



New Zealand
Health Practitioners
Disciplinary Tribunal

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DECISION NO.: 246/Nur09/118P

IN THE MATTER of the Health Practitioners
Competence Assurance Act 2003

AND

IN THE MATTER of disciplinary proceedings against
VAL BEATTIE LOCKETT,
registered nurse of Auckland

BEFORE THE HEALTH PRACTITIONERS DISCIPLINARY TRIBUNAL

HEARING IN WELLINGTON ON 17 AUGUST 2009

TRIBUNAL:

Mr Bruce A Corkill QC (Chairperson)

Dr Marian Bland, Ms Kaye Carncross, Ms Hazel Irvine
and Professor Ivan Snook (Members)

Ms Karen Crosby (Executive Officer)

Ms Helen Hoffman (Stenographer)

APPEARANCES:

Mr Matthew McClelland and Ms Helen de Montalk, for
Professional Conduct Committee

Mr Val B Lockett, in person

Introduction:

1. On 5 May 2009, a Professional Conduct Committee (PCC) appointed by the Nursing Council of New Zealand charged that Mr Lockett had been convicted in the Waitakere District Court of 17 charges of knowingly possessing objectionable material pursuant to section 131A of the Films, Videos and Publications Classification Act 1993, and that these convictions reflect adversely on his fitness to practise.
2. The charge stated:

“Particulars of Charge

The Professional Conduct Committee pursuant to s81(2) of the Act charges that, on 22 February 2007, Val Lockett was convicted in the Waitakere District Court of 17 charges of knowingly possessing objectionable material pursuant to section 131A of the Films, Videos and Publications Classification Act 1993 and that these convictions reflect adversely on his fitness to practise.

Particulars of Convictions

Mr Lockett was detected operating on the file sharing application known as “Kazaar”. He was found to be making available seven objectionable still image files. A search warrant was executed on his home and his computer was seized. Further objectionable publications which had been present but had since been deleted were able to be recovered from the computer. These images featured girls engaged in penetrative sexual acts with adult men, masturbating or positioned naked in seductive poses.”

Legal Principles:**Onus and standard of proof:**

3. The burden of proof was on the PCC.
4. As to standard of proof, the appropriate standard is the civil standard, that is proof to the satisfaction of the Tribunal on the balance of probabilities, rather than the criminal standard. The degree of satisfaction called for will vary according to the gravity of the allegations. The greater the gravity of the allegations the higher the standard of proof.
5. In the decision of *Z v Complaints Assessment Committee* [2009] 1 NZLR 1, a majority

of the Supreme Court stated that in civil proceedings in New Zealand (including disciplinary proceedings) there is a civil standard, the balance of probabilities, which is applied flexibly according to the seriousness of matters to be proved and the consequences of proving them. The Court endorsed the classic passage of Dixon J in *Brigginshaw v Brigginshaw* (1938) 60 CLR 336, 361-362 to the effect that the affirmative of an allegation must be made out to the reasonable satisfaction of the fact finder. Reasonable satisfaction is not a state of mind that is attained or established independently of the nature and consequence of the fact or facts to be proved. The seriousness of an allegation made, the inherent unlikelihood of an occurrence of a given description, and the gravity of the consequences flowing from a particular finding are considerations which must affect the answer to the question whether the issue has been proved to the reasonable satisfaction of the Tribunal.

6. Section 100(1)(c) of the Act provides that a registered health practitioner may be disciplined by the Tribunal where “... *the practitioner has been convicted of an offence that reflects adversely on his or her fitness to practise*”.
7. In *Pittwood* (84/OST06/42P), there is a careful review of the second limb of the phraseology, “*reflects adversely*”, which this Tribunal adopts.
8. In *Re Zauka* (Decision 236/03/103C, 17 July 2003) the Medical Practitioners Disciplinary Tribunal was required to consider a similar provision – section 109(1)(e) of the Medical Practitioners Act 1995. That Tribunal, guided by observations of the District Court in *CAC v CM* [1999] DCR 492, stated:

“It was not necessary that the proven conduct should conclusively demonstrate that the practitioner is unfit to practise. The conduct will need to be of a kind that is inconsistent with what might be expected from a practitioner who acts in compliance with the standards normally observed by those who are fit to practise medicine. Not every divergence from recognised standards will reflect adversely on a practitioner’s fitness to practise. It is a matter of degree.”

9. In *Murdoch* (Phys06/45P), the Tribunal stated:

“Fitness to practise cannot, in the context of a conviction, relate only to the practitioner’s clinical ability. It must also involve the moral consideration and conduct which offends the law or is immoral or unethical, must affect adversely on the practitioner’s fitness to practise. Registration carries with it obligations to behave in a way which is ethical, honest and in accordance with the law. Failure to uphold the law or dishonesty must adversely affect a practitioner’s fitness to practise.”

10. In *Professional Conduct Committee v Martin* (Gendall J, 27 February 2007, CIV-2006-485-1461) the Court stated:

“Fitness often may be something different to competence. ... aspects of general deterrence as well as specific deterrence remain relevant. So, too, is the broader consideration of the public or community’s confidence in the upholding of the standards of the nursing profession.” (paragraph [46])

11. The Tribunal accepts and applies the above principles, in this case.

The Facts:

12. The following summary of the factual position was presented to the District Court:

“On the 2 September 2005 an Inspector of Publications from the Department of Internal Affairs was monitoring the internet for child pornographers. The Inspector was scanning the users of an internet application called KaZaa. This application allows its users to share and download files from other KaZaa users. Still images, moving images and music files can be obtained by typing in a search keyword, which would describe the type of file the user wanted to get. KaZaa then searches its users’ shared folders, and provides the searcher with the names of files similar to those he has requested.

The Inspector detected a New Zealand user using the nickname “anonymous-user@KaZaa” who was making available still image files. The titles of the files indicated that they were depicting children in sexual acts.

The Inspector downloaded 7 files from “anonymous-user@KaZaa”’s shared folder. The 7 files were viewed and all are believed to be objectionable within Section 3 of the Films, Videos, and Publications Classification Act 1993, in that they depicted prepubescent females posing in sexualized ways displaying their genitals.

A search warrant was executed on the defendant’s home in Te Atatu Peninsula, Auckland on 7 October 2005. A computer system and accessories were seized. When questioned the defendant, Val Beattie Lockett admitted that

he was “anonymous-user” and that he used “Kazaa” for music and pornography. The defendant stated that he used the term “pornography” to search for files on Kazaa but had uninstalled it a few weeks ago because he did not have a need for it. He stated that it was a “dodgy” program and found that things he downloaded were objectionable. He acknowledged viewing and deleting the 7 files that were downloaded from his computer by the Internal Affairs Inspector. The defendant stated that he knew that publications involving children in sexual acts are objectionable and against the law.

The seized computer was searched by the department of Internal Affairs Inspector. It showed that the defendant had used the search terms “liluplanet”, and “pthc”, “pthc Colombia girl” and “pthc Colombian” to search for files on Kazaa. These are terms known to return results for objectionable publications (“pthc stands for preteen hardcore). The computer examination showed objectionable publications were once present on the computer but had since been deleted. A total of 231 objectionable moving picture files were successfully recovered so their contents could be viewed. Most of these files have reference to the term “pthc”.

As a result of the discovery relating to the search terms used on Kazaa the defendant was asked to attend a second interview. He admitted to the use of the terms “liluplanet”, “pthc”, “pthc Colombia girl” and “pthc”. He stated that he knew that by using such terms it would return results for objectionable publications and he would have breached the censorship laws. He stated that he was abused himself and he worked with patients who have been convicted of molestation. He stated that he was curious to see the perpetrators face as part of his stupid morbid curiosity of child sex abuse publications.”

13. Sentencing occurred on 22 February 2007, and the Judge’s sentencing notes were placed before the Tribunal.
14. After describing the facts, he said the case was a little different from many others which come before the Court. He referred to the following:
 - 14.1 There were adverse personal factors in Mr Lockett’s background.
 - 14.2 He had turned to drugs and alcohol to mask those factors.
 - 14.3 It seemed the offending had been triggered by a morbid curiosity relating to his own background, in that he was interested to see what the faces of the persons capable of perpetrating such offences looked like.
 - 14.4 To his credit, Mr Lockett had now acknowledged his own past, and had taken comprehensive steps in terms of rehabilitation. He had attended a four month

residential programme with Higher Ground Drug Rehabilitation Trust and had undertaken AA counselling for abuse issues.

- 14.5 The Judge also noted that Mr Lockett was a first offender, that there was a very early guilty plea, and that he had shown apparent remorse.
15. The Court imposed 200 hours of community work, coupled with a sentence of two years supervision with a special condition that he undertake any rehabilitation programme or course if assessed as appropriate at the direction of a probation officer; he was also directed to take any safe counselling programmes which may be directed.
 16. The first element of a charge under section 100(1)(c) of the HPCA Act is that the conviction must meet the threshold set out in section 100(2)(b), which is that a conviction has been entered for an offence punishable by imprisonment for a term of three months or longer.
 17. The criminal charges were brought under the Films, Videos and Publications Classification Act 1993. Under section 131A of that Act, a term of imprisonment not exceeding 5 years may be imposed.
 18. Accordingly, the first limb of the charge is met; the 17 convictions are all proved to the satisfaction of the Tribunal, and they are in respect of offences where the term of imprisonment is for a period greater than three months.
 19. The second element relates to whether those convictions reflect adversely on Mr Lockett's practice as a registered nurse.
 20. The PCC submitted that the convictions constituted a significant departure from the standard reasonably expected of a nurse, particularly as they involve such young children.
 21. Mr Lockett did not contest the question of whether the conduct reflected adversely on practice.
 22. Nonetheless, the Tribunal must reach its own conclusion on this issue.

23. In the District Court, the Judge referred to the following statement made in another similar case, by another Judge:

“The sexual abuse of children is abhorrent and the behaviour of those who indulge in such behaviour is always firmly denounced by the Courts. Those who purchase images of such abuse provide a market, and so an encouragement of those who carry out the sexual abuse which is captured in these images. The protection of children from this exploitation is in my view a paramount consideration today. The denunciation of the conduct is also a very important factor.” (R v O’Reilly, 3 November 2006).

24. The Tribunal agrees with this statement, with respect. In the present instance, it is clear that Mr Lockett was using a nickname on a public website, and under that name, was making available still image files. The District Court accepted that this was the process being undertaken. It is clear, from the number of convictions, that this had occurred on multiple occasions.

25. Accordingly, the Tribunal finds that:

25.1 By making available images for others to access, there was a re-abuse of victims.

25.2 There were a significant number of images involved.

25.3 Some of those images were still pictures and some were moving pictures.

25.4 Mr Lockett knew he was breaching the censorship laws.

26. The Tribunal has no hesitation in concluding that such conduct constitutes a major departure from the applicable standards of legal and ethical behaviour reasonably to be expected of a registered nurse; and that the misconduct is so serious as to warrant discipline.

27. Accordingly, the charge was established.

Penalty:

28. For the purposes of considering penalty, Mr Lockett placed before the Tribunal a psychological assessment of 1 June 2009, a report from a colleague (Mr B Crowley) of March 2009, a report from Higher Ground Drug Rehabilitation Trust of 14 July 2009 and a report from Safe of 13 March 2009.
29. Evidence was also led from himself, his psychologist, and his support person Mr Crowley.
30. Mr N Gaunt, psychiatrist with a specialist interest in internet offending, who had first met Mr Lockett when he attended SAFE, described the group and one on one sessions undertaken by Mr Lockett. He stated that he did not find any evidence to suggest deviant thought or conduct.
31. Mr Crowley, a registered nurse, told the Tribunal that the offence could only be described as an “egregious lack of judgment”. However, he considered the offending had to be put in context, against Mr Lockett’s particular background circumstances (which he described). There had been a strong commitment to treatment and rehabilitation as a result of the Court proceedings, which he described. He said the conduct should be regarded as extremely foolish, rather than as a result of cynical manipulation or addiction to child pornography
32. Mr Lockett gave evidence. He outlined his work history, and other factors relevant to the offences from his background. He also described the rehabilitative steps that he had undertaken since. He expressed appropriate remorse for what had occurred.
33. Mr Lockett had been nursing up to late 2006, as a registered psychiatric nurse; in June 2007, as a result of drug and alcohol issues, Mr Lockett came before the Health Committee of the Nursing Council, and conditions were imposed on his APC, one of which was that the Nursing Council had to approve employment before undertaking

work as a nurse.

34. For the eight months prior to the Tribunal's hearing Mr Lockett had been working 20 hours a week as a supervisor at Higher Ground. He was also receiving a partial sickness benefit. A reference produced from Higher Ground stated that the initial position of a casual supervisor (which he undertook in 2008) was one which involved overseeing the safety of residents and the facility and carried responsibility; in June 2009, he was engaged as a night supervisor, and had proved himself to be an honest and reliable staff member. In this capacity, he was not working as a nurse.

Submissions:

35. Counsel for the PCC submitted as to penalty:
- 35.1 The offending was sufficiently serious as to require removal from the register, as well as censure, as it involved multiple pornography charges involving very young children.
- 35.2 A permanent order of non publication of name should not be made.
- 35.3 That an order for costs should be made, in accordance with the authorities and having regard to Mr Lockett's financial circumstances.
36. Mr Lockett submitted as to penalty:
- 36.1 He recognised there was a possibility of losing registration, although he would not like that to happen; however he was ready for that to occur if the Tribunal decided it was necessary to cancel.
- 36.2 An application for permanent name suppression; Mr Lockett referred to family members who would be affected by publication of name.

Penalty – Legal Submissions:

37. In determining the appropriate penalties, the Tribunal recognised the following functions of disciplinary proceedings:
- 37.1 protecting the public – this object is reinforced by section 3 of the HPCA Act;
- 37.2 to maintain professional standards – this object is emphasised in *Taylor v General Medical Council* [1990] 2 All ER 263; *Ziderman v General Dental Council* [1976] 2 All ER 344 and *Dentice v The Valuers Registration Board* [1992] 1 NZLR 720;
- 37.3 to punish the practitioner in question, as referred to in *Dentice v The Valuers Registration Board* and *Patel v Complaints Assessment Committee* (CIV-2007-404-1818, 13 August 2007 Lang J);
- 37.4 where appropriate, to rehabilitate the practitioner, as referred to in *J v Director of Proceedings* (CIV-2006-404-2188, 17 October 2006, Baragwanath J), and *Patel* (supra).
38. In *A v PCC* (5 September 2008, Keane J, CIV-2008-404-2927), the Court discussed carefully the range of sanctions available to the Tribunal, particularly cancellation and suspension.¹ The Court stated that four points could expressly be derived from the authorities, and implicitly a fifth:

“[81] *First, the primary purpose of cancelling or suspending registration is to protect the public, but that “inevitably imports some punitive element”. Secondly, to cancel is more punitive than to suspend and the choice between the two turns on what is proportionate. Thirdly, to suspend implies the conclusion that cancellation would have been disproportionate. Fourthly, suspension is most apt where there is “some condition affecting the practitioner’s fitness to practise which may or may not be amenable to cure”. Fifthly, and perhaps only implicitly, suspension ought not to be imposed simply to punish.*

¹ Paras 77-82.

[82] Finally, the Tribunal cannot ignore the rehabilitation of the practitioner: *B v B* (HC Auckland, HC4/92, 6 April 1993) Blanchard J. Moreover, as was said in *Giele the General Medical Council* [2005] EWHC 2143, though "... the maintenance of public confidence ... must outweigh the interest of the individual doctor", that is not absolute – "the existence of the public interest in not ending the career of a competent doctor will play a part"."

39. In numerous cases, the need to consider and explain why lesser options have not been adopted is emphasised. But the Tribunal has to proceed on the basis of what is appropriate having regard to the public interest, and the need to maintain public confidence in the profession.² Randerson J put the matter in this way:

"[30] The consequences of removal from a professional register are ordinarily severe and the task of the Tribunal is to balance the nature and gravity of the offences and their bearing on the dentist's fitness to practise against the need for removal and its consequences to the individual: ***Dad v General Dental Council*** [2002] 1 WLR 1538. As the Privy Council further observed at 1543:

Such consequences can properly be regarded as inevitable where the nature or gravity of the offence indicates that a dentist is unfit to practise, that rehabilitation is unlikely and that he must be suspended or have his name erased from the register. In cases of that kind greater weight must be given to the public interest and to the need to maintain public confidence in the profession than to the consequences of the imposition of the penalty to the individual.

[31] I respectfully adopt the observations of the Privy Counsel and would add that it is incumbent on the Tribunal to consider carefully the alternatives available to it short of removal and to explain why the lesser options have not been adopted in the circumstances of the case. As well, while absolute consistency is something of a pipe dream, and cases are necessarily fact dependent, some regard must be had to maintaining reasonable consistency with other cases. That is necessary to maintain the credibility of the Tribunal as well as the confidence of the profession and the public at large."³

Penalty – Discussion:

40. As the authorities make clear, the issue to be considered when assessing penalty

² *Patel*, supra, para 30 per Lang J; *L v The Director of Proceedings*, Woodhouse J, 25 March 2009, CIV-2008-404-2268 [47-48].

³ *Patel v The Dentists Disciplinary Tribunal* HC AK AP77/02, 8 October 2002.

options relates to the upholding of professional standards. That involves a careful assessment of the Respondent's regard to his or her professional obligations, which includes the significant ethical and legal obligations which any practitioner must uphold to remain in good standing.

41. The Tribunal noted that significant rehabilitation initiatives have been undertaken, which have focused on background circumstances, from which Mr Lockett has suffered.
42. The Tribunal concluded it had no option but to order cancellation having regard to:
 - 42.1 the seriousness of the offending, as verified by the Court's sentencing remarks;
 - 42.2 the need to send a strong deterrent message to the profession at large;
 - 42.3 the ability of the Nursing Council to assess an applicant's fitness to practise. It is considerably greater on an application for re-registration following cancellation, than it would be if the Tribunal were merely to suspend and impose conditions in some discrete areas of practice (such as supervision in employment, as submitted by Mr Lockett). The Nursing Council could, for example, satisfy itself for all professional purposes that appropriate professional rehabilitation had occurred, and that the Applicant for re-registration had indeed been fully rehabilitated, after serious offending which occurred against a background of troubling personal factors. This factor, points to cancellation rather than suspension.

Censure:

43. It is appropriate that the Tribunal makes an order of censure. It needs to express its strong disapproval for the conduct which occurred in this case.

Non Publication of Name:

44. An interim order for non publication of name was made on 12 June 2009.⁴ At the hearing, an application for a permanent order was made, on the basis that undue harm would be occasioned by publicity not only to Mr Lockett, but to family members.
45. It is to be noted that no permanent suppression order was made in the District Court.

Non Publication of Name – Legal Principles:

46. Section 95(1) of the Act contains a presumption that the Tribunal’s hearings shall be held in public.
47. Section 95(2) of the Act requires the Tribunal, when considering an application to suppress the name of any person appearing before it, or to hold part of its hearing in private, it is to consider whether it is “desirable” to prohibit publication of the name of the applicant or hold part of the hearing in private, after considering:
- 47.1 The interest of any person (including the unlimited right of a complainant to privacy); and
- 47.2 The public interest.
48. In many previous decisions,⁵ the Tribunal has evaluated the following public interest factors:
- 48.1 Openness and transparency of disciplinary proceedings.⁶
- 48.2 Accountability of the disciplinary process.⁷

⁴ 231/Nur09/118P.

⁵ eg, 51/Nur06/35P, and 65/Nur06/40P

⁶ *M v Police* (1991) CRNZ 14; *R v Liddell* [1995] 1 NZLR 538; *Lewis v Wilson & Horton Ltd* [2003] 3 NZLR 546; *Director of Proceedings v I* [2004] NZAR 635

⁷ *Director of Proceedings v Nursing Council* [1999] 3 NZLR 360

- 48.3 Public interest in knowing the identity of a health practitioner charged with a disciplinary offence.⁸
- 48.4 Importance of freedom of speech and the right enshrined in section 14, New Zealand Bill of Rights Act 1990.⁹
- 48.5 Unfairly impugning other practitioners.¹⁰
49. Also relevant is the statement made by Pankhurst J in *A v Director of Proceedings*:

“[F]ollowing an adverse disciplinary finding more weighty factors are necessary before permanent suppression will be desirable. This, I think, follows from the protective nature of the jurisdiction. Once an adverse finding has been made, the probability must be that public interest considerations will require that the name of the practitioner be published in a preponderance of cases. Thus, the statutory test of what is “desirable” is necessarily flexible. Prior to the substantive hearing of the charges the balance in terms of what is desirable may incline in favour of the private interest of the practitioner. After the hearing, by which time the evidence is out and findings have been made, what is desirable may well be different, the more so where professional misconduct has been established.”¹¹

50. In *B v B Blanchard J*,¹² the Court stated, in a case which concerned a dentist:

“In normal course where a professional person appears before a disciplinary tribunal and is found guilty of offence, that person should expect that an order preventing publication of his or her name will not be made. That will especially be so where the offence is proved, or admitted, is sufficiently serious to justify striking off or suspension from practice. But where the order is made by a disciplinary tribunal in relation to future practice of the defendant directed towards that person’s rehabilitation and there is no striking off or suspension but rather, as here, the practice may continue, there is much to be said for the view that publication of the defendant’s name is contrary to the spirit of the decision and counter productive. It may simply cause damage which makes rehabilitation impossible or very much harder to achieve.”

51. It is also necessary to have regard to the proportionality principle referred to by Baragwanath J in *J v Director of Proceedings* (17 October 2006, CIV-2006-404-2188, paragraph [71]).

⁸ *Director Proceedings v Nursing Council*, supra; *F v Medical Practitioners Disciplinary Tribunal* (Laurenson J, 5 December 2001, HC Auckland AP21-SW01)

⁹ *R v Liddell*, supra and *Lewis v Wilson & Horton Ltd*, supra

¹⁰ This point has been emphasised on numerous occasions in the criminal Courts where Judges have declined name suppression to avoid suspicion falling on other members of a profession.

¹¹ Para 42, 21 February 2006, CIV-2005-409-002244.

¹² HC Auckland (HC4/92, 6 April 1993) p99.

Decision as to Non Publication Application:

52. The Tribunal is required to take into account the important open justice principles which have been alluded to above.
53. Against those important principles, the question is whether there are “weighty factors” which would persuade the Tribunal that permanent non publication of name is desirable.
54. Mr Lockett relied primarily on the harm to family members. In this, he was supported by Mr Crowley’s evidence.
55. The Tribunal has no doubt that there could well be such prejudice, if such publicity were to occur. However, it is not satisfied that these factors outweigh the public interest factors it is required to assess. These consequences are unfortunately an inevitable reality in cases such as the present.
56. The Tribunal is mindful that the District Court was not persuaded to make a permanent order, presumably because of the open justice factors involved.
57. It has considered the issue of overall proportionality – that is the effect of other outcomes imposed, especially cancellation. In the end it is not satisfied that a permanent order should be made; accordingly, the interim order, made on 29 June 2009 is to end seven days after the date of this decision.

Costs:

58. Counsel for the PCC applied for costs. Counsel referred to the well known dicta in *Cooray v Preliminary Proceedings Committee* (14 September 1995. Doogue J, AP23/94), which provides that 50% of total reasonable costs is a starting point, with a discretion then to be exercised, increasing or decreasing that amount dependent on the

particular circumstances.

59. It is also necessary to take into account the financial circumstances of the practitioner. The Tribunal was provided with information as to Mr Lockett's liabilities, and income position. He carries significant debt and has modest income.
60. He is entitled to credit for the acknowledgement of the facts giving rise to the charge placed before the Tribunal.
61. The quantum of costs and disbursements in relation to the PCC inquiry and prosecution of the charge is approximately \$1,500.00 (GST exclusive); and the Tribunal's costs and disbursements in relation to the hearing are approximately \$4,000.00 (GST exclusive).
62. In the circumstances, the Tribunal considered the appropriate starting point would be to take a 35% percentage of actual costs and disbursements. Because there was delay in holding the hearing (due to no fault on the part of Mr Lockett), and additional travel costs were incurred for Mr Lockett and Mr Crowley, a discount was allowed. It directs Mr Lockett to pay:
- 62.1 In respect of the costs and disbursements to the PCC and Counsel for the PCC, \$400.00.
- 62.2 In respect of the costs and disbursements relating to the Tribunal's hearing, \$1,300.00.

Conclusion:

63. The Tribunal determines that the convictions described in the charge reflected adversely on Mr Lockett's fitness to practise.
64. The penalties imposed by the Tribunal are:
- 64.1 Mr Lockett's registration as a registered nurse is cancelled (section 101(1)(a))

of the HPCA Act).

64.2 Mr Lockett is censured (section 101(1)(d) of the HPCA Act).

64.3 Mr Lockett is to pay:

64.3.1 In respect of the costs and disbursements of the PCC and Counsel for the PCC, \$400.00.

64.3.2 In respect of the costs and disbursements relating to the Tribunal's hearing \$1,300.00 (section 101(1)(f) of the HPCA Act).

64.4 The interim order of non publication of name made on 29 June 2009 is to end seven days after the date of this decision, and the application for a permanent order is dismissed (section 95 of the HPCA Act).

64.5 The Tribunal directs that a copy of this decision and a summary be placed on the Tribunal's website. The Tribunal further directs that a notice stating the effect of the Tribunal's decision be published in the New Zealand Gazette, Kai Tiaki and the Nursing Council's Newsletter (section 157 of the HPCA Act).

DATED at Wellington this 4th day of September 2009

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B A Corkill QC
Chairperson
Health Practitioners Disciplinary Tribunal