

**NEW ZEALAND LAWYERS AND  
CONVEYANCERS DISCIPLINARY TRIBUNAL**

[2018] NZLCDT 11

LCDT 028/17

**IN THE MATTER**

of the Lawyers and Conveyancers  
Act 2006

**BETWEEN**

**CENTRAL STANDARDS  
COMMITTEE 3**  
Applicant

**AND**

**J**  
Respondent

**CHAIR**

Judge D F Clarkson

**MEMBERS OF TRIBUNAL**

Mr J Bishop

Mr W Chapman

Ms J Gray

Ms P Walker

**HEARING** Tribunals Unit, Wellington

**DATE OF HEARING** 9 April 2018

**DATE OF DECISION** 9 April 2018

**COUNSEL**

Ms R Kos for the Standards Committee

Ms M Neill for the respondent

**ORAL DECISION OF THE LAWYERS AND CONVEYANCERS**  
**DISCIPLINARY TRIBUNAL ON PENALTY**

[1] The practitioner faces two charges, pleaded in the alternative, but at the most serious level pleading misconduct. The practitioner has accepted that he is guilty of misconduct in relation to each of the charges, which involve the dishonest altering of certain documents and consequential statements made to the practitioner's employers and client.

[2] The Tribunal does not propose to give any further details about the circumstances of the offending because this is a particularly unusual case. One of the most unusual features unfortunately would be regarded as an identifying feature and so we do not propose to refer to that, but suffice it to say that as this matter has progressed, the penalty submissions of the Standards Committee were modified, in the serious circumstances of this case, to seek no penalty be imposed against the practitioner, who is no longer practising and therefore poses no risk to the public. It simply seeks costs and we are asked also to address the issue of name suppression.

[3] The Tribunal has conferred and considered both parties' submissions carefully and we accept that this is the very rare case which justifies no further penalty consequent upon two findings of misconduct against the practitioner.

[4] In relation to costs, the Standards Committee has incurred costs of \$8,839.60. The practitioner asks that a compassionate approach be taken to the question of costs and that he make a contribution of 50%. We consider that again, in these unusual circumstances and given his current earning capacity and asset and liability position, that that is a proper contribution and we so order.

[5] In relation to the s 257 Tribunal costs these are ordered in full against the Standards Committee and the practitioner is directed to make reimbursement of 50% of that award, which is to be certified subsequently by the Chair as to quantum.

[6] Moving to consider the issue of permanent name suppression, we have a very substantial affidavit from the practitioner setting out all of the matters which we would expect him to have addressed, relating to the offending itself, his circumstances at the time of the offending, and in particular supported by medical evidence as is needed in situations where permanent name suppression is sought on these grounds.

[7] Firstly, we direct that there be no publication of the practitioner's former firm or clients involved in these matters. We note that the Standards Committee does not oppose an order for permanent name suppression provided that this decision is able to be published in this form which is non-identifying.

[8] There is one exception to that and that is that should the practitioner seek to apply in future to practise, that this decision, along with his name and the details of the charges together with the evidence which is available on this file can be made available to the Practice Approval Committee.

[9] We accept the submission that publication of the name of the practitioner would pose a great risk to his mental health and ongoing recovery and for that reason we are prepared to grant an order pursuant to s 240 preventing publication of the practitioner's name or any identifying details.

[10] The s 257 Tribunal costs are certified in the sum of \$2,071.00.

**DATED** at AUCKLAND this 9<sup>th</sup> day of April 2018

Judge D F Clarkson  
Chair