



NEW ZEALAND
LAW SOCIETY

NZLS EST 1869

Lawyers Complaints Service

16 October 2014

Personal and Confidential

Mr Paul Stichbury

Via Email: paulstichbury@gmail.com

Dear Mr Stichbury

File 11989 — Complaint by Mr Paul Stichbury against Ms Karen Price

Please find enclosed a Notice of Decision in relation to the above matter. You will see that the outcome is that no further action will be taken on the complaint and the reasons are set out in the decision itself.

Yours faithfully

pp
Richard Moss
Legal Standards Officer

Head Office

DX SP20202 or PO Box 5041, Lambton Quay, Wellington 6145, New Zealand
Law Society Building, 26 Waring Taylor Street, Wellington

Tel +64 4 472 7837 Fax +64 4 463 2984 Email complaints@lawsociety.org.nz

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| No. | 11989 |
| Concerning | Part 7 of the Lawyers and Conveyancers Act 2006 ("the Act") |
| And | |
| Concerning | a complaint from Paul Stichbury about Karen Price |

Notice of Decision by Wellington Standards Committee 3

Background:

- [1] Mighty River Power proposed to build a wind farm. The Turitea Board of Enquiry was established to consider the proposal and Ms Shonagh Kenderdine was appointed to chair the Board. Mr Stichbury was a landowner affected by the proposed wind farm. Ms Price was lead counsel for Mighty River Power.

Complaint:

- [2] Mr Stichbury, who is dissatisfied with the outcome of the Board of Enquiry, complains about Ms Price's role in the proceedings and decision of the Board. Mr Stichbury's principal concern is that Ms Price corrupted the process and colluded with Ms Kenderdine against the affected land owners. With respect to Ms Price he alleges suppression of information, collusion, deception, conflict of interest, misleading behaviour, influencing the media, attacking democracy, subversive conduct, fraud and unethical conduct.
- [3] Mr Stichbury alleges that Ms Price involved herself in the hearing as understudy to Ms Kenderdine and the manner of her involvement in the hearing and in the production of the final decision made her an agent of the Crown in the service of a State Owned Enterprise and hence subject to the Secret Commissions Act 1910 which he alleges Ms Price has breached.

Issues for the Standards Committee

- [4] In dealing with Mr Stichbury's complaint the Standards Committee must decide:
- (i) if Ms Price has breached a duty owed to Mr Stichbury;
 - (ii) if the complaints process is the correct forum for Mr Stichbury to resolve his concerns about the conduct of the Board of Enquiry; and
 - (iii) if Ms Price has breached the Secret Commissions Act.

Has Ms Price breached a duty owed to Mr Stichbury?

- [5] Mr Stichbury is convinced that Ms Price has acted corruptly and colluded to ensure an outcome satisfactory to her client. Mr Stichbury's complaint seems to be targeted at bringing Ms Price, or more correctly, Ms Price's client, in to line with his own views, that the wind farm should not be constructed.
- [6] Mr Stichbury's complaint about Ms Price is premised on a fundamental misconception about the duty owed by Ms Price to her own client and seems to be premised on a misconception that Ms Price owes a duty to Mr Stichbury and the affected land owners.
- [7] The nature of the relationship between Ms Price and Mighty River Power is that Ms Price has been retained to consider Mighty River Power's position in the context of the available facts and the relevant law, to set out the legal position as she sees it and to advise Mighty River Power accordingly. Mighty River Power's role is to assess that advice and to instruct

Ms Price. It is in the context of instructions Ms Price has received from the Mighty River Power that she has advocated, before the Board, on behalf of Mighty River Power.

- [8] Subject to any overriding duties to the court, Ms Price's duty is to her own client not the person on the other side of the dispute, Mr Stichbury. The principle that a lawyer's duty is owed to his or her client alone was expressed by Cooke J in *Allied Finance and Investments Ltd v Haddow & Co* [1983] NZLR 22, 24 (CA):

... the relationship between two solicitors acting for their respective clients does not normally of itself impose a duty of care on one solicitor to the client of the other. Normally the relationship is not sufficiently proximate. Each solicitor is entitled to expect that the other party will look to his own solicitor for advice and protection.

Hence, Ms Price has no duty to promote the interests of Mr Stichbury and the affected land owners.

- [9] The matters that Mr Stichbury has complained about are all examples of Mighty River Power not accepting his interpretation of the situation with respect to the impact of the wind farm. Mighty River Power is entitled to take a position that does not accord with Mr Stichbury's own and is entitled to have Ms Price advocate on its behalf. Neither Ms Price, nor more appropriately Mighty River Power, can be compelled through the complaints process, to review their position on the impact of the wind farm.

Is the complaints process the correct forum for Mr Stichbury to resolve his concerns about the decision of the Board of Enquiry?

- [10] Now, turning to the relationship between Ms Price, the Board of Enquiry and the Standards Committee considering this complaint, it is not the role of the Standards Committee, through the complaints process, to intervene in disputes within the jurisdiction of the Board of Enquiry.

- [11] It is also not the role of the Standards Committee, through the complaints process, to regulate the submissions made by lawyers on behalf of their clients in those proceedings. In relation to those submissions, it was for the Board to determine the veracity of any evidence presented and which submissions and evidence to accept or reject. If Mr Stichbury believes the Board has reached a wrong conclusion, or that the Board has been misled he should take legal advice on the proper way to challenge the Board's decision.

- [12] The Standards Committee must be careful to ensure it does not intrude on those areas reserved for the Board of Enquiry which was charged with dealing with the competing interests of the parties before it, including Mr Stichbury and the affected land owners. If those matters were now to be considered through the complaints process, as Mr Stichbury contends, then the complaints process would be acting as a substitute for the Board of Enquiry and would undermine the Board of Enquiry.

Has Ms Price breached the Secret Commissions Act 1910?

- [13] The Standards Committee has no jurisdiction to consider a breach of the Secret Commissions Act 1910.

Decision:

- [14] The Standards Committee, having considered the complaint, is of the view that the conduct of Ms Price does not breach any duty owed to Mr Stichbury. The Standards Committee therefore decided to take no further action on the complaint, pursuant to section 138 (2) of the Act as in its view no further action is necessary or appropriate and pursuant to section 138 (1) (f) of the Act as Mr Stichbury's remedy for the concerns he has raised is through the courts.

Right to apply for review – Legal Complaints Review Officer (LCRO)

If you have received this Notice, you may have a right to apply for a review of this decision by the LCRO. On review, the LCRO may:

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

Any application for a review of this determination must be lodged with the LCRO within 30 working days after a copy or notice of this determination is served on, given to, or otherwise brought to the attention of, the applicant for review. In the absence of proof to the contrary this is presumed to have occurred on the fifth working day after the date of this decision.

An application for review must be on the prescribed form and be accompanied by the prescribed fee of \$50.00. Contact details for the LCRO are:

Private Bag 92535
Wellesley Street
Auckland 1141

For further information about the LCRO and the review process, call 0800 367 6838 (extn 2) or go to: www.justice.govt.nz/tribunals/legal-complaints-review-officer/contact-us.

Unless the Standards Committee has directed otherwise this decision must remain confidential between the parties.



Charlotte von Dadelszen

Deputy Convenor, Wellington Standards Committee 3

Date: 14 October 2014

To: Mr Paul Stichbury
Ms Karen Price
New Zealand Law Society