LCRO 135/2014

CONCERNING	an application for review pursuant to section 193 of the Lawyers and Conveyancers Act 2006
AND	
CONCERNING	a determination of the [Area] Standards Committee
BETWEEN	**ZA** Applicant
AND	**YB** Respondent

DECISION

The names and identifying details of the parties in this decision have been changed.

Introduction

[1] Mr ZA has applied for review of a decision by the [Area] Standards Committee dated 15 May 2014 in which the Committee decided to take no further action with respect to Mr ZA's, pursuant to s 138(2) of the Lawyers and Conveyancers Act 2006 (the Act).

Background

[2] The background to Mr ZA's complaint is set out in the Committee's decision, which includes reference to the correspondence sent and received by the parties and the New Zealand Law Society between 10 December 2012 and 31 March 2014. The Committee summarised as the basis of Mr ZA's complaint what it described as his failure to "accept that Mr YB had an evidential or rational basis for making his

complaints"[1] about Mr ZA's conduct. The Committee formed the view that in all the circumstances further action on Mr ZA's complaint was unnecessary or inappropriate. It considered that it had sufficient information to determine the complaint, did not commence an inquiry of its own motion in the exercise of its function pursuant to s 130(c) of the Act, and "was satisfied, on the balance of probabilities that Mr YB had a sufficient basis for the making of the complaints, and had not acted in bad faith".

[3] Mr ZA objected to the Committee's decision, and has applied for a review.

Application for review

[4] On 18 June 2014 Mr ZA applied for a review on the following grounds:

> a. The Committee failed to actually address the heart of the complaint, which was namely that the practitioner made a complaint about me that was false or without sufficient foundation, e.g., in the allegation that I was without an instructing solicitor when in fact I at the outset advised the respondent who my solicitor was and so as such that complaint was egregious leap untrue;
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> b. The Committee took into account an irrelevant consideration, namely that it could have considered an own motion investigation into the respondent when that was completely besides the point, the real issue being whether or not his previous complaints against me (save for one which was upheld), were improper;
>
> c. The Committee breached natural Justice in failing to give reasons why the respondent "had shown a sufficient basis for making the complaints against" me and/or "had not acted in bad faith";
>
> d. The Committee failed to take into account that the respondent continued (in 2014). To make the allegation that I lacked an instructing solicitor, which meant either that he was continuing to attempt to perpetrate his earlier attempted fraud on the Committee or alternatively was cavalierly pressing with an allegation that he knew was baseless, either of which would be unethical and in any event, display poor judgment and/or a lack of contrition and thus mala fides.

[5] In reliance on a number of Tribunal cases that Mr ZA says make it "abundantly clear that misleading or accusing others improperly are very serious professional breaches",[2] Mr ZA's seeks "as relief" that this Office:

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[1] Standards Committee Decision at [15].

[2] *Canterbury District Law Society v Wood* [2009] NZLCDT 9 (21 August 2009), *Auckland District Law Society v Dorbu* [2010] NZLCDT 9 (8 June 2010) ["part rev'd sub non-on other grounds"], *Auckland Standards Committee v Comeskey* [2010] NZ LCDT 19 (23 July 2010), *Nelson Standards Committee v Webb* [2011] NZLCDT 2 (14 February 2011), *Canterbury Standards Committee v Sisson* [2011] NZLCDT 16 (5 July 2011), *Auckland Standards Committee v Hyland* [2014] NZLCDT 3 (31 January 2014), *Canterbury Westland Standards Committee v Horsley*

> … either remit the matter to a different Standards Committee for a reconsideration not inconsistent with his/her determination or exercise de novo jurisdiction to deal with the matter and refer the practitioner to the New Zealand Lawyers and Conveyancers Disciplinary Tribunal.

Review Hearing

[6] Mr ZA attended a review hearing on 23 October 2015. Mr YB was not required to attend and the review hearing proceeded in his absence with his consent. Mr ZA requested a copy of the audio of the review hearing. That has been provided to both parties.

Recusal Application

[7] Mr ZA requested my recusal from determining this review. For the reasons set out in the decision to which this decision is attached, bearing the same date as this decision, Mr ZA's request is declined.

Nature and Scope of Review

[8] The nature and scope of a review have been discussed by the High Court, which said of the process of review under the Act:[3]

> … the power of review conferred upon Review Officers is not appropriately equated with a general appeal. The obligations and powers of the Review Officer as described in the Act create a very particular statutory process.
>
> The Review Officer has broad powers to conduct his or her own investigations including the power to exercise for that purpose all the powers of a Standards Committee or an investigator and seek and receive evidence. These powers extend to "any review" …
>
> … the power of review is much broader than an appeal. It gives the Review Officer discretion as to the approach to be taken on any particular review as to the extent of the investigations necessary to conduct that review, and therefore clearly contemplates the Review Officer reaching his or her own view on the evidence before her. Nevertheless, as the Guidelines properly recognise, where the review is of the exercise of a discretion, it is appropriate for the Review Officer to exercise some particular caution before substituting his or her own judgment without good reason.

[2014] NZLCDT 9 (19 March 2014), and *National Standards Committee v Orlov* [2013] NZLCDT 45.

[3] [redacted] [2012] NZHC [redacted] [2012] NZAR [redacted] at [39]-[41].

[9] More recently, the High Court has described a review by this Office in the following way:[4]

> A review by the LCRO is neither a judicial review nor an appeal. Those seeking a review of a Committee determination are entitled to a review based on the LCRO's own opinion rather than on deference to the view of the Committee. A review by the LCRO is informal, inquisitorial and robust. It involves the LCRO coming to his or her own view of the fairness of the substance and process of a Committee's determination.

[10] Given those directions, the approach on this review, based on my own view of the fairness of the substance and process of the Committee's determination, has been to consider all of the available material afresh, including the Committee's decision to ascertain whether the complaint raises any disciplinary issues that fall to be determined on review.

Analysis of review grounds

First Review Ground

[11] Mr ZA's first concern is that the Committee did not address the heart of his complaint. Mr ZA says the heart of his complaint was that Mr YB had made a complaint about him "that was false or without sufficient foundation". He referred by way of example to an allegation that Mr ZA "was without an instructing solicitor". Mr ZA says that he advised Mr YB "at the outset" that Mr [JN] was his instructing solicitor. Mr ZA says, on that basis alone, Mr YB's complaint was "egregiously untrue".

[12] Mr ZA's letter of complaint is dated 3 February 2014. Attached to the letter are three attachments, A, B and C. A and B are letters from Mr YB to NZLS respectively dated 10 December 2012 and 6 June 2013. Mr ZA describes the first of these as a "purported" complaint, and notes that in the second, the "grounds of complaint shifted", and that Mr YB has referred to an event on 11 December 2012, which Mr ZA says "obviously could not have formed the basis of his original "complaint".

[13] The complaint says that Mr YB made a number of "highly improper allegations" against Mr ZA, and that Mr YB thereby contravened his obligation to treat Mr ZA with "due courtesy and respect". Mr ZA lists allegations of "a fraudulent,

[4] [redacted] [2016] NZHC [redacted], [2016] NZAR [redacted] at [2].

misleading and baseless nature", says those were "intended to vex [him], or abuse the complaints procedure and that the allegations made by Mr YB have caused Mr ZA's "reputation, interest and occupation needless embarrassment, distress or inconvenience by virtue of the many hours [he] had to waste addressing the allegations".

[14] Mr ZA lists his particular concerns. The first is an allegation Mr ZA describes as:

> … downright false, i.e., the allegation I lacked an instructing solicitor, when in fact in an email of Monday, 10 December 2012 7:50 p.m. I advised that "Mr [JN] in instructing in this matter, I have courtesy copied him in for convenience, but he prefers you deal with my offices directly.

[15] Mr YB first articulated his concern about whether Ms [RI] had directly instructed Mr ZA or anyone at his Chambers in his letter of 10 December 2012 to NZLS. The question is not whether Mr YB's concern was valid or not. The point is that Mr ZA says he first identified his instructing solicitor to Mr YB at 7:50pm, that is, after close of business, on 10 December 2012. It is therefore reasonable to conclude that at the time Mr YB recorded his concerns in his letter to NZLS, he knew Mr ZA's Chambers had accepted Ms [RI]'s instructions, knew Mr ZA's Chambers was a barrister's chambers, but did not know whether or not an instructing solicitor had intervened as rule 14.6 requires. On the basis of the evidence, there is no reason to explore that point further.

[16] The second concern articulated by Mr ZA was that he is said to have accused Mr YB's secretary of lying when in fact, Mr ZA says he had done no such thing, and that Mr YB had no evidential basis on which to assert that he had.

[17] This ground relates to a disagreement that arose from a discussion between Ms [QJ], an assistant employed by Mr YB's firm, and Mr ZA shortly before Ms [RI]'s files were released. Ms [QJ] told Mr ZA that Mr YB was in a particular court. Mr ZA said that his name did not appear on the Court's list.

[18] Court lists are not an infallible record of a lawyer's whereabouts.

[19] Ms [QJ] had recently been dealing with Mr [UF] of Mr ZA's chambers, in respect of the uplift of Ms [RI]'s file. It was part of Ms [QJ]'s role to field Mr [UF]'s enquiries in addition to what appear to have been substantial other calls on her time.

There is evidence of an unusual level of tension which would not have decreased with receipt of the uplift request.

[20] Mr YB had told Ms [QJ] shortly before the files were released that she was not authorised to release the file. From her perspective that would have been an end to the matter until she received further direction. There is no reason to think she should have rebelled against her employer's directions. All she could reasonably do if she were asked to provide the file was decline.

[21] Mr YB also provided Ms [QJ] with information about his whereabouts. She passed that information on to Mr ZA, but he did not simply accept it. Mr ZA may well be correct in saying he did not accuse Ms [QJ] of lying. However, it is not difficult to understand how recent events might have led her to receive his comments as a challenge to her account of Mr YB's whereabouts, and taken from that the inference that he was calling either her or Mr YB a liar.

[22] Ms [QJ] is an employee of Mr YB's firm. They owe one another obligations of good faith. Employers commonly rely on their employee's accounts of events. There is nothing in the circumstances to suggest Mr YB should not have relied on Ms [QJ]'s perceptions of her dealings with Mr ZA and his chambers. There is also no reason to pursue this aspect of the complaint further.

[23] The third concern expressed by Mr ZA is that another of the allegations put by Mr YB did not relate to his conduct, but to that of another lawyer, Mr [UF]. Mr ZA describes that allegation as "completely frivolous, in so far as [he] was concerned".

[24] Mr ZA is Mr [UF]'s principal; Mr [UF] was a lawyer under the Mr ZA's supervision and management. Mr ZA was under an obligation to ensure his practice, and the conduct of employees was at all times competently supervised and managed. Mr YB's complaint of 10 December 2012 refers to the authority Mr ZA says Ms [RI] signed. That was sent by Mr [UF] to Mr YB's offices. Mr [UF] pursued the request to uplift Ms [RI]'s files with some vigour. Mr ZA's view is that Mr YB's attribution of potential responsibility for conduct by Mr [UF], to Mr ZA, was "completely frivolous". That view is inconsistent with Mr ZA's obligation to supervise and manage Mr [UF]. Whether it was ultimately correct or not, there was a valid basis for that aspect of Mr YB's complaint to relate to Mr ZA. There is no reason to pursue that concern further.

[25] Mr ZA says that, were he in a position to do so, he would "submit the entirety of [Mr YB's] many allegations were without merit. While I can understand Mr ZA's dissatisfaction with the situation he finds himself in, I have considered all of the allegations in Mr YB's correspondence. On the basis of all of the information available on review, without traversing the detail of each, I disagree with the conclusion that the entirety of the allegations Mr YB made are without merit.

[26] Mr ZA expresses concern that the grounds of Mr YB's complaint shifted between his letter of 10 December 2012 and the letter he sent in response to the request for clarification from NZLS dated 6 June 2013. Mr ZA also refers to Mr YB having related an event on 11 December 2012, which Mr ZA says "obviously could not have formed the basis of his original "complaint".

[27] Mr YB's letter of 6 June also refers to a letter of complaint by his firm dated 24 December 2012. It is therefore not restricted to events that occurred on or before 10 December 2012. The file was uplifted on 11 December. The letter of 6 June 2013 records events as they had become apparent to Mr YB. There is no obvious reason for Mr YB to have laid a separate complaint reporting Ms [QJ]'s concerns about Mr YB's conduct on 11 December 2012 when, from the perspective of those in Mr YB's office, those events were a continuation of events on the 10th.

[28] Mr ZA's assertion that Mr YB made a number of "highly improper allegations" against him is not well supported. Certainly Mr YB made a number of allegations. None reach a point where they were improper. While there is room for a wide range of views, the submission that Mr YB contravened his obligation to treat Mr ZA with "due courtesy and respect" is not well supported by the evidence. There was some basis for Mr YB's concerns about the conduct of the lawyers from Mr ZA's chambers, particularly given his understanding that the transfer was not as urgent as Mr ZA's team appears to have believed.

[29] Mr YB's complaint relies on his view of how a reasonable lawyer in Mr ZA's position would have handled matters. There is room for a range of views. However, it should be assumed that Mr ZA's chambers acted in accordance with Ms [RI]'s instructions about rapidly approaching deadlines. Those instructions would have had an effect on how her new lawyers interacted with her former ones.

[30] Mr ZA lists allegations by Mr YB of "a fraudulent, misleading and baseless nature", saying those were "intended to vex [him], or abuse the complaints procedure

and that the allegations made by Mr YB have caused Mr ZA's "reputation, interest and occupation needless embarrassment, distress or inconvenience by virtue of the many hours [he] had to waste addressing the allegations".

[31] The propositions that Mr YB's complaint was fraudulent, misleading and baseless are not well supported as is the hypothesis that Mr YB's complaint was intended to vex Mr ZA. It does not take a finding adverse to anyone at Mr ZA's chambers to conclude Mr YB's complaint was not an abuse of the complaints procedure.

[32] That said, it is difficult to imagine any lawyer welcoming a complaint. It takes time and energy to respond to complaints. Almost without exception, receipt of a complaint gives rise to a level of anxiety and apprehension as to the outcome. I therefore accept that Mr ZA has been inconvenienced by the time it has taken to address the allegations, as, no doubt was Mr YB. However, given the statutory complaints regime, the time and inconvenience associated with responding to complaints are seemingly unavoidable incidents of the practice of law from which no lawyer can expect to be exempt.

[33] I am unable to identify any substance to the first review ground, or any purpose to further pursuit of the concerns raised therein.

Second Review Ground

[34] Mr ZA's second review ground relates to the Committee having taken into account the possibility that it could have considered an own motion investigation into Mr YB's conduct. Mr ZA says that was irrelevant, and that the real issue was whether or not Mr YB's previous complaints about Mr ZA's conduct were improper.

[35] There is no substance to this review ground, and no purpose to be served by delving further into it.

Third Review Ground

[36] The Committee breached natural justice in failing to give reasons why Mr YB "had shown a sufficient basis for making the complaints against" Mr ZA, and "had not acted in bad faith".

[37] Complaints are generally presumed to be made on the basis of reasonable evidence, and in the general run, to have been made in good faith. In some cases, the evidential grounds and reasons for complaint are clearer than in others. There may on occasion be some good reason why the presumption of good faith does not apply. Speculation, surmise, and undue suspicion would be examples of insufficiently good reasons to displace general presumptions. Those are the types of basis from which Mr ZA's concerns arise.

[38] Mr ZA speculates as to Mr YB's motives for, what he says is, unduly delaying release of the file. Mr YB released the file in a matter of a few days. The request to uplift the file was not ignored. Mr YB responded to it promptly by writing to Ms [RI]. Mr ZA surmises Mr YB's ultimate aim was to retain Ms [RI] as a client. Beyond the suggestion that Ms [RI] might wish to reconsider terminating Mr YB's retainer because a pivotal point had been reached in settlement negotiations, Mr ZA's hypothesis is not supported by any evidence. Mr ZA suspects Mr YB sought to retain the client for his own ends. Beyond suspicion, there is no sound reason to believe that Mr YB's conduct was aimed at furthering his own ends rather than protecting and furthering Ms [RI]'s interests.

[39] On an objective view, it is not possible to conclude from the available evidence that Mr YB's complaints against Mr ZA were made without a sufficient basis, or in bad faith. As the third ground of review seeks to reverse the usual operating premises, and the subject matter of Mr ZA's concerns has been the subject of another Committee decision,[5] there is no particularly compelling reason for the Committee to have articulated detailed reasons in this decision. Nor is there any persuasive reason to consider this review ground further.

Fourth Review Ground

[5] Also the subject of review in LCRO 164/2013.

[40] The fourth review ground is that the Committee failed to take into account that Mr YB had maintained his concern that Mr ZA lacked an instructing solicitor in circumstances where Mr ZA had, by then, told Mr YB that he had an instructing solicitor, and had identified the instructing lawyer.

[41] Mr YB's original complaint made reference to the apparent absence of an instructing solicitor in the course of Mr [UF] attempting to uplift Ms [RI]'s files. Mr ZA's primary response to Mr YB was that whether an instructing solicitor was involved, and if so who that was, was none of Mr YB's business. Nonetheless, the instructing solicitor was identified. That material was before the Committee.

[42] The Committee later asked Mr YB to clarify the concerns he had set out in his letter of complaint. That appears to be what he has done. There is no sound reason to relate Mr YB's explanation of the concerns he had at the time to a continued attempt to press a baseless allegation. It was reasonable for Mr YB to leave it for the Committee to decide whether it required independent verification for it to be satisfied on the matters raised.

[43] There is no basis on which to allege fraud, attempted or otherwise, on the Committee.

[44] Given there was some evidence on the instructing solicitor question, and may well have been more, it is difficult to see how the Committee could have been misled. Any doubt could have been simply resolved by Mr ZA or his instructing solicitor providing the Committee with a copy of Mr JN's instructions to Mr ZA's chambers. Anything over which Ms [RI] might have claimed privilege could have been redacted. Mr YB's explanations of his concerns in his letters of 10 December 2012 and 6 June 2013 do not convey a sense of the cavalier.

[45] Mr ZA submits that in either case, Mr YB's conduct "would be unethical and in any event, display poor judgment and/or a lack of contrition and thus mala fides". Findings of that nature are not well supported by logic or by the evidence that is available on review.

"Relief" sought

[46] In support of his submission that Mr YB's conduct should be the subject of charges to the Tribunal Mr ZA relies on a series of cases that he says make it "abundantly clear that misleading or accusing others improperly are very serious professional breaches".

Canterbury District Law Society v Wood [2009] NZLCDT 9 (21 August 2009) (Wood)

[47] Mr Wood faced charges in the Tribunal. He was charged in relation to his failure to tell the Court and opposing counsel that his client was in receipt of legal aid, despite him being under a clear obligation to do so. The grant of aid affected Mr Wood's liability to the other party for costs, and the other party's rights in respect of the costs recovery. The Court directed Mr Wood to check his file. He did so, but still did not reveal that aid had been granted.

[48] The Tribunal concluded there was evidence of Mr Wood having made a deliberate decision to suppress key information. The contrary position was considered untenable on the evidence. Mr Wood's conduct was found to have fallen a "long way short of acceptable professional conduct", was misleading and deceptive, evasive and unprofessional. A finding of misconduct was made in respect of the charge.

Auckland District Law Society v Dorbu [2010] NZLCDT 9 (8 June 2010)

[49] The essence of Mr Dorbu's position was that he faced 12 charges arising from his involvement in a conspiracy by unlawful means involving others. Some charges were not proven and the finding on one was later quashed on appeal. However, Mr Dorbu was struck off in respect of charges relating to him having signed solicitor's certificates despite him being in practice as a barrister sole; acted where irreconcilable conflicts of interest existed; knowingly failed to discover documents in litigation; communicated directly with another lawyer's client; insulted and attacked the reputation of another lawyer without good cause; misled the Court by swearing a false affidavit in litigation; answered interrogatories in a way that did not sit comfortably with his duty of honesty to the Court as a lawyer. Mr Dorbu also made baseless derogatory comments about a Judge.

Auckland Standards Committee v Comeskey [2010] NZ LCDT 19 (23 July 2010)

[50] Mr Comeskey pleaded guilty to three charges before the Tribunal which included improprieties over his performance of his agreement with the Legal Service Agency as a provider of legal aid, and billing for services he had not provided. Mr Comeskey had sent juniors to Court and then billed legal aid for the time they had spent as though it was his own. He also made comments to the press he should not have made, and was found to have misled the Court by wrongly alleging the prosecution had misled the defence in a criminal matter. Mr Comeskey was not struck off, but penalty included a nine month suspension.

Nelson Standards Committee v Webb [2011] NZLCDT 2 (14 February 2011)

[51] Mr Webb faced three charges, one of which was proven as misconduct. That charge related to him having failed to disclose to UK lawyers that his parents were house sitting rent free in a property in New Zealand owned by the estate Mr Webb was administering, and for which he was accountable to the UK lawyers.

[52] The Tribunal concluded he deliberately did not disclose his parents were the house sitters, it was not an oversight. He did not manage the conflict of interest which was key to the finding of misconduct. Mr Webb was said to have been opportunistic and deceitful but not dishonest or fraudulent. He was found to have wilfully breached professional rules that promote independence and enable lawyers to avoid becoming compromised.

[53] Mr Webb was censured, ordered to pay costs and the privilege of practising on his own account was revoked until the Tribunal authorised otherwise.

Canterbury Standards Committee v Sisson [2011] NZLCDT 16 (5 July 2011)

[54] Ms Sisson obtained legal aid for her client. When her client's matter settled, Ms Sisson received settlement funds into her trust account. She then paid herself by deduction on an invoice rendered directly to her client, without seeking authorisation from the Legal Services Agency, and without her client having surrendered her grant of aid. Misconduct was proven, with the Tribunal noting Ms Sisson had abused the trust her client placed in her, by trying to bill her privately. Ms Sisson also contravened her obligations in respect of her contract with the Legal Services Agency, and avoided a standard deduction the Commissioner of IRD was making from legal aid payments directed to Ms Sisson.

[55] Ms Sisson was unsuccessful on appeal to the High Court[6] and declined leave to appeal further.[7] Her name was struck from the roll on 24 November 2011.[8]

Auckland Standards Committee v Hylan [2014] NZLCDT 3 (31 January 2014)

[56] Mr Hylan signed and certified a relationship property agreement knowing his client's husband was putting pressure on her to get the document signed, and that he intended to use it to deceive Immigration New Zealand in respect of the issue of a visa. His conduct was found to have lacked probity and integrity, was disgraceful, dishonourable, and fell a long way below acceptable standards.

[57] Mr Hylan was suspended for nine months and ordered to pay costs.

Canterbury Westland Standards Committee v Horsley [2014] NZLCDT 9 (19 March 2014)

[58] Mr Horsley entered into and continued a personal intimate relationship with a vulnerable young client while he continued to act. Mr Horsley denied any relationship to NZLS when questioned. His ability to fully represent his client's interests in Court was compromised. He misled his professional colleagues and his family as to the existence of the relationship. The Tribunal said his conduct was bad for the profession.

[59] Mr Horsley was suspended for two and three years concurrently and ordered to pay costs.

National Standards Committee v Orlov [2013] NZLCDT 45

[60] This decision is one of many relating to Mr Orlov's involvement with the disciplinary process. Mr Orlov faced a number of charges relating to his conduct, which included conduct towards a judicial officer. Mr Orlov levelled allegations without a proper foundation. The High Court later agreed with the Tribunal that Mr Orlov had not provided a proper foundation for the allegations he had made.[9]

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[6] *Sisson v The Standards Committee (2) of the Canterbury-Westland Branch of the New Zealand Law Society* [2013] NZHC 349.
[7] *Sisson v The Standards Committee (2) of the Canterbury-Westland Branch of the New Zealand Law Society* [2014] NZHC 223.
[8] Above at [1].
[9] *Orlov v NZLCDT* [2014] ZHD 1987 (21 August 2014).

[61] In all the circumstances of the case the High Court concluded striking off was a disproportionate response, placing weight on the fact that Mr Orlov's offending consisted of speech, rather than mistreatment of clients or their money. It was also a first "offence". As Mr Orlov had already been struck off for a period so had effectively served a period of suspension, no further penalty was imposed and the strike off order was quashed.

Summary

[62] Mr ZA is correct that it is "abundantly clear" from the cases on which he relies that "misleading or accusing others improperly are very serious professional breaches". In each case the lawyer's conduct was found to be misconduct by the Tribunal. However, it is not clear how Mr YB's conduct is similar to any of the conduct in the cases relied on such that analogy can safely be drawn. Nor does the evidence available on review logically lead to the proposition that Mr YB should face charges before the Tribunal.

[63] In the circumstances it is not possible to progress this review based on the grounds set out, or to generate the outcome sought.

Review Issue

[64] The question on review is whether the complaint raises any disciplinary issues to be determined. For the reasons discussed below, the answer to that question is no.

Discussion

[65] The bulk of the concerns Mr ZA raised in his complaint have been dealt with in the analysis of the review grounds above. The only remaining issue is whether it is necessary or appropriate to take any further action in respect of Mr ZA's complaint that Mr YB failed to treat Mr ZA (or any of the lawyers at his chambers) with respect and courtesy as rule 10.1 requires, either by making complaint, or by the terms in which complaint was made.

[66] As to the first point, the Act provides for any person to make a complaint. The Committee received the complaint and dealt with it accordingly.

[67] While Mr ZA is dissatisfied with the situation, it is not correct to say that the entirety of the allegations Mr YB made are without merit. Nor is there anything objectionable to the terms in which complaint was made. The complaint and further correspondence set matters out from the perspective opposite Mr ZA's.

[68] Having carefully reviewed all of the information available on review, my view is that by his conduct Mr YB did not contravene his obligation to treat other lawyers with respect and courtesy as rule 10.1 requires.

[69] In all the circumstances further action is not necessary or appropriate. The Committee's decision is therefore confirmed.

Decision

Pursuant to s 211(1)(a) of the Lawyers and Conveyancers Act 2006 the Committees decision is confirmed.

DATED this 31st day of August 2016.

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D Thresher
Legal Complaints Review Officer

In accordance with s 213 of the Lawyers and Conveyancers Act 2006 copies of this decision are to be provided to:

Mr ZA as the Applicant
Mr YB as the Respondent
Ms [VE] as a Related Party
The [Area] Standards Committee
The New Zealand Law Society