



27 May 2019

**Private and Confidential**

Ms Angelica Perduta  
139 MacKenzie Avenue  
Woolston  
Christchurch 8023

**And by email: [angelica.perduta@gmail.com](mailto:angelica.perduta@gmail.com)**

Dear Ms Perduta

**File 18770 — Complaint by Ms Angelica Perduta against Mr Chris Fogarty**

Please find attached 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 sincerely

*pp*  
Ann Rice  
Legal Standards Officer

**Head Office**

DX SP20202 or PO Box 5041, Lambton Quay, Wellington 6140, New Zealand  
Law Society Building, 26 Waring Taylor Street, Wellington

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<b>No.</b>	<b>18770</b>
<b>Concerning</b>	Part 7 of the Lawyers and Conveyancers Act 2006 ("the Act")
<b>And</b>	
<b>Concerning</b>	A complaint from Angelica Perduta about Chris Fogarty

### **Notice of Decision by Central Standards Committee 1**

#### **Complaint:**

1. Ms Perduta complains that the advice she received from Mr Fogarty in relation to the estate of her late mother was not timely and was negligently given. Ms Perduta notes in particular that Mr Fogarty did not look into the dissipation of the estate assets as requested.

#### **Opportunity to respond:**

2. The Standards Committee can confirm that Mr Fogarty was invited to provide a response to the complaint but chose not to do so.
3. The Standards Committee, having first read the complaint and its supporting information, found no additional issues or questions that necessitated any further information from Ms Perduta or a formal response from Mr Fogarty and considered that the complaint could be adequately decided with the information it held.

#### **Issue for consideration by the Standards Committee:**

4. The Standards Committee must consider whether Mr Fogarty has complied with his professional obligations.
5. Ms Perduta says that in 2013 she instructed Mr Fogarty to establish the legal position of the estate assets which had been distributed by her siblings while her mother was alive but mentally incapacitated.
6. Ms Perduta says that Mr Fogarty did not reply to her many attempts to contact him and then finally responded with completely redundant advice urging her to cooperate with her brother on the application for probate of their mother's will, which indicated that Mr Fogarty had not looked at the relevant documents nor understood what she had hired him to do.
7. The Standards Committee has reviewed the correspondence between Ms Perduta and Mr Fogarty and notes that there was regular communication between the two of them between the time Ms Perduta sought Mr Fogarty's assistance in February 2013 and the time Mr Fogarty provided his letter of advice dated 3 May 2013 to which Ms Perduta objects.
8. The Standards Committee can understand that Ms Perduta may not have appreciated the advice given by Mr Fogarty which encouraged her to cooperate in the application for probate of her mother's will. However, that does not mean it was not sound and pragmatic advice that, had she accepted it, would have given Ms Perduta the authority to carry out an investigation regarding the assets of her mother's estate as she wished.

9. In the Standards Committee's view, Mr Fogarty's advice indicates that he correctly understood Ms Perduta's wish to have the legal position of her mother's assets determined and his recommendation that she cooperate with her siblings in the application for probate, while not acceptable to her, would have enabled her to gain the information she was seeking.
10. Having given consideration to this complaint, the Standards Committee is unable to uphold Ms Perduta's claims that Mr Fogarty acted other than in accordance with his professional obligations.

**Decision:**

11. The Standards Committee, having considered Ms Perduta's complaint, decides to take no further action on it, pursuant to section 138 (2) of the Act.

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

You may be able to apply for a review of this decision or determination by the LCRO. On review, the LCRO may:

- a. direct the Standards Committee to reconsider the whole or any part of the complaint;
- b. confirm, modify or reverse the decision of the Standards Committee; and/or
- c. exercise any of the powers that could have been exercised by the Standards Committee in relation to this complaint.

If you want to apply for a review of this decision or determination you must lodge your application with the LCRO within 30 working days. The 30 working days start once you have become aware of this notice. Unless there is evidence suggesting otherwise it is assumed you have become aware of this notice on the fifth working day after the date of this decision or determination.

If you received this decision or determination by email, please call the LCRO on the number below to confirm when the 30 working days start.

An application for review must be on the prescribed form and be accompanied by the prescribed fee of \$50.00. Please forward your application to the LCRO at:

Level 6  
Auckland District Court  
69 Albert Street  
Auckland 1010  
(physical address, suitable for courier  
and hand delivery only)  
Or per email: [lcro@justice.govt.nz](mailto:lcro@justice.govt.nz)

DX Box CX 10072  
(Postal address only, not suitable for  
courier delivery)

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](http://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**

Convenor, Central Standards Committee 1

Date: 27 May 2019

To: Ms Angelica Perduta, Mr Chris Fogarty, New Zealand Law Society