

**NEW ZEALAND LAWYERS AND
CONVEYANCERS DISCIPLINARY TRIBUNAL**

[2021] NZLCDT 17

LCDT 006/21

IN THE MATTER

of the Lawyers and Conveyancers
Act 2006

BETWEEN

**AUCKLAND STANDARDS
COMMITTEE 2**

Applicant

AND

NAME SUPPRESSED

Respondent

DEPUTY CHAIR

Judge J G Adams

MEMBERS OF TRIBUNAL

Mr S Hunter QC

Ms N McMahon

Ms S Stuart

Ms P Walker

DATE OF HEARING 7 May 2021

HELD AT Specialist Courts and Tribunals Centre, Auckland

DATE OF DECISION 24 May 2021

COUNSEL

Mr P Collins for the Auckland Standards Committee

The respondent in person

DECISION OF THE TRIBUNAL RE PENALTY

[1] Ms E was a trust account administrator for a law firm. She had worked for the firm (apart from a short break) for more than 30 years. Over a two-year period, she stole small sums from the firm's petty cash and by using the firm's credit card account. The total amount involved was \$2,570. The sums were applied to small domestic purchases.

[2] Since this matter came to light, Ms E's response has been exemplary. She immediately admitted her wrongdoing. She quit her job. She co-operated fully with her employer and the Law Society processes. Her evident remorse and her genuine wish to have the matter cleaned up properly indicate that this offending is not her usual mode. She exhibits loyalty to her former employer and its reputation.

[3] Her employer's stance has remained supportive. She has been a longstanding, trusted member of the firm who held a position of responsibility. The firm has come to an arrangement for her to repay the money over time. Her financial circumstances are tight.

[4] The consequences for Ms E have been severe. She has forsaken her valued employment. Since this matter she has not been able to make ends meet. She took part-time gardening work and has now moved to full-time work, but her income is reduced from what she had formerly.

[5] At the time of the offending, Ms E suffered several stressors which explain the context of her conduct. Details of her personal troubles are recorded in the Addendum to this decision. The contents of that Addendum are subject to a permanent suppression order. For the public record it is sufficient to say that we recognise the bleakness of Ms E's lot and, whilst condemning the behaviour, which is the subject of this charge we understand how this occurred.

[6] The Standards Committee seeks an order under s 242(1)(h)(ii) that no practitioner or incorporated firm employ Ms E in connection with the practitioner's or

the incorporated firm's practice so long as the order remains in effect. Although Ms E says she will not work for a law firm again, this type of order is the usual consequence of the relevant conduct. We see it as our duty to impose that order.

[7] Ms E would like to put this unhappy departure from her usual behaviour behind her without exposure. This is understandable in her circumstances, and we have sympathy for her. Section 240 permits prohibition of publication where the "Tribunal is of the opinion that it is proper to do so, having regard to the interest of any person ... and the public interest...". Because the s 242(1)(h)(ii) order necessarily requires publication to lawyers, the scope for such an order is limited in a case like this. Nevertheless, we are of the opinion that it is proper to do so, to that limited extent, in this case. We find that her thefts were unlike her usual behaviour. We do not regard her as someone the public need be warned against because we see little likelihood of her repeating this kind of action. Those who need to know will be advised. We are influenced by the matters set out in the Addendum (itself suppressed). The hearing itself took place in public. Balancing these matters, we permanently prohibit publication of her name apart from the publication necessary to give effect to the s 242(1)(h)(ii) order.

[8] As is his duty, Mr Collins seeks costs. In our view, Ms E is not able to pay costs. She has behaved in an exemplary manner to bring this matter to conclusion. The consequences she has brought upon herself, both financial and embarrassing, are severe and ongoing. We find it is fitting, in this case, for the Law Society to accept its costs without reimbursement.

[9] Orders:

1. We make an order under s 242(1)(h)(ii) that no practitioner or incorporated firm employ Ms E in connection with the practitioner's or the incorporated firm's practice so long as the order remains in effect.
2. We permanently suppress and prohibit publication of the name of the respondent apart from the publication necessary to give effect to the s 242(1)(h)(ii) order. We also permanently suppress the name of the former employer. (Pursuant to s 240).

3. We permanently suppress the material in the Addendum to this decision which records personal stressors relating to Ms E. (Pursuant to s 240).
4. The Tribunal costs, which the Law Society must pay under s 257 are certified at \$351.00.
5. We make no other orders for costs.

DATED at AUCKLAND this 24th day of May 2021

Judge JG Adams
Deputy Chairperson

Addendum:

[Redacted]