

**LEGAL COMPLAINTS REVIEW OFFICER  
ĀPIHA AROTAKE AMUAMU Ā-TURE**

[2021] NZLCRO 12

Ref: LCRO 227/2020  
LCRO 034/2021

**CONCERNING**

an application for review pursuant to section 193 of the Lawyers and Conveyancers Act 2006

**AND**

**CONCERNING**

a determination of [Area] Standards Committee [X]

**BETWEEN**

**PA**

Applicant

**AND**

**NL and  
UL**

Respondents

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

**Background**

[1] For the purposes of this decision, it is only necessary to provide a brief background to Ms PA's complaints, and I adopt the background sections from the Standards Committee determinations.

*Complaint 20775/6<sup>1</sup>*

1. Ms PA is involved in a relationship property dispute with her ex-husband, Mr PA.
2. Mr UL previously acted for Mr PA and Mr NL currently acts for Mr PA.
3. UL and NL are directors of [123] Trustees (20[xx] Ltd (123). 123 is a party named on an agreement for the sale of a property, along with Mr PA and XA (who is deceased).

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<sup>1</sup> Standards Committee determination (30 October 2020).

4. Ms PA says past litigation matters are now before the High Court and she is concerned about how N and U L have conducted themselves in the past regarding non-disclosure, and reducing the Trust to insolvency post-separation. She says they have not acted in good faith and their actions are almost criminal.

### *Complaint 20995/6*<sup>2</sup>

1. Ms PA is involved in a relationship property dispute with her ex-husband, Mr PA.
2. Mr UL and Mr NL work for L and G Law Ltd (L&G) and have both at times acted for Mr PA.
3. Ms PA says UL is advertised on the L&G website as a 'consultant' to the firm, yet he is shown on the Law Society register as a sole practitioner.

### **Ms PA's complaints**

[2] In general terms, Ms PA asserts that both respondents have acted in a misleading manner, given false information to various persons and acted in breach of their professional obligations and duties.

[3] She raises a number of instances which, she asserts, supports her complaints.<sup>3</sup> Briefly, her complaints are:

### *Complaint 20775/6*

- Mr UL misled the review officer in LCRO 02/2009.
- "Being a party to a sale and purchase agreement when not legally named on the property title."
- "Flouting the AML laws."<sup>4</sup>
- "Misleading the Real Estate Agents Authority."
- Giving false information to the liquidator of [123] Trustees Limited.
- Witnessing the signature of "an unauthorised signatory for [123] Trustees Limited".
- Breaching r 13.5 of the Conduct and Client Care Rules.<sup>5</sup>

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<sup>2</sup> Standards Committee determination (12 February 2021).

<sup>3</sup> Ms PA's complaints are difficult to comprehend, notwithstanding efforts to clarify them during a review hearing. As a result, they may not be accurately recorded in this decision.

<sup>4</sup> AML (Anti-money laundering).

<sup>5</sup> Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008.

*Complaint 20995/6*

- Mr UL's use of the L&G Landonline licence, having advised the New Zealand Law Society that he practises as a sole practitioner.
- Providing misleading information when including Mr UL on the L&G letterhead as a consultant.
- Breach of privacy, when Mr NL passed documentation relating to her former husband's dealings for registration to Mr UL.
- "Underhandedly" registering the Relationship Property Consent Order when no Authority & Instruction (A&I) had been signed.

**Mr L's responses**

[4] Neither Mr NL nor Mr UL responded to the complaints.<sup>6</sup>

**The Standards Committee determinations***Complaint 20775/6*

[5] The Committee determined that Mr NL was not in breach of rr 13.5.1 and 13.5.3 by acting for Mr PA and "in any case, it would be a matter for the court to decide whether in those circumstances he should continue to act".<sup>7</sup>

[6] The Committee noted that rr 11.1 and 13.1 "relate to deliberately dishonest conduct",<sup>8</sup> and "allegations of misleading the court and dishonesty are serious in nature, and it follows that such allegations need to be supported by cogent evidence".<sup>9</sup>

[7] The Committee did "not consider the evidence provided by Ms PA is sufficient to show Mr [U] L deliberately misled the LCRO".<sup>10</sup>

[8] The Committee noted Ms PA's advice that "past litigation matters involving N and U L, regarding her relationship property, are now before the High Court",<sup>11</sup> and remedies were available to Ms PA in that forum.

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<sup>6</sup> See discussion below at [18].

<sup>7</sup> Standards Committee determination, above n 1, at [16].

<sup>8</sup> At [19].

<sup>9</sup> Ibid.

<sup>10</sup> At [20].

<sup>11</sup> At [21].

[9] The Committee determined to take no further action on any of Ms PA's complaints.

*Complaint 20995/6*

[10] The Committee noted that Ms PA had already raised issues with the Registrar-General of Land about Mr UL's use of the L&G Law Landonline licence. Both the Deputy Registrar-General (Ms RJ) and the Registrar-General (Mr KT) had advised Ms PA that her issues had been investigated and they were satisfied that there were no issues arising out of Mr UL's operation of the Landonline system.

**Ms PA's applications for review**

*20775/6*

[11] Ms PA submits that the Complaints Service did not comply with s 137 of the Lawyers and Conveyancers Act 2006 by not forwarding a copy of her complaint to the respondents. She refers to the information leaflet provided by the Service which states that "the complaint will be copied to the lawyer complained about". She says this requirement has not been complied with.

[12] She does not consider that the Standards Committee has had regard to the whole of the respondents' conduct and has focused instead on the specific matters she raises. Ms PA says that by the time the Committee issued its determination "the substantive High Court hearing [had] occurred and [the] suggested remedy is a nullity...".<sup>12</sup> The remedy referred to by the Committee was to raise the matter before the Court.

[13] Ms PA does not consider that the Committee had conducted a sufficient investigation into her complaints and had a "duty to intervene" pursuant to s 163 of the Lawyers and Conveyancers Act due to the fact that [123] Trustees Limited had no IRD number or bank account.

[14] Ms PA remains of the view that Mr NL had breached rr 13.5.1 and 13.5.3 by continuing to act for Mr PA in the litigation which ensued.

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<sup>12</sup> Application for review part 7.

[15] Overall, Ms PA considers “the whole is greater than the sum of the parts”<sup>13</sup> and that the various matters she refers to supported her complaints. In general terms, she alleges that the respondents have a propensity to act in a misleading manner.<sup>14</sup>

20995/6

[16] Ms PA repeats her submissions that the Complaints Service have not followed the correct procedure by not forwarding her complaints to the respondents and that the Committee had not properly investigated her complaints.

*N and UL's responses*

[17] The respondents confirm that they were given the opportunity to respond to Ms PA's complaints but “did not consider a formal response was necessary”. Their response to the applications for review therefore constitute a first response to Ms PA's complaints. They say:

- With regard to the 2009 litigation: “Both parties were legally represented by very senior counsel, the matter was considered by Her Honour Judge [EC] and on the evidence provided in our submission there is no evidence of any intention by anyone to mislead the Court”.<sup>15</sup>
- CMS Trustees Limited was “only ever used as an independent trustee for client's family trusts. As such it was never required to have an IRD number or a bank account of its own”.<sup>16</sup>
- The courts have not been receptive to Ms PA's submissions that NL should not act for Mr PA.
- Ms PA did not sign the necessary A&I forms when requested to give effect to the consent orders made by the court. The orders were registered to enable the transfer of the properties to be effected.
- Litigation continues between Ms PA and her former husband.

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<sup>13</sup> At [6].

<sup>14</sup> She refers for instance, to a matter unrelated to herself (*[redacted]*) v *[123] Trustees Limited* – no citation provided).

<sup>15</sup> Response of N & U L to application for review at [5].

<sup>16</sup> At [6].

- L&G Law Limited holds a licence from Land Information New Zealand (LINZ). UL is engaged as a consultant and attends to conveyancing for the firm, using the firm's licence.
- The New Zealand Law Society has been notified of UL's status as an independent practitioner and consultant to L&G Law Limited.
- The firm has not failed any of the periodic audits conducted by LINZ.

## Process

[18] Ms PA has applied for reviews of the two Standards Committee determinations. Consequently, this Office allocated a separate file number for each review. The matters complained about by Ms PA are closely related. Both reviews have therefore been progressed together and this decision relates to both.

[19] Both of Ms PA's complaints were processed through the Early Resolution Service established by the Lawyers Complaints Service. Ms PA has taken issue with the fact that the Service did not forward a copy of her complaints to the respondents.<sup>17</sup> She says that the Complaints Service has not complied with s 137 of the Lawyers and Conveyancers Act 2006 and that the procedure outlined in the Service's explanatory brochure as to how the Complaints Service works has not been followed.

[20] The requirement for a copy of the complaint to be forwarded to the lawyer complained about is established by reg 9 of the Complaints Service and Standards Committee's Regulations.<sup>18</sup> Regulation 9(1) provides:

### **9 Procedure on receipt of complaint**

- (1) When a complaint is received, the complaints service must—
  - (a) acknowledge receipt of that complaint in writing; and
  - (b) as soon as is reasonably practicable, refer the complaint to a Standards Committee; and
  - (c) notify the firm to which, or the person or persons to whom, the complaint relates; and
  - (d) provide a copy of the complaint to that firm, that person, or those persons.

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<sup>17</sup> A copy of complaint 20995/6 was sent to the respondents on 5 February 2021. This was after the respondents had been contacted by the legal services officer and advised of the Committee's preliminary view that no further action was warranted.

<sup>18</sup> Lawyers and Conveyancers Act (Lawyers: Complaints Service and Standards Committees) Regulations 2008.

[21] The statement in the explanatory brochure provided by the Service refers to the complaint being forwarded to the lawyer if the complaint proceeds on a standard track. The Early Resolution Service process is not the standard track.

[22] This issue has previously been addressed in some detail by this Office.<sup>19</sup> Comments made by the review officer in that instance bear repeating here:

[118] I have given consideration to returning the matter to the Standards Committee with direction that the complaints be investigated by another Committee, however consistent with the ability of the LCRO to look at the complaints afresh, and mindful of the desirability for the parties of having complaints dealt with expeditiously, I consider it preferable to conclude the review.

[119] Whilst I have concerns about the process followed, I am not persuaded that the procedural concerns identified resulted in the inquiry into Mr UY's complaints being materially compromised.

[120] Having considered the conduct complained as articulated by Mr UY, and the submissions filed in support, I am satisfied that the Committee had sufficient information before it to give proper consideration to s 138.

...

[126] As has been observed by the High Court, it is the task of a Review Officer when conducting a review, to look at matters "afresh", and to bring a robust approach to the review.

[127] The requirement for complaints to be dealt with expeditiously is best met by me dealing with the issues raised by Mr UY.

[23] At the beginning of the review hearing,<sup>20</sup> I asked each party if they were content for me to complete this review, notwithstanding the irregularity. At the end of the hearing, I asked each party if they were content for me to complete the review by determining the substantive issues, rather than returning the complaint to the Standards Committee.

[24] All parties confirmed on each occasion that they wished me to proceed with a decision on the substantive matters raised.

[25] On that basis, I have proceeded with this review.

### **Scope of review**

[26] The scope of a review by this Office has been summarised by the High Court in the following manner:<sup>21</sup>

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<sup>19</sup> *UY v FB* LCRO 191/2019 (26 November 2020).

<sup>20</sup> Conducted by audio-visual means on 4 February 2022.

<sup>21</sup> *Deliu v Connell* [2016] NZHC 361, [2016] NZAR 475 at [2].

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.

[27] This review has been conducted in accordance with those comments.

## Review

[28] Ms PA asserts that both respondents have acted in a misleading manner, given false information to various persons, and acted in breach of their professional obligations and duties. Each of the matters she refers to are directed at supporting that general proposition.

### *Misleading the LCRO*

[29] In 2009, Ms PA applied for a review<sup>22</sup> of a Standards Committee determination of her complaint about Mr UL. In his response to that complaint, Mr L referred to paragraph 3(a) of a memorandum of consent entered into by Ms PA and her former husband. Mr L recorded this as saying:

*The settlement now agreed to:*

- (a) *has been reached following **property** disclosure by both parties of relationship property.*

In fact, the memorandum of consent read:

*The settlement now agreed to:*

- (a) *has been reached following **proper** disclosure by both parties of relationship property.*

Ms PA considers that Mr L misled the LCRO.

[30] A reasonable conclusion to draw about the incorrect wording, is that the change of the word 'proper' to 'property' was a typographical error. The sentence otherwise would not have had a sensible meaning.

[31] The error is of no consequence. In addition, Ms PA did not raise the matter at the time.

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<sup>22</sup> *P v H* LCRO 02/2009 (20 March 2009).



[32] This example does not support Ms PA's allegation that Mr L intentionally misled the review officer.

*Rule 13.5 Conduct and Client Care Rules*<sup>23</sup>

[33] Ms PA considers that both respondents have breached the requirements of rr 13.5.1 and 13.5.3, in that they may have been required to give evidence on behalf of Mr PA in the proceedings between her and Mr PA. These rules are linked to the requirement that a lawyer must not be conflicted when representing a client.

[34] Ms PA requested the Standards Committee to order that the respondents cease acting for Mr PA. That is an application to make to the Court. It is not an order that can be made by a Standards Committee, or this Office.<sup>24</sup>

[35] Mr NL advises:<sup>25</sup>

*In the High Court Mrs PA raised a number of accusations that NL should not be acting because he was in a conflict. These arguments were unsuccessful.*

[36] That is a complete answer to Ms PA's complaint.

*Other matters*

[37] Ms PA has raised a number of matters that can not be addressed by this Office:

- (a) She says that [123] Trustees (20xx) Limited (the firm's trustee company) was included as a vendor in an Agreement for the sale of [Property Address], when it was not a registered proprietor. The reason for this is unknown and was a matter for the other party to the Agreement to address. It is not a matter which supports Ms PA's general accusations that the respondents have acted in a misleading manner.
- (b) Similarly, the allegation that a document was not correctly witnessed is a matter which goes to the validity of the document. It is not a matter which supports Ms PA's complaints.
- (c) Any allegation that the respondents have misled the Real Estate Agents Authority should be made to that Authority.

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<sup>23</sup> Above n 5.

<sup>24</sup> Section 156(1) of the Lawyers and Conveyancers Act 2006 sets out the orders that can be made.

<sup>25</sup> NL's response to application for review (9 April 2021) at [21].

- (d) Whilst any Trust of which [123] Trustees (20xx) Limited was a trustee would need to be registered for tax purposes, the trustee does not hold property in its own right and does not therefore need to be registered. Any allegations concerning the status of the company would need to be raised with the Inland Revenue Department.
- (e) Allegations that the respondents provided false information to the liquidator of [123] Trustees (20xx) Limited needs to be made to the liquidator.
- (f) At the review hearing, Ms PA referred to s 163(h) of the Lawyers and Conveyancers Act. This section relates to incorporated law firms. [123] Trustees (20xx) Limited did not provide legal services.

[38] None of the allegations above support Ms PA's complaints, and this Office can not investigate complaints that involve other entities.

#### *Registration of Consent Orders*

[39] Ms PA describes registration by Mr UL of the Consent Orders made by the Family Court as "underhanded".<sup>26</sup> Clause 3(f) of the Order required Ms PA to sign the A&I forms required to register the transfers of the properties referred to. Mr NL has advised<sup>27</sup> that the appropriate forms were sent to Ms PA to be signed but that she failed to do so.

[40] Section 89(1) of the Land Transfer Act 2017 provides:<sup>28</sup>

**89 Vesting of land by court order**

- (1) A sealed copy of an order of a court of competent jurisdiction that vests an estate or interest in land in a person may be lodged for registration under this Act.

...

Mr L lodged the court order pursuant to this section. Use of the statutory provision can not be described "underhanded".

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<sup>26</sup> Complaint 20995/6.

<sup>27</sup> NL's response to application for review (9 April 2021).

<sup>28</sup> See s 99 of the Land Transfer Act 1952 for the previous provision.

*Use of the L & G Limited Landonline licence*

[41] Ms PA takes issue with the fact that Mr UL attended to registration of documents, using the L&G Limited Landonline account. Ms PA raised this matter with LINZ and has been advised by the Deputy Registrar (Ms RJ) that she “was satisfied that UL has the necessary permissions to certify e-dealing transactions for L&G Law”.<sup>29</sup>

[42] Ms PA says that the Deputy Registrar was misled by the fact that Mr UL is included on the firm’s letterhead as a consultant, whereas he practises as a sole practitioner. Ms RJ said:

*Even if Mr L works as a sole practitioner, and had his own Landonline licence, he could also be linked to L&G Law and complete transactions on their behalf.*

[43] If LINZ is satisfied with the use of the L&G licence by Mr UL, then there is no support for Ms PA’s allegations.

*Acting for Mr PA*

[44] To submit each document for registration, Mr L certified that he acted for the relevant party. Ms PA argues that Mr L was not acting for Mr PA and that the certificates are not correct.

[45] Mr PA would have been required to sign an A&I in which he “irrevocably authorised and instructed Mr UL to register the document” referred to in the form. The Registrar has authority to request evidence of the instructions<sup>30</sup> and Ms RJ has advised that she was “satisfied that for each of the certifications Mr L made, he holds sufficient evidence of his authority and instruction to act on behalf of the parties and to satisfy the requirements of s 30(1) of the Land Transfer Act 2017”.

[46] Ms RJ also provided a certificate of compliance pursuant to s 30 of the Land Transfer Act 2017. That certificate refers to Mr UL of L&G Law. Ms PA says that is misleading, as Mr UL is a sole practitioner.

[47] Mr NL has advised:<sup>31</sup>

27. Both the operation of L&G Law Limited and the operation of UL as an independent practitioner consulting to L&G Law was notified to the New Zealand Law Society.

28. As a consultant UL attends to conveyancing matters on behalf of the firm under our Landonline Licence.

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<sup>29</sup> Letter RJ to PA (22 September 2020)

<sup>30</sup> Pursuant to s 30(3) of the Land Transfer Act 2017.

<sup>31</sup> Above n 27.

[48] If Ms PA doubts that advice, she may make enquiries of the New Zealand Law Society.

[49] I do not consider it necessary, or appropriate, on the basis of Ms PA's scepticism, to call into question the statements made by Messrs L, or the correspondence and certificate provided by the Registrar and Deputy-Registrar of Lands.

### **Decision**

[50] None of the complaints made by Ms PA against either Mr UL, or Mr NL, are upheld.

Pursuant to s 211(1)(a) of the Lawyers and Conveyancers Act 2006, the determinations of the Committees to take no further action on Ms PA's complaints are confirmed.

### **Comment**

[51] Ms PA has continued ongoing litigation against her former husband since 2008. Her complaints against the respondents arise from the fact that they act for Mr PA. It is unreasonable for them to continue to be subject to ongoing complaints, which now border on being vexatious and an abuse of process. Section 210(1) of the Lawyers and Conveyancers Act enables this Office to "make such order as to the payment of costs and expenses as the Legal Complaints Review Officer thinks fit". Any future applications by Ms PA for review of a Standards Committee determination relating to the same matters may well result in an order for costs against Ms PA.

**DATED** this 22<sup>nd</sup> day of February 2022

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**O Vaughan**  
**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:

Ms PA as the Applicant  
Messrs N and U L as the Respondents  
Ms WS as a Related Person  
[Area] Standards Committee [X]  
New Zealand Law Society