

LEGAL PRACTICE TRIBUNAL

ATKINSON J

DR DANN and  
MR HORSELY, Assisting

No 363 of 2008

LEGAL SERVICES COMMISSIONER

Applicant

and

ROBIN CARL TAMPOE

Respondent

BRISBANE

..DATE 05/06/2009

ORDER

HER HONOUR: The respondent, Robin Carl Tampoe, is the subject of two charges before this Tribunal. The Commissioner has alleged that charge 1 constitutes professional misconduct, or, alternatively, unsatisfactory professional conduct. The charge is accepted as particularised. It is therefore necessary to say what the particulars are.

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They are that on the 26th of June 2005, without excuse or authority, Mr Tampoe breached his duty of confidentiality to his client, Schapelle Corby, in that he publicly disclosed and commented upon confidential information. He was at the time a legal practitioner in Australia and a principal of the law practice Hoolihans Lawyers.

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Ms Corby had been charged in Indonesia in October 2004 with a number of serious criminal offences arising from allegations of drug smuggling. In February 2005, Mr Ron Bakir retained Hoolihans Lawyers to assist Ms Corby's Indonesian lawyers in representing her. The client agreement set out the work to be undertaken as part of the retainer as follows:

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"The firm will take all steps necessary to assist the Indonesian legal team currently representing Schapelle Corby against drug charges in Indonesia which shall include but not be limited to the following: investigate the claim and gather evidence, provide advice in respect of the claim, attend to all procedures necessary for the disclosure by Australian or other bodies of information relevant to the defence, including attendance at conferences with representatives of such bodies,

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appearing before the media or presenting press releases which may assist the matter, issue Court proceedings if necessary, assist in attending to all pre-trial preparation, engage counsel and other experts, attend at trial as necessary and attend to all such other matters as required."

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The respondent, Mr Tampoe, was the principal solicitor responsible for performing that work on behalf of Hoolihans Lawyers. The purpose and effect of the client agreement was to engage Mr Tampoe to act as a legal practitioner on behalf of Schapelle Corby. He says in his statement in reply that he was under the mistaken belief that Mr Bakir was his client and therefore there was no retainer or solicitor/client relationship between himself and Ms Corby. He accepts that the allegations as made were correct and so that he was wrong in that view.

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The charge continues: that the work undertaken by Mr Tampoe was part of the retainer included, but was not limited to providing legal advice to Ms Corby and members of her family acting as her agents in respect of the drug charges, the investigation of those charges and the media attention related to them.

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In the course of this retainer, Mr Tampoe acted as a legal practitioner on behalf of Ms Corby, thereby establishing a solicitor/client relationship between himself and her. At all material times, he held himself out to be her lawyer and purported to act on her behalf in accordance within the client

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agreement. She believed that he was retained to act as her legal representative and instructed him in accordance with that belief. Members of her family, including her sister, Mercedes, provided instructions to Mr Tampoe as agents for Ms Corby.

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On a date unknown, while Mr Tampoe was in Indonesia carrying out his retainer, he had a conversation with Mercedes Corby, Ron Bakir and another person. In the course of that conversation, Ms Mercedes Corby provided the respondent with instructions about past criminal convictions within the Corby family. Those instructions were provided by her acting as agent for her sister and were intended to be confidential. At the time of receiving those instructions, Mr Tampoe knew or ought to have known that the information discussed in the course of that conversation was confidential.

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In a television interview published on 26 June 2005 on the Channel 9 program "Sunday", Mr Tampoe disclosed the content of that conversation and further commented on the confidential information by saying that Mercedes Corby had lied to him. In disclosing and commenting on confidential information, the respondent breached his duty of confidentiality to his client, Ms Schapelle Corby.

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He further says in response that he was under the belief that the information which he discussed was public knowledge and not confidential. By accepting the charge as particularised, he has accepted that the information was given to him

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confidentially and he has breached his duty of confidentiality  
by revealing it.

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In my view, this represents professional misconduct. It is  
fundamental to the relationship between solicitor and client  
that the legal practitioner will not reveal confidential  
information. It is hard to think of a more egregious breach  
than to do so on a national television program.

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The second charge is an allegation of unsatisfactory  
Professional conduct. It is that in the course of Mr Tampoe's  
participation in a documentary, "Schapelle Corby: The Hidden  
Truth", he made statements which were scandalous, offensive  
and/or likely to bring the profession into disrepute.

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Mr Tampoe submits that after careful consideration of this  
charge he accepts the charge as particularised. He says that  
the director and producer of the documentary followed him  
everywhere whilst researching the documentary and caught him  
at an inopportune time, and in response to certain statements  
said about him he regretfully made the comments which are  
detailed in charge 2. He says that at the time of making such  
comments he did not fully appreciate the effect and  
implications of the same.

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The particulars of charge 2 are that Mr Tampoe willingly  
participated in the making of the documentary between October  
2004 and June 2008. That documentary was then broadcast on  
television in Australia by the Nine Network on 22 and 24 June  
2008. Mr Tampoe participated in the documentary by giving

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interviews, making comments and allowing himself to be recorded for the purpose of the documentary. He was aware that statements or comments he made in the course of participating in the documentary may be recorded and publicly broadcast at some future date.

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In the course of his participation in the documentary, Mr Tampoe made the following statements and/or comments which were scandalous, offensive and likely to bring the profession into disrepute. Referring to the Corby family he said, "These are the biggest, the biggest pile of trash I have ever come across in my life. I've never..I've never seen a more ungrateful, um, nasty, piece of work as this woman and this family."

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He also observed, "I'm watching Roz, Roz, Rose Leigh, whatever her fucking name is, Corby. On, on TV last night, 'cause now she thinks she is a fucking rock star. Superstar. Talkin' to Ray. Puttin' shit on ahh everybody. On everybody."

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He also said, "What a, what a fuckin' change of um..., you look at that family when we were over there fuckin' doing the trial. Couldn't 've been happier." He also said, "Speak to the brother. Speak to the younger brother. Speak to the older brother. That's what Downer said to me. Look at the brothers. His own office knows what's been goin' on. This family believes that, believes their own shit mate."

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Then there were a number of statements which referred to what

was called the baggage-handler defence. This was apparently a defence which sought to lay the blame on what had occurred on baggage handlers. He said in respect of that, "Baggage handling defence? It's got nothin' to do with the case.

Three weeks to put a defence together, I put a defence together. Baggage handlers didn't put drugs in the bag.

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Nothin' to do with it. But now, now, now she believes it.

They all fuckin' believe it. It's not true. That's why you can't put...direct evidence [indistinct] the baggage handlers 'cause they didn't do it."

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In response to a question he said, "I don't give a shit. You want to fuckin' attack me? I gave you the defence, I'll take it away. As fast as I gave it, I'll take it away." Laughing he said, "Yeah, sorry about that guys (...laughing...) Poor buggers. No huhm..., I won't do it again (...laughing...).

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Thanks for the defence (...laughing...)" That is said to refer again to the baggage-handlers defence and presumably is addressed to the baggage handlers who it was wrongly claimed by him were responsible.

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What is of greater concern in those comments is that he is representing in information then conveyed to the public that the role of the criminal defence is to make up a defence which it can then take away. This is clear when he says, "I gave you the defence, I'll take it away." This is certainly likely to bring the legal profession into disrepute with the public. In fact, a person acting as a criminal defence legal practitioner cannot under any circumstances invent facts or

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invent a defence. To say such a thing is scandalous and is likely to cause the public to lose confidence in not only the legal profession but in the criminal justice system, because it suggests that in response to a criminal charge what one should do is find a legal practitioner who will make up a defence for the alleged offender. Nothing could be further from the truth.

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The manner in which he spoke of his client and her family, of course, was also scandalous and offensive.

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It is my view, and I have had the assistance of the views of the other members of the tribunal, that the person who has behaved in the way particularised is not suitable to be a legal practitioner.

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In the circumstances, the tribunal's order is a recommendation that the name of Robin Carl Tampoe be removed from the roll of legal practitioners.

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HER HONOUR: I order that the respondent pay the applicant's costs of the application fixed in the amount of \$2,500. Those are the orders of the tribunal.

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