

**NEW ZEALAND LAWYERS AND  
CONVEYANCERS DISCIPLINARY TRIBUNAL**

[2012] NZLCDT 9

LCDT 022/11

**UNDER**

The Lawyers and Conveyancers Act  
2006

**BETWEEN**

**WELLINGTON STANDARDS  
COMMITTEE**  
Applicant

**AND**

**HAYLEY ANNE FAULKNER**  
Respondent

**CHAIR**

Judge D F Clarkson

**MEMBERS OF TRIBUNAL**

Ms S Gill

Mr M Gough

Ms S Hughes QC

Mr S Walker

**HEARING** at WELLINGTON on 3 April 2012

**APPEARANCES**

Mr D Laurensen for the Applicant

Mr B Bevan for the Respondent

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

[1] Ms Faulkner who was an employee of a legal firm has admitted a charge of misconduct which involved 21 instances of theft over a period of four-and-a-half months. Ms Faulkner had immediately owned up to her guilt when discovered.

[2] Ms Faulkner had stolen the money from her employer by making false entries which generated cheques of about \$15,500 in total over this period. On five occasions in the course of the behaviour she had forged a signature on the cheque.

[3] She faced criminal charges of using a document dishonestly for pecuniary advantage and was sentenced in January this year to 160 hours community work, nine months' supervision with special conditions and was ordered to pay reparation of \$21,188 by payments of \$25 per week. The discrepancy between the two figures is not able to be fully explained but there may have been further instances before the District Court than those that have been put before us. It matters little because what is clear is that the consequences to this young woman of her conviction and loss of her job and her good name will be long lasting and deeply significant and will no doubt affect her for the rest of her life.

[4] The purpose of this Tribunal is different from the Criminal Court. There is not a focus of punitive response but rather a protection of the public, and of the standing and protection of the legal profession, in dealing with people who transgress in this way.

[5] We are asked to make an order under section 242(1)(h)(ii) that Ms Faulkner not be employed by any practitioner or incorporated firm in connection with the practitioner or incorporated firm's practise, as long as this order remains in force. That order is not opposed by Ms Faulkner and I make that now on behalf of the Tribunal, by consent.

[6] That leaves the question of costs, of the Standards Committee, which amount to a little over \$11,000.

[7] There are in this case significant mitigating features. This is serious criminal behaviour which has been engaged in and there is no stepping away from that bald fact and indeed through her counsel, Ms Faulkner does not in any way attempt to minimise the seriousness of her offending. This was a breach of trust over an extended period. However, this young woman who was a clerical employee not a qualified solicitor, admitted her wrongdoing as soon as confronted. She has cooperated with investigation processes both in the Criminal Justice System where she pleaded guilty at the first opportunity and in this forum in cooperating with the investigation and thereby reducing the costs of it.

[8] Ms Faulkner has now taken a new path in her life, has enrolled as a full time student; thus the \$25 a week reparation is more significant to someone in her position than perhaps someone else in employment. And of course her conviction for such a serious dishonesty offence will be a difficulty for her in terms of future employment undoubtedly.

[9] The personal circumstances which are also, we consider in this case, significantly mitigating, are that this young woman was some years ago faced with huge family responsibilities and grief following the death first of her grandmother and then of her mother in 2005 following a very long illness.

[10] Mr Bevan has described to us how this young woman's positive and vibrant young life up to the age of 12 was reversed between the years of 12 and 18 while she watched her mother slowly dying of cancer and then following her mother's death only a week later, her father abandoned her and her two younger sisters into her care, leaving to start a new life only a week after her mother's funeral, in another part of New Zealand.

[11] Not surprisingly this young woman's response was to become somewhat depressed and not function at the optimum level and we consider that those series of events have had such a serious impact on her that they ought to have some recognition in the issue of what she contributes to the cost of this prosecution and having regard to her current financial situation.

[12] Mr Bevan advises from the bar that the monies stolen were used to meet household expenses rather than for more indulgent purposes as is somewhat seen in this Tribunal.

[13] We consider that in all the circumstances there ought to be some contribution to reflect the seriousness of this offending as well as the order that we have already made but we propose to limit the respondent's contribution to costs of \$1,000.

**DATED** at WHANGANUI this 12<sup>th</sup> day of April 2012

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Judge D F Clarkson  
Chair

### **ADDENDUM**

We are obliged in terms of section 257 to make an Order for the costs of the Tribunal against the New Zealand Law Society. This order is in the sum of \$438. We make no further order against the Respondent in respect of these costs.

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Judge D F Clarkson  
Chair