



5 July 2011

**PRIVATE AND CONFIDENTIAL**

Ms Grace Haden  
P O Box 17463  
Greenlane  
Auckland 1051

and

Ms Winifred Hoadley  
Barrister  
74 Castor Bay Road  
North Shore City 0620

Dear Ms Haden and Ms Hoadley

**FILE 3862: Grace Haden / Winifred Hoadley**

We advise that Standards Committee 3 at its last meeting considered the complaint pursuant to Part 7 of the Lawyers and Conveyancers Act 2006 ("the Act") and decided that no further action would be taken in respect thereof. The reasons for the Committee's decision are as follows:

- [1] Ms Haden complained about the alleged conduct of Ms Winifred Hoadley. Ms Hoadley is a barrister sole and a trustee of Animal Welfare Institute of New Zealand (AWINZ).
- [2] Mrs Haden referred to the Rules of Professional Conduct of Barristers and Solicitors (since amended) in the first two aspects of her complaint:
- [3] A lawyer must use legal processes for proper purposes and not cause embarrassment, distress or inconvenience to another person's reputation, interests or occupation ( RPCBS - Rule 7.04);
- [4] Not attack a person's reputation without good cause (RPCBS - Rule 8.04 ).
- [5] Mrs Haden complained about Mrs Hoadley's conduct under the LCAAct:
  - i. Failure to uphold the rule of law (LCCC Rule 2);
  - ii. Observing duty as officer of court (LCCC Rule 2.1);
  - iii. Obstructing and defeating the course of justice (LCCC Rule 2.2);
  - iv. Use of legal processes for proper purpose (LCCC Rule 2.3);
  - v. Assisting in fraud or crime (LCCC Rule 2.4);
  - vi. Threats (LCCC Rule 2.7);
  - vii. Failure to promote and maintain improper standards of professionalism (LCCC Rule 10);
  - viii. Misleading or deceptive conduct (LCCC Rule 11.1);
  - ix. Duty of fidelity to Court absolute (LCCC Rule 13.1);
  - x. Failure to protect Court processes (LCCC Rule 13.2);
  - xi. Failure to advise alternatives to litigation (LCCC Rule 13.4);
  - xii. Attacking reputation without good cause (LCCC Rule 13.8);
  - xiii. Being a party to filing of any documents alleging fraud or dishonesty (LCCC Rule 13.8.1);

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- xiv. Failure to take adequate steps to ensure accuracy of the allegations (LCCC Rule 13.8.2);
- xv. Knowingly adducing evidence knowingly to be false (LCCC Rule 13.10).

- [6] Mrs Hoadley is a trustee of AWINZ and holds a current practising certificate as a barrister.
- [7] She was appointed a trustee of AWINZ on 10<sup>th</sup> May 2006 and elected as chair. At that time she was also involved with various other animal welfare or animal ethics organisations.
- [8] Shortly after her appointment, AWINZ sought legal advice regarding allegations and actions by Mrs Haden against AWINZ, incorporating actions about the website of that organisation and the actions of Mr Wells. The trustees of AWINZ resolved to seek legal advice and assistance from Brookfields solicitors. Mrs Hoadley on behalf of AWINZ instructed Brookfields as a source of independent legal advice. She did not advise AWINZ directly in her capacity as a barrister.
- [9] Mrs Hoadley refuted Mrs Haden's allegations and said she had never acted in a professional legal capacity in her position as trustee of AWINZ. She endorsed the response of Mr Nick Wright to this complaint and associated other complaints by Mrs Haden. She said that her role in matters was as a litigant, and none of those roles related to her professional legal role as a barrister.
- [10] In response, Mrs Haden repeated her complaints about Mrs Hoadley's conduct. She disagreed with Mrs Hoadley's contention that there was no complaint to answer and maintained that Mrs Hoadley *"was crucial to the cover up and was brought on board after the defendants had formally and legally registered AWINZ"*.
- [11] Mr Wells in his response to the complaints about himself also responded to the complaint about Mrs Hoadley. In his letter of 25<sup>th</sup> May 2011 he set out the sequence of events relating to the formation of AWINZ, the making of the original deed in 2000, the appointment resignation and replacement of trustees in 2006, and the giving of authority to file proceedings of trustees of AWINZ.
- [12] He supported Mrs Hoadley's assertion that she had done nothing wrong with respect to any activities of AWINZ including but not confined to the defence of the defamation proceedings brought by Mrs Haden.

#### **Applicable legislation**

- [13] This complaint is in respect of conduct that occurred prior to 1 August 2008. On 1 August 2008 the Lawyers and Conveyancers Act 2006 (the LCAct) came into force.
- [14] The pre-1 August 2008 conduct falls under the transitional provisions in section 351(1) of the LCAct. This means the relevant standards of conduct are those set out in ss. 106 and 112 of the Law Practitioners Act 1982, being conduct such that disciplinary proceedings could have been commenced under that Act. Disciplinary proceedings for negligent or incompetent conduct could only be justified if that conduct had been of such a degree or so frequent as to reflect on the practitioner's fitness to practise.

#### **The Committee's deliberations**

- [15] The Committee noted that Mrs Hoadley had distinguished her role as a trustee of AWINZ from any activities involving her provision of regulated services as a barrister. She had sought the opinion of Brookfields as an independent legal advisor. The Committee further noted that many aspects of the allegations set out by Mrs Haden had been presented to the District Court, the High Court and the Court of Appeal in various proceedings and were the subject of judicial consideration, comment and decisions. The Committee did not consider that it was appropriate to reconsider any such matters that had been the subject of litigation, whether or not Mrs Haden considered the matters resolved. The Committee noted that Mrs Haden had anticipated that the Committee would decline to take further action on the matters because of a "adequate remedy or right of appeal" as set out in Section 138(1)(f) of the LCAct, but noted that the matter fell to be considered under the transitional provisions in Section 351(1) of the LCAct.

### **Outcome**

[16] The Committee considered the issues raised by Mrs Haden in her complaint, the response by Mrs Hoadley and the further comments by Mrs Haden.

[17] The Committee was of the view that the allegations against Mrs Hoadley did not reach the required threshold for consideration of complaints under the Law Practitioners Act 1982 and consequently resolved to decline jurisdiction pursuant to section 351(1) of the Act to consider the complaint.

The date of this letter is deemed to be the date of the decision.

### **Entitlement to Review by Legal Complaints Review Officer (LCRO):**

The complainant, the person in respect of whom the complaint related and the NZ Law Society are entitled pursuant to section 193 of the Act to apply to the LCRO to have this decision of the Committee reviewed within 30 working days after the date of this letter. Any application for review must be directed to the LCRO's office, be on the prescribed form and accompanied by the prescribed fee of \$30.67. On review, the LCRO may:

- (a) Direct the Standards Committee to reconsider the whole or any part of the complaint; or
- (b) Confirm, modify or reverse the decision of the Standards Committee; and
- (c) Exercise any of the powers that could have been exercised by the Standards Committee in relation to this complaint.

*The LCRO's contact details are set out below:*

**Website:** <http://www.justice.govt.nz/tribunals/legal-complaints-review-officer/contact-us>

**Email:** [lcro@justice.govt.nz](mailto:lcro@justice.govt.nz)

**Phone number:** 0800 367 6838

#### **Postal Address:**

Legal Complaints Review Officer  
Private Bag 92020  
Victoria Street West  
Auckland 1142

#### **Physical Address:**

Legal Complaints Review Officer  
Tribunals Unit - Level 10  
Auckland District Court Building  
69 Albert Street  
Auckland 1010

This notification is provided pursuant to section 139 of the Act.

Yours sincerely



#### **Kristin Percy**

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New Zealand Law Society  
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cc: The Chief Executive Officer  
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