

**NEW ZEALAND LAWYERS AND  
CONVEYANCERS DISCIPLINARY TRIBUNAL**

[2014] NZLCDT 42

LCDT 015/14

**IN THE MATTER**

of the Lawyers and Conveyancers  
Act 2006

**BETWEEN**

**WAIKATO/BOP LAWYERS'  
STANDARDS COMMITTEE NO. 2**  
Applicant

**AND**

**MICHAELA GREANEY**  
Practitioner

**CHAIR**

Judge D F Clarkson

**MEMBERS OF TRIBUNAL**

Mr W Chapman

Mr A Lamont

Mr P Shaw

Mr S Walker

**HEARING** in the Specialist Courts and Tribunals Centre at Auckland

**DATE OF HEARING** 30 June 2014

**COUNSEL**

Mr G Hollister-Jones for the Standards Committee

No appearance for the practitioner

**DECISION OF NEW ZEALAND LAWYERS AND CONVEYANCERS TRIBUNAL  
ON CHARGES AND PENALTY**

[1] Today we are considering by way of formal proof in the absence of the practitioner two charges, laid in the alternative, which follow the respondent Michaela Greaney having been apprehended and charged with serious driving charges and then responded in a particular way.

[2] Ms Greaney has been served and has taken no steps in the proceedings and for that reason as indicated the Tribunal has proceeded on a formal proof basis.

***Background***

[3] The brief background is that on 29 May 2013 Ms Greaney was arrested and charged with refusing an Officer's request for a blood specimen and driving in a dangerous manner. The following day she was suspended from driving and released on Police bail.

[4] On 25 June 2013 she was arrested and charged with driving while suspended and having been served with the Informations on 25 June, she departed New Zealand on 5 July 2013 without having faced any of these three charges. Subsequently in the two Courts where the informations had been issued warrants for her arrest were issued.

[5] The primary charge pleads misconduct in that Ms Greaney engaged in conduct unconnected with the provision of regulated services but which would justify a finding that she is not a fit and proper person or is otherwise unsuited to engage in practice as a lawyer or that she engaged in conduct otherwise amounting to misconduct. That relies on the definition of misconduct set out in section 7(1)(b)(2) of the Lawyers and Conveyancers Act 2006.

[6] There is an alternate charge of unsatisfactory conduct in respect of breach of Rules 2, 2.2 and 13.2 of the Rules of Conduct and Client Care however in the event we do not need to address that charge.

[7] In submissions to the Tribunal today, Mr Hollister-Jones, on behalf of the Standards Committee, relies primarily on the conduct subsequent to the alleged criminal driving offending. That is proper in our view because we do not consider it correct for us to comment on the behaviour leading to the laying of the driving charges in order not to prejudice any rights she may have to ultimately defend the charges should she return to New Zealand. We have focused on the behaviour of the lawyer subsequent to being faced with those charges in departing the country and failing to answer them as she is obliged. It is submitted that this is conduct which renders her not fit and proper to practice. More specifically Mr Hollister-Jones submits:

“That it evidences a fundamental disregard of legal obligations it is inconsistent with the integrity expected of the legal profession and her conduct and attitude shows a lack of respect for the justice system, which is a breach of her obligations as an officer of the court and in summary affects the public’s confidence in the profession as a whole.”

[8] We accept those submissions. The evidence in support of the submissions and charge is set out in the affidavit of Constable Stokes who was the apprehending Officer and was also involved in dealing with Ms Greaney subsequent to her having been apprehended, in relation to service upon her of the various charging documents and was able to provide a chronology of the Court record.

[9] There is also evidence as to process matters in relation to the Standards Committee investigation, hearing and determination which is provided by Mr Garreth Heyns. That annexes the views expressed by Ms Greaney herself because she engaged to a certain extent in the Standards Committee process and indeed we have considered the reasonably lengthy submissions she provided to the Standards Committee.

[10] We find proved, on the balance of probabilities as required in terms of this Act, that Ms Greaney has left New Zealand at a time when she is facing serious driving charges, she has thus failed to appear to answer those charges and a warrant has been issued for her arrest. We do consider that is serious misconduct which reflects on her current fitness to practice as a barrister and solicitor therefore we find the first charge proved and the alternative charges does not now require consideration.

## ***Penalty***

[11] In terms of penalty, the submission for the Standards Committee is that there ought to be a two year suspension commencing today to effectively reflect a three year suspension. This is because on 9 July 2013 Ms Greaney, having left her employment, was removed from the register of practicing barristers and solicitors and thus has been out of practice for a year.

[12] A censure and costs orders are also sought.

[13] As to penalty, we do consider that this is serious misconduct, but it does not involve dishonesty. It is not offending related to regulated services so no client has been harmed by the current offending. However the profession's reputation has clearly been harmed by the publicity which followed upon Ms Greaney's departure from New Zealand, without having faced these charges and we also note that there is one previous adverse disciplinary finding of unsatisfactory conduct which did involve a client complaint.

[14] We have reached the view unanimously as a panel of five that suspension is necessary to reflect the seriousness of this offending. In all of the circumstances we consider that two years suspension is appropriate.

[15] We have considered this matter in relation to at least three other cases which had already some similarities in terms of the offending although they were considered at a time following convictions or establishment of criminal charges. Those matters are the *Toner*, *Beacham* and *Taffs*<sup>1</sup> matters respectively, and we consider that a two year suspension period for this practitioner is commensurate with other penalties imposed in these matters.

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<sup>1</sup> *National Standards Committee v Toner* [2013] NZLCDT 38, *Hawke's Bay Standards Committee v Beacham* [2012] NZLCDT 29, *Canterbury-Westland Standards Committee v Taffs* [2012] NZLCDT 13.

**Orders**

1. The two years suspension will commence on the date that Ms Greaney was removed from the register, that is 9 July 2013.
2. In addition we formally censure the practitioner for her behaviour and we propose to make an order for indemnity costs in favour of the Law Society in the sum of \$8,805.02 against the practitioner.
3. The section 257 Tribunal costs are ordered against the New Zealand Law Society. These are certified at \$2,215.00.
4. The final order is that pursuant to section 249 we also order costs against the practitioner to reimburse those section 257 costs to the New Zealand Law Society.

**DATED** at AUCKLAND this 30<sup>th</sup> day of June 2014

Judge D F Clarkson  
Chair