is not receiving any form of welfare benefit, but is being supported by his mother and on some income from rental properties which he owns in conjunction with his mother. He has outlined his three assets and the fairly large liabilities in the form of mortgages registered against those properties indicating to us that he has little in the way of equity in his properties. He says he expects that he may well be bankrupted by the bank concerned.

[12] Mr Collins on behalf of the Standards Committee has quite properly referred to us the leading decision of *Bolton and the Law Society* [1994]2 All ER 486, from which we shall not quote again because it is so often quoted, but refers to the nature of trust reposed in the legal profession and the need to retain high standards so that the public can continue to have confidence in the profession and so that systems such as the banking and land registration systems can operate in the flexible and efficient ways that they do because of the trust reposed in lawyers and their employees.

[13] Although we have some sympathy for this young man in that he has effectively lost his career as a result of his greed, we have to have regard to the public interest and to the interests of the profession as a whole and its ability to maintain its integrity and high standards of professionalism and for that reason we simply cannot countenance the possibility of allowing Mr Raheman to continue to be employed in the legal profession.

[14] The orders that are sought by the Standards Committee are granted namely:

- [a] An order pursuant to s.242(1)(h)(ii) that no practitioner or incorporated firm is to employ Mr Raheman in connection with the practitioner's or incorporated firm's practice so long as the order remains in force;

- [b] We award costs against Mr Raheman of the prosecution to the profession. The Law Society's costs are \$8,089.25.

[15] There will also be an order pursuant to 257 for reimbursement to the New Zealand Law Society of the mandatory costs which will be imposed upon them also under s.249 against them. The quantification of the Tribunal costs is reserved at this point and will be notified to the parties in writing at a later date but we do make an order pursuant to s.249 that the Society is also to be reimbursed for those costs in addition to its own costs.

[16] Finally there is an order in terms of publication that the only details that are suppressed are the names of the employing practitioner and the bank concerned. Other details are to be published by the Society so that the profession as a whole is aware of the order that has been made in respect of Mr Raheman's employment.

DATED at WELLINGTON this 31st day of March 2010.

Judge D F Clarkson
Chairperson