

**NEW ZEALAND LAWYERS AND
CONVEYANCERS DISCIPLINARY TRIBUNAL**

[2017] NZLCDT 19

LCDT 021/17

IN THE MATTER

of the Lawyers and Conveyancers
Act 2006

BETWEEN

**HAWKE'S BAY STANDARDS
COMMITTEE**
Applicant

AND

BARBARA ANN DOBSON
Respondent

CHAIR

Judge D F Clarkson

MEMBERS OF TRIBUNAL

Mr W Chapman

Mr M Gough

Ms J Gray

Mr H Matthews

ON THE PAPERS

DATE OF DECISION 4 September 2017

COUNSEL

Mr J Shaw for the Standards Committee

Ms B Dobson was unrepresented

DECISION OF THE TRIBUNAL ON PENALTY

Introduction

[1] Ms Dobson has been charged with misconduct by the Hawke's Bay Standards Committee pursuant to ss 11(a) and 241(a) of the Lawyers and Conveyancers Act 2006 (the Act). Ms Dobson has admitted this charge and fully cooperated with the process.

[2] The parties agreed that the matter could be properly dealt with on the papers. Ms Dobson has filed an affidavit setting out her circumstances and the context of the offending. In that she says she expresses her remorse for the breach of trust and acknowledges that "all the evidence presented in support of the charge against me is correct".

Background

[3] The facts of this matter are taken from the submissions of counsel for the Standards Committee and are as follows:

"The facts are as outlined in the particulars to the charge. In brief, Ms Dobson was employed as a credit controller by the Partners of Z Lawyers. Through the course of her employment, Ms Dobson became aware of the ability to create a false credit balance on a client ledger in the practice management system.

On multiple occasions between 2012 and 2017, Ms Dobson created false credit balances in the names of persons or entities to whom she owed money. These persons or entities were not clients of Z Lawyers, but were opened as clients by Ms Dobson in the practice management system. A total of twelve false clients were created.

Once a credit balance had been achieved in the name of a false client, Ms Dobson arranged for trust cheques to be drawn payable to that false client. Ms Dobson then deposited the cheques into the account of the false client, with a reference accompanying the deposit so that it was received in payment of the amounts owing by Ms Dobson.

The trust cheques were drawn from Z Lawyers float account and did not result in actual client funds being taken.

Ms Dobson adopted the method described above in respect of twenty six transactions between October 2012 and February 2017. The total amount of funds misappropriated by Ms Dobson was \$49,059.12.”

Submissions by the Standards Committee

[4] In addressing penalty, counsel for the Standards Committee has pointed to three aggravating features which are also relevant to the seriousness of the offending. In particular he points to the scale of the offending, being 26 transactions involving 12 false clients. The period of the offending was four-and-a-half years and the total sum misappropriated was \$49,059.12.

[5] Further, Mr Shaw points to the level of deception and sophistication involved in concealing the misappropriation. Finally Mr Shaw points, as he must, to the breach of trust involved by Ms Dobson abusing her position as a long term employee who was in a position of trust.

[6] It was accepted by the Standards Committee that in mitigation we could take account of Ms Dobson’s acceptance of responsibility. She was frank when confronted and described the extent of her conduct. She immediately resigned and offered to repay the misappropriated amount in full. She has, to this end, placed her family home for sale, which is a commendably positive step to take and one which comes at considerable cost to herself and her family.

[7] In her affidavit Ms Dobson describes her personal circumstances and the pressure upon her in 2012 when the offending started. The family was under considerable financial pressure and Ms Dobson was pregnant. She suffered from severe cataracts which were unable to be operated on during her pregnancy. The pressures on her continued after she returned to work shortly after her daughter’s birth. None of these matters provide an excuse for her offending but do to some extent explain why a person who had been a completely honest employee for nine years at the firm, departed from her usual standards.

[8] Of course personal circumstances cannot, in disciplinary proceedings, carry as much weight as perhaps in other matters because of the element of protection of the public required to be focused upon by the Tribunal.

[9] We accept the submissions that, were Ms Dobson a lawyer, she would be struck off for this conduct and accordingly we make the order pursuant to s 242(1)(h)(ii) that no practitioner or incorporated firm employ Ms Dobson in connection with the practitioner's or incorporated firm's practice, so long as the order remains in force.

Costs

[10] The Standards Committee costs are modest, however they were estimated prior to an agreement the matter be dealt with on the papers and for that reason we propose to reduce them to \$4,000 and to order Ms Dobson to pay these costs. The Tribunal costs of \$692.00 are awarded against the New Zealand Law Society and Ms Dobson is to reimburse those to the New Zealand Law Society.

[11] Finally we simply note the manner in which Ms Dobson has conducted herself in relation to these proceedings allows the Tribunal to be optimistic that, after a proper period of rehabilitation and reflection, Ms Dobson is a person in respect of whom this restriction might in the future be removed, if all other relevant tests are met.

Suppression

[12] The name of the firm who employed Ms Dobson and that of the managing partner are permanently suppressed.

DATED at AUCKLAND this 4th day of September 2017

Judge D F Clarkson
Chair