

ORDER FOR PERMANENT SUPPRESSION OF NAME OF THE RESPONDENT  
PRACTITIONER AS RECORDED IN PARAGRAPH [12] OF THIS DECISION. EARLIER  
ORDER FOR PERMANENT SUPPRESSION OF NAMES OF COMPLAINANTS AND FIRMS  
AS RECORDED IN DECISION [2023] NZLCDT 14 STANDS. THESE ORDERS ARE MADE  
PURSUANT TO S 240 OF THE LAWYERS AND CONVEYANCERS ACT 2006.

**NEW ZEALAND LAWYERS AND  
CONVEYANCERS DISCIPLINARY TRIBUNAL**

[2023] NZLCDT 27  
LCDT 015/22

**IN THE MATTER**

of the Lawyers and Conveyancers  
Act 2006

**BETWEEN**

**NATIONAL STANDARDS  
COMMITTEE 2**  
Applicant

**AND**

**MR Q**  
Respondent

**CHAIR**

Ms D Clarkson

**MEMBERS OF TRIBUNAL**

Mr S Hunter KC

Ms N McMahon

Ms M Noble

Prof D Scott

**ON THE PAPERS**

**DATE OF DECISION** 18 July 2023

**COUNSEL**

Mr P Collins for the Standards Committee

Mr P J Morgan KC for the Respondent Practitioner, Mr Q

Mr L Andersen KC for Mr Q2

Ms G Haszard for further interested parties

### **FURTHER DECISION OF THE TRIBUNAL ON NAME SUPPRESSION**

[1] In a decision dated 2 May 2023,<sup>1</sup> the Tribunal declined to make an order for suppression of the name of the respondent practitioner, who was referred to as Mr Q. The interim suppression order which had earlier been made was to remain in effect for four weeks to give the respondent the opportunity of exercising his rights of appeal. On 22 May 2023, an interested party, who is referred to as Mr Q2, filed an application for judicial review of the suppression decision in the High Court at Auckland.

[2] On 1 June 2023, the High Court made an order requiring the Tribunal "...to consider (or reconsider) the effect on [Mr Q2] of publication of [Mr Q's] name prior to making a decision as to whether it is proper that [Mr Q's] name should be published". The interim suppression of Mr Q's name continued until the Tribunal had the opportunity of reconsidering the matter.

[3] On 30 May 2023, further interested parties filed a notice of appeal and interlocutory application to be joined to the respondent's appeal, regarding the matter of name suppression.

[4] By consent, all matters in the High Court were adjourned to enable the Tribunal to reconsider the matter of name suppression in the light of further evidence available from both Mr Q2 and other interested parties.

[5] On 22 June 2023, Mr Collins, counsel for the National Standards Committee filed submissions in which the Committee consented to the making of a suppression order in the light of further evidence available from Mr Q2 and submissions from the further interested parties.

[6] In those submissions Mr Collins helpfully reviewed a number of precedents in the criminal jurisdiction, on the issue of 'similar names'. However, counsel noted that

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<sup>1</sup> *National Standards Committee 2 v Mr Q* [2023] NZLCDT 14.

the jurisdiction of this Tribunal is considerably more flexible than that in the criminal jurisdiction and that the threshold for suppression is a lower one, involving the consideration of whether it is “proper” having regard to the competing interests set out in s 240<sup>2</sup>.

[7] Despite the existence of a consensus among the parties as to suppression being proper in this case (with the exception of opposition by a representative of the media, Mr Wilkinson), the Tribunal is required to independently consider the matter afresh in the light of all of the available evidence and submissions.

[8] The “other person(s)” referred to in s 240 and involved in this matter are:

- (a) The complainants.
- (b) Mr Q2.
- (c) The practitioner’s family members.

[9] In the earlier decision, the interests of the practitioner were weighed against the public interest in the openness of the disciplinary process and transparency, in reaching a view as to whether the practitioner ought to be identified. At that stage, the Tribunal’s view was that the interests of the practitioner did not sufficiently tip the balance from the starting point of ‘open justice’, and the suppression of his name was refused. Suppression of the complainants’ names and the practitioner’s firm were granted. That order continues.

[10] We have reconsidered the matter as requested by the Honourable Court. Mr Q2 is also a legal practitioner. He shares the practitioner’s (uncommon) name and there are other significant similarities between the two. We accept there is a real likelihood of Mr Q2 being unfairly associated with Mr Q’s misconduct. We have had regard to the fact that one of the two victims supports suppression and also to the effect of publication on the practitioner’s family members. Taking this unusual combination of factors together, we consider that the balance has now been tipped firmly in favour of suppression of the practitioner’s name.

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<sup>2</sup> The section is set out on our previous decision, see above n 1.

[11] We consider this to be proper in the context of s 240 to avoid confusion with Mr Q2 and the consequent damage to his reputation and his legal practice, having regard to the very serious findings of misconduct made by the Tribunal against Mr Q and his suspension from practice.

[12] For the above reasons, we grant an order suppressing the respondent practitioner (Mr Q's) name.

**DATED** at AUCKLAND this 18<sup>th</sup> day of July 2023

DF Clarkson  
Chairperson