

**IN THE MĀORI LAND COURT OF NEW ZEALAND  
TĀKITIMU DISTRICT**

**A20140005905**

UNDER Sections 37, 231, 237, 238 and 240 of Te Ture  
Whenua Māori Act 1993

IN THE MATTER OF Tataraaikina C

BETWEEN HENARE TONGARIRO PUWAI RĀTIMA  
Applicant

AND GEORGE SULLIVAN, HORO EDWARDS,  
IVY KAHUKIWA SMITH, JOHN WANO AND  
TANIA HUATA-KUPA AS TRUSTEES OF  
THE TATARAAKINA C TRUST  
Respondents

AND TATARAAKINA C TRUST  
Interested Party

Hearing: 31 July 2019, 77 Tākitimu MB 284-310  
(Heard at Hastings)

Appearances: C Bennett for Henare Rātima  
A Bernie for Ivy Kahukiwa-Smith, Horo Edwards and John Wano  
D Porteous for George Sullivan  
K Allan and then Mark Kupa for Tania Huata-Kupa  
P Bloor for Peter Eden  
L Watson for Tataraaikina C Trust

Judgment: 24 December 2019

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**JUDGMENT OF JUDGE L R HARVEY**

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Solicitors:

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## Introduction

[1] On 22 October 2019 I issued a judgment dealing with, inter alia, the repayment of legal costs by the former trustees. This was set out in paragraph [60]:

[60] That then leaves the balance or 85 per cent of the costs now ordered for repayment by the remaining responsible trustees, Messrs Wano and Edwards and Mrs Kahukiwa-Smith. To avoid doubt, the amount of legal costs payable by each of the former trustees is:

Trustee	Legal costs to be repaid
Tania Huata-Kupa	\$940.00
Yvonne Heke	\$940.00
John Wano	\$5,326.66
Horo Edwards	\$5,326.66
Ivy Kahukiwa-Smith	\$5,326.66
<b>Total:</b>	<b>\$17,860.00</b>

[2] Then at paragraph [79] of that decision the responsible trustee was directed to ascertain the views of the beneficial owners on the repayment of legal costs:

[79] The responsible trustees will ascertain the views of the beneficial owners regarding repayment of the legal costs set out above and following that will provide a report to the Court. A final decision will then issue on the extent to which the former trustees are to repay the following amounts for legal costs which they have been found liable:

Former trustee	Legal costs
John Wano	\$5,326.66
Ivy Kahukiwa-Smith	\$5,326.66
Yvonne Heke	\$940.00
Tania Huata-Kupa	\$940.00
Horo Edwards	\$5,326.66

## Meeting of owners

[3] A general meeting of the trust's beneficial owners took place on 19 October 2019. Despite the advertising of the meeting and the important issues that had been before the Court for many years concerning the trust and its activities, the turn out of the meeting was relatively modest according to the report of Mr Hemana.

[4] During the meeting there were also comments that the owners should not have to decide counterbalanced by feedback that the amounts payable were fair and reasonable in all of the circumstances.

[5] Mr Hemana then undertook a poll of the beneficial owners at the last general meeting. By way of email, dated 1 December 2019, the Court received a memorandum of counsel and draft minutes of the hui held on 19 October 2019. The results were:

- (a) 13 owners were in favour of the trustees being liable;
- (b) 4 were against; and
- (c) 12 abstained.

**Decision**

[6] As foreshadowed, these proceedings have been before the Court for over a decade in one form or another. They concern fundamental principles of trustee duties and accountability.

[7] There is nothing from the results of the meeting that persuade me to alter my original findings on liability and apportionment. The amounts set out above are therefore confirmed as duly owing and payable by the former trustees.

[8] That being so, the former trustees listed above will be ineligible for reappointment at any time in the future until the amounts set out above are paid in full to the trust.

[9] The affected former trustees may wish to seek legal advice as to their rights of rehearing, appeal and review in due course.

[10] Mr Hemana is directed to provide an update in 6 months as to repayments.

Pronounced in Rotorua at 2.15pm on Tuesday this 24<sup>th</sup> day of December 2019

L R Harvey  
**JUDGE**