

**NEW ZEALAND LAWYERS AND
CONVEYANCERS DISCIPLINARY TRIBUNAL**

[2013] NZLCDT 31
LCDT 001/13

IN THE MATTER

of the Lawyers and
Conveyancers Act 2006

AND

IN THE MATTER

of **TOE SEGA**, of Auckland

CHAIR

Judge D F Clarkson

MEMBERS OF TRIBUNAL

Mr C Lucas

Mr S Morris

Mr T Simmonds

Mr W Smith

HEARING at Auckland on 26 July 2013

APPEARANCES

Mr M Hodge, for the Standards Committee

Ms T Segal, Respondent

**RECORD OF ORAL DECISION OF NEW ZEALAND LAWYERS AND
CONVEYANCERS DISCIPLINARY TRIBUNAL**

[1] Ms Toe Segal has pleaded guilty to one charge that, in the course of her employment by a practitioner, she “...engaged in conduct that would if it were conduct of a practitioner render the practitioner liable to have his or her name struck off the roll, namely, whilst employed as a secretary by the practitioner, (she) misappropriated client funds and committed forgery.”

[2] The background to this charge is that Ms Segal has pleaded guilty in the District Court Criminal jurisdiction to six offences of dishonesty. The dishonesty occurred over a period in January and February 2012 and it occurred in the course of her employment as a legal secretary for a practitioner.

[3] The range of dishonesty includes forgery, four counts of using a document, namely misusing cheques, and finally theft of cash from clients.

[4] Although in monetary terms the scale of the offending could be seen as being at the lower end because the theft of cash was \$200 and the total of the cheques misused or attempted to be misused was \$1201.43, the Tribunal considers the offending itself to be of a particularly serious nature. It is serious dishonesty in our view.

[5] It was all for Ms Segal's personal benefit and it occurred when she occupied a role of trust in a legal firm with direct contact with clients and the responsibility of handling firm cheques. As such, it can be seen as undermining the trust that clients are entitled to have in providers of legal services and therefore goes to the reputation of the profession generally and more importantly to the issue of protection of the public. One of the primary functions of this Tribunal is to look to ensure those two issues: protection of the public and protection of the confidence of the public in the legal profession.

[6] Ms Sega has to her credit appeared today and entered a guilty plea to the charge and she apologises for her actions. She has explained to us the circumstances of her offending, which occurred when she was in difficult financial circumstances. I do not propose to say too much more about the circumstances which led to her offending, but she has acknowledged that she has found it difficult to apologise to the practitioner concerned because of her anger about her treatment in that she was not given time off for an appointment to try and seek financial advice to extricate herself from what she saw as impossible circumstances.

[7] Obviously the Tribunal cannot countenance or sanction any such response, that is, you simply cannot steal money Ms Sega because you are feeling angry or see that as a way out of your problem. We understand that given the consequences which you have had to face as a result of this offending and your subsequent community work and supervision and counselling that has entailed, that you will begin to see that is the case. Certainly your apology is acknowledged and accepted by the Tribunal.

[8] The Tribunal takes into account that since these charges began that Ms Sega has herself had a baby and is now responsible for the support not only of her mother, but also of her young baby and is only able to engage in part time work at present. She has no savings and no assets. Notwithstanding that we consider that an award of costs ought to be made because the profession ought not to bear the responsibility for the costs of this prosecution which are a direct result of her own actions which she acknowledges to be wrong.

[9] The orders we make are as follows:

[a] Pursuant to s 242(1)(h)(ii) that no practitioner or incorporated firm employ Ms Sega in connection with the practitioner's or incorporated firm's practice so long as this order remains in force;

[b] An order in favour of the Standards Committee of the New Zealand Law Society in the sum of \$5000 in respect of their costs;

[c] Pursuant to s 257 in respect of the Tribunals costs in the sum of \$2125;

[d] Pursuant to s 249 that Ms Sega repay to the New Zealand Law Society in addition to the \$5000 award of costs, the Tribunal costs in this matter.

DATED at AUCKLAND this 26th day of July 2013

Judge DF Clarkson
Chair