

THE NAMES OF THE COMPLAINANT AND HER SISTER, THE FAMILY NAME OF THE CLIENT, MR PARK'S FORMER EMPLOYER AND FIRM NAME, MR PARK'S FELLOW EMPLOYEE WHO ATTENDED THE 22 JUNE MEETING, AND THE NAME OF THE LAWYER WHO PROVIDED AN OPINION OF THE WILL FOR MR PARK'S FIRM SHALL NOT BE PUBLISHED. FURTHER ORDER FOR NON-PUBLICATION OF FINANCIAL INFORMATION OF MR PARK. THESE ORDERS MADE PURSUANT TO S 240 LAWYERS AND CONVEYANCERS ACT 2006.

**NEW ZEALAND LAWYERS AND  
CONVEYANCERS DISCIPLINARY TRIBUNAL**

[2024] NZLCDT 6  
LCDT 006/23

**IN THE MATTER**

of the Lawyers and Conveyancers  
Act 2006

**BETWEEN**

**AUCKLAND STANDARDS  
COMMITTEE 3**  
Applicant

**AND**

**JOSEPH BOAZ PARK**  
Respondent

**CHAIR**

Dr J Adams

**MEMBERS OF TRIBUNAL**

Ms N Coates (by audio-visual link)

Ms M Noble

Ms M Scholtens KC (by audio-visual link)

Dr D Tulloch (by audio-visual link)

**HEARING** 16 February 2024

**HELD AT** Specialist Courts and Tribunals Centre, Auckland

**DATE OF DECISION** 14 March 2024

**COUNSEL**

Ms E Mok for the Standards Committee

Dr A Paul for the Respondent Practitioner

## DECISION OF TRIBUNAL RE PENALTY

[1] Mr Park was found guilty of unsatisfactory conduct in two respects: incompetence in drafting a will, and lack of courtesy towards a beneficiary in the estate he was administering. In short, Mr Park clumsily drafted a will with the result that it appeared to give the entire estate to him. Later, he persisted in communicating in Korean language (the first language of Mr Park and the beneficiary) despite the beneficiary's express request that they communicate in English. We found that he was discourteous to ignore her choice of cultural identification. The facts are more amply set out in our liability decision.<sup>1</sup>

[2] Most of the charges brought against Mr Park were dismissed: we found that he was over-charged. The Standards Committee seeks an order that Mr Park contribute 20 per cent of their costs (after deducting certain time-consuming costs involved in communicating with the complainant). The Standards Committee seeks a reprimand (censure) and a fine.

[3] Our main penalty concerns are to maintain proper professional standards and to protect the public.

[4] We found Mr Park to be an honest and industrious practitioner. His conduct indicated a degree of inflexibility. He was not willing to acknowledge wrongdoing or shortcomings. His incompetence in drafting the will produced a bizarre outcome but his conduct showed that his intentions were always to carry out what his client wanted. There was no risk of loss. Nonetheless, for the public benefit, we are concerned to ensure that his practise will be adequately supervised for the next two years.

[5] We agree with Ms Mok's submissions that a fine and censure will appropriately pitch our penalty response. Mr Park has had the embarrassment of publication of his name in relation to this case. He is in modest financial circumstances (details of his affidavit on that topic is the subject of a non-publication order to protect his privacy) but

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<sup>1</sup> *Auckland Standards Committee 3 v Park* [2023] NZLCDT 51.

we are conscious of a need to send a message to both public and profession that these two instances of shortcoming cannot properly be dealt with in a negligible manner.

[6] Professional error is always a risk where a lawyer embarks on work in an unfamiliar area. A message in this decision is that lawyers must take care, seek assistance, even where the task may seem simple. It is the responsibility of the professional to protect their client against inadvertent error by seeking guidance in such cases.

[7] Mr Park's persistence in communicating in Korean is understandable because the beneficiary could readily understand what he wrote. The area in which he transgressed was in failing to accept her wish to speak English, the language she chose to identify with since she moved to New Zealand many years earlier. As we said in our liability decision, we are not suggesting Korean is inferior to English – but, in the context, he should have yielded to the beneficiary's request as acceptance of her cultural identity.

[8] We find that the level of contribution to costs (20 per cent) advanced by Ms Mok appropriately balances the needs of justice in this case. That amounts to \$12,504.08. We adopt the same percentage in relation to the Tribunal costs payable by the New Zealand Law Society under s 257 LCA.<sup>2</sup>

[9] Mr Park has taken new employment since the events that gave rise to the charges. His new employer has agreed to supervise him and provide short quarterly reports to the Tribunal for a period of two years. We treat this as an appropriate safeguard for the public interest.

[10] Our penalty orders are as follows:

1. Mr Park is censured in terms set out at the end of this decision.
2. Mr Park shall pay a fine of \$5,000.

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<sup>2</sup> Lawyers and Conveyancers Act 2006.

3. Mr Park's professional practise shall be supervised by Xing Zhan in terms set out in her affidavit, and she shall provide short quarterly email reports on progress to the Tribunal for a period of two years.
4. Mr Park shall pay \$12,504.08 as a contribution to costs of the Standards Committee.
5. The New Zealand Law Society shall pay the Tribunal costs in the sum of \$22,890.
6. Mr Park shall reimburse the New Zealand Law Society for 20 per cent of the Tribunal costs, that is, \$4,578.

Censure:

Mr Park, you have been found to have been incompetent in drafting a will, and to have discounted a beneficiary's reasonable request that you communicate with her in English rather than Korean. It is important that lawyers take care when dealing in areas they lack experience to avoid inadvertent error. It is also important that members of the public be treated with respect. Failures in these areas can bring the profession into disrepute.

[11] Suppression orders were made on 20 November 2023, as recorded in para [119] of the Tribunal's decision on liability.<sup>3</sup> A further order was made on 16 February 2023 that there be non-publication of Mr Park's financial information to be filed. These orders made pursuant to s 240 LCA.

**DATED** at AUCKLAND this 14<sup>th</sup> day of March 2024

Dr JG Adams  
Deputy Chair

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<sup>3</sup> See above n 1.