

**NEW ZEALAND LAWYERS AND
CONVEYANCERS DISCIPLINARY TRIBUNAL**

Decision No. [2009] NZLCDT 14

LCDT 09/09

IN THE MATTER

of the Law Practitioners Act 1982

BETWEEN

**AUCKLAND DISTRICT LAW
SOCIETY**

Applicant

AND

EMMA JANE GARNETT

Respondent

CHAIR

Judge D F Clarkson

MEMBERS OF TRIBUNAL

Mr G Craig

Mr O Vaughan

Ms C Rowe

Mr B Smith

HEARING at AUCKLAND on 5 October 2009

APPEARANCES

Mr P Collins and M Treleaven for applicant

Mr B Hart for respondent

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

Introduction

[1] This matter has been set down as what might be described as the penalty phrase of the hearing in relation to charges brought by the Auckland Standards Committee against Emma Jane Garnett. Mr Collins and Mr Treleaven are here for the Society and Mr Hart appears for the practitioner. Ms Garnett has not herself appeared today.

[2] Today is Monday and late Friday an application was received from Mr Hart for an adjournment on behalf of the practitioner. The adjournment was sought as I understand it largely to allow the provision of whether psychiatric evidence in respect of the practitioner. However after canvassing various matters with Mr Hart he accepted that this Tribunal has a different role from the role of the Court of Appeal for whom that evidence is to be primarily obtained in relation to the appeal sentence of Ms Garnett and concentrated more on the lack of time that he had to take instructions from his client on the claim for ancillary orders and costs.

[3] It is accepted that when the predecessor of this Tribunal had a brief hearing in January this year at which time the application was adjourned, that not only were the charges admitted by Ms Garnett but also consent was indicated to strike off and the hearing today primarily seeks the order to strike off and that the matter be concluded because these proceedings began in August of 2007.

[4] The proceedings have taken this long to complete and have come to be completed under the transitional provisions of the new Act because of the disposition of the criminal proceedings brought against Ms Garnett and the wish that she not be in any way impeded in respect of her defence in that matter.

[5] That is no longer an issue, she having pleaded guilty and been sentenced at District Court level and the only matter now for disposition of course, a very important matter from Ms Garnett's point of view, is her sentence appeal in the Court of Appeal.

[6] Given that really the issue then to be argued today or of any substance today was that of costs. The Tribunal is minded to deal with all other matters today. The Society I should indicate, oppose the adjournment because of the length of time it

has taken to reach this stage and any prejudice to Ms Garnett can be resolved by allowing her counsel some time to respond in written form by memorandum to the cost schedule which has been provided by the New Zealand Law Society and the Auckland District Law Society as it was when these proceedings commenced.

[7] Thus we propose to decline the application for adjournment and proceed to make the following orders:

- [a] There will be an order striking the name of Emma Jane Garnett, previously known as Emma Jane Ruthhagan from the role of Barristers and Solicitors at the High Court of New Zealand;
- [b] Counsel for Ms Garnett is to have seven days to file submissions in response to the costs schedules provided. That is to be accompanied by a declaration of Ms Garnett's financial means and resources;
- [c] Any response is to be filed within a further seven days and on that basis;
- [d] The application for costs will be reserved to be delivered in writing.
- [e] Publication of the orders is to be made as sought in paragraph 4.2 of Mr Collins' submissions;
- [f] The reservation that the names of the legal firms and the particular clients are suppressed permanently.

DATED at WELLINGTON this 5th day of October 2009

Judge D F Clarkson
Chairperson