

**NEW ZEALAND LAWYERS AND  
CONVEYANCERS DISCIPLINARY TRIBUNAL**

[2018] NZLCDT 31

LCDT 018/17 and 024/17

**BETWEEN**

**AUCKLAND STANDARDS  
COMMITTEE 5**

Applicant

**MICHAEL RAWIRI TAIA**

Respondent

**CHAIR**

Judge BJ Kendall (retired)

**MEMBERS OF TRIBUNAL**

Mr G McKenzie

Ms C Rowe

Mr W Smith

Mr I Williams

**On the papers**

**DATE OF DECISION** 10 September 2018

**COUNSEL**

Mr E McCaughan for the Applicant

Mr M Taia the Respondent

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

[1] By an oral decision given on 2 November 2017, this Tribunal found Mr Taia guilty of misconduct under s 7(1)(a)(i) for failing to comply with a Standards Committee order to refund monies to former clients and of failing to comply with written requests from clients to uplift documents and records held on their behalf.

[2] Since then Mr Taia has been given time to address issues concerning his health and financial affairs.

[3] We heard submissions regarding penalty on 22 June 2018. There were two issues to consider. They were whether to order suspension from practice, fine and costs and whether to grant suppression of name.

[4] After hearing submissions from Mr McCaughan for the applicant and from Mr Taia, we directed Mr Taia to pay the outstanding debt to his former clients by 3 August 2018. We recorded that his failure to do so would put him at risk of suspension. We invited the Committee and Mr Taia to present us with the draft of an order under s 156(1)(l) relating to the management of his practice.

[5] Mr Taia has paid the outstanding debt. He has filed a memorandum setting out his proposals for a mentoring arrangement with Mr Wade Hansen.

[6] The Committee's response is that a more comprehensive arrangement is needed because of the following factors:

- (a) Mr Taia had significant administrative practice management problems which require close supervision to protect current and prospective clients.

- (b) Mr Taia's proposed scope of mentoring does not adequately address the risks he poses such as pursuing client debts that are not disputed but simply late.
- (c) It is not appropriate that the responsibility for reporting back to the Law Society should fall to Mr Taia. He has failed to respond to the disciplinary process and ex-clients which was the essence of the charges proved against him.

[7] We agree with the Committee's submission that Mr Taia be subject to a supervision order on the conditions proposed by it.

[8] He will be subject to a supervision order on the following conditions:

- (a) There will be a term of supervision of 12 months commencing from the date of this decision.
- (b) Mr Taia is to meet monthly with Mr Wade Hansen in person. Mr Hansen is to have a wide-ranging brief to discuss all files and all aspects of the practice to ensure its efficient running.
- (c) After each meeting Mr Hansen will file a written report with New Zealand Law Society providing confirmation of the following points:
  - i. That Mr Taia is up to date in terms of billing his clients;
  - ii. That Mr Taia is ensuring that client debts are collected promptly;
  - iii. That Mr Taia is advising Mr Hansen of any client complaints, and responding to them in a timely manner.
- (d) Mr Taia undertakes in writing to the New Zealand Law Society to meet with Mr Hansen monthly and to comply with all directions from Mr Hansen.

- (e) Mr Hansen is to confirm in writing that he agrees to comply with the terms of the supervision order.

[9] The Committee has taken a pragmatic approach to the making of any orders about imposing a fine and orders for costs. It acknowledges that there is clear and compelling evidence about Mr Taia's past health and finances saying that it is overly optimistic to expect him to pay costs and a fine. It was concerned that Mr Taia should not now be set up to fail.

[10] We are sympathetic to the views expressed. Nevertheless, we consider that a fine and contribution to costs is warranted because Mr Taia's offending, when taken together, has fallen below the standard that a member of the public is entitled to expect.

[11] There will be an order that he pay a fine of \$1,500.00 and pay to the New Zealand Law Society its costs of \$10,330.00. He will also be required to refund to the New Zealand Law Society the Tribunal's costs.

[12] Mr Taia is being given the opportunity to fully rehabilitate himself. He must appreciate that he has had considerable leniency shown him. Were it not for issues concerning family, health and finances he would have faced a term of suspension and a heavier fine. He is in last chance territory.

[13] The remaining issue is non-publication of Mr Taia's name. He has submitted that his name not be published. He has raised concerns about the impact of publication on his family where there are health concerns. He further argued that there would be embarrassment amongst a number of his clients and damage to his reputation.

[14] Mr McCaughan submitted that on balance the public interest supported a finding that Mr Taia's name should be published. There is significant public interest in knowing that he has been before the Tribunal especially in circumstances where he has failed in his obligations to the New Zealand Law Society and to his clients.

[15] We accept Mr McCaughan's submission. Mr Taia's concerns can be met by orders prohibiting publication of any details concerning the charges other than those contained in this decision, details of his financial affairs, and of his health.

### **Orders**

1. Mr Taia is fined \$1,500.00.
2. Mr Taia is to pay the costs of the New Zealand Law Society in the sum of \$10,330.00.
3. The Tribunal's costs payable by the New Zealand Law Society are certified at \$3,096.00.
4. Mr Taia is to refund to the New Zealand Law Society the Tribunal's costs in full.
5. Mr Taia is subject to an order for supervision on the conditions set out in para [8] of this decision.

**DATED** at AUCKLAND this 10<sup>th</sup> day of September 2018

BJ Kendall  
Chairperson