

**NEW ZEALAND LAWYERS AND
CONVEYANCERS DISCIPLINARY TRIBUNAL**

[2018] NZLCDT 28
LCDT 022/17 & 040/17

IN THE MATTER

of the Lawyers and Conveyancers
Act 2006

BETWEEN

**CENTRAL STANDARDS
COMMITTEE 3**

Applicant

AND

MICHAEL BRIAN MEYRICK

Respondent

CHAIR

Judge BJ Kendall (retired)

MEMBERS OF TRIBUNAL

Mr G McKenzie

Ms C Rowe

Mr W Smith

Mr I Williams

HEARING On the papers

DATE OF DECISION 15 August 2018

DATE OF RE-ISSUED DECISION 7 September 2018

COUNSEL

Ms N Copeland for the applicant

The respondent *pro se*

**RECALL AND REISSUE OF DECISION OF THE NEW ZEALAND LAWYERS AND
CONVEYANCERS DISCIPLINARY TRIBUNAL CONCERNING PENALTY**

[1] In its decision of 3 May 2018, the Tribunal found the respondent guilty of two charges of misconduct. The decision set out the reasons for finding that the respondent had failed to comply with fines and costs orders made by the Lawyers Standards Committees and the Legal Complaints Review Officer and had made a false declaration to the New Zealand Law Society about his compliance with those fines and costs orders.

[2] The Tribunal noted in the decision its concern about the lack of respect shown by the respondent for the disciplinary process. It recorded that the respondent was rude and arrogant to both the Tribunal and the Law Society at the hearing of the charges on 22 March 2018.

[3] The respondent's written submission of 21 June 2018 continues his disrespect for the Law Society and repeats his view that he did not receive a fair hearing before the Tribunal. He went on to submit that to strike him off the roll would be an overreaction which is not warranted given that he has already retired.

[4] Counsel for the applicant has pointed out that the Tribunal is not precluded from making orders as to penalty under s 242 of the Act simply by virtue of the fact that a practitioner no longer holds a practising certificate. See *Southland Standards Committee v W*.¹

[5] Counsel for the applicant, in a submission made on 20 March 2018, submitted that a period of suspension was an appropriate disciplinary response to the respondent's repeated non-compliance with orders made by Standards Committees and the Legal Complaints Review Officer. The Tribunal was referred to its decision in *Fox*² where a period of suspension was imposed on the practitioner for conduct similar to that of this respondent. The Tribunal said at [6(a)]:

¹*Southland Standards Committee v W* [2013] NZLCDT 28 at [35].

²*Auckland Standards Committee 2 v Fox* [2017] NZLCDT 26.

“The institutions of professional discipline must be taken seriously and must be respected by members of the profession. A soundly based public perception of meaningful and enforceable sanctions is essential to the maintenance of confidence in the legal profession.”

[6] Counsel further submitted that the respondent’s previous disciplinary history was relevant, citing that he had been the subject of 13 findings of unsatisfactory conduct where ongoing lack of engagement and timely communication in the course of proceedings into his conduct was a persistent theme.

[7] The submission was that those matters were referable to the assessment of the respondent’s attitude to the disciplinary process and evidenced a need for deterrence.

[8] Counsel’s submissions were made at the time when it was anticipated that the hearing of the charges scheduled for 22 March 2018 would proceed by way of formal proof.

[9] In the event, the respondent appeared at the hearing. His disrespectful conduct towards the Law Society and the Tribunal at the hearing has been recorded in paragraphs [18], [19] and [20] of our decision on the charges.

[10] Counsel for the applicant filed a further submission on 4 April 2018. The submission was made that it was open to the Tribunal to take into account the respondent’s conduct at the hearing in assessing an appropriate penalty. Counsel quoted extensively from the decisions of the High Court in *Parlane*³ and *Daniels*⁴. Both decisions make it clear that misbehaviour of the kind displayed by the respondent can be taken into account in determining a person’s fitness to practice, good character or otherwise.

[11] Counsel submitted that it was thus open to the Tribunal to consider that the respondent’s conduct touches upon his fitness to practice and good character such that an order striking the respondent off the roll of barristers and solicitors was appropriate.

³ *Parlane v New Zealand Law Society (Waikato Bay of Plenty Standards Committee No 2)* HC Hamilton CIV-2010-419 1209, 20 December 2010.

⁴ *Daniels v Complaints Committee 2 of the Wellington District Law Society* HC Wellington CIV-2011-485-000227, 8 August 2011.

Discussion

[12] We generally accept Counsel's submissions. The responsibility of a practitioner to cooperate with his disciplinary body is a fundamental one. A failure to do so, which is wilful and reckless, has to be regarded seriously such that a period of suspension is the starting point for the consideration of penalty.

[13] The respondent has not advanced any material matters in mitigation. Rather he has repeated his bitter views of the Law Society and his view that the Tribunal did not give him a fair hearing.

[14] We consider that a penalty of suspension is required. We have stopped short of making an order striking his name off the roll of barristers and solicitors. He has retired from practice and does not present a danger to the public.

[15] We consider that the appropriate period of suspension is two years.

Orders

1. The respondent is suspended for two years from 3 May 2018.
2. There is an order for costs in favour of the New Zealand Law Society in the sum of \$12,688.39.
3. The s 257 costs are certified in the sum of \$3,061.00 and are to be paid by the New Zealand Law Society.
4. The respondent is to refund the s 257 costs in full to the New Zealand Law Society pursuant to s 249 of the Act.

DATED at AUCKLAND this 15th day of August 2018

BJ Kendall
Chairperson

ADDENDUM REGARDING RECALL OF THIS DECISION

Counsel for the Committee seeks a recall of this decision because when making our order suspending Mr Meyrick for two years from 3 May 2018 it was not aware that he was still practising during May 2018 (at least).

It transpires that Mr Meyrick appeared in court on behalf of a defendant on 22 and 29 May 2018 which was prior to our decision on penalty. In those circumstances, the Tribunal does not take issue with these appearances. The Committee does not do so either.

The Committee asks that the period of suspension commence on 1 July 2018 being the date immediately after the expiry of Mr Meyrick's practising certificate which he has not renewed.

Horowhenua County v Nash (No.2) [1968] NZLR 632, 633 is authority for recall of a decision in circumstances where there is a special reason justifying recall. The special reason here is that the Committee and the Tribunal were not aware at the time of this decision on Penalty that Mr Meyrick was still practising even although he informed us that he had given up doing so.

We accordingly recall our decision and amend order 1 in paragraph [15] to read:

1. The respondent is suspended for 2 years commencing on 1 July 2018.

We confirm our decision in all other respects.

DATED at AUCKLAND this 7th day of September 2018.

BJ Kendall
Chairperson