

**I TE KOOTI WHENUA MĀORI O AOTEAROA
I TE ROHE O TE TAITOKERAU**

*In the Māori Land Court of New Zealand
Taitokerau District*

AP-20250000002278

WĀHANGA
Under

Section 239, Te Ture Whenua Māori Act 1993

MŌ TE TAKE
In the matter of

Mataraua B 5B1A

NĀ
By

LAWRENCE F MASON-WITEHIRA
Te kaitono
Applicant

Nohoanga:
Hearing

19 May 2025, 294 Taitokerau MB 174–179
(Heard at Kaitaia)

Kanohi kitea:
Appearances

L Mason-Witehira in person

Whakataunga:
Judgment date

21 November 2025

TE WHAKATAUNGA A KAIWHAKAWĀ M P ARMSTRONG
Judgment of Judge M P Armstrong

Hei tīmatanga kōrero*Introduction*

[1] Ngai Tawake Marae is a Māori reservation located on Mataraua B 5B 1A. New trustees for the Marae were elected at the annual general meeting on 10 April 2021.

[2] I have already appointed most of the trustees elected at that AGM.¹ A concern has been raised over the proposed appointment of Junior Lambert Witehira. In this judgment, I decide whether Junior should be appointed as a trustee.

Kua ahatia?*What happened?*

[3] There is no dispute that Junior was elected at the AGM. The question is whether he is suitable for appointment.

[4] When I first heard this application, one of the existing trustees, Laurence Mason-Witehira, raised a concern about Junior's trustee consent form. In that consent form, Junior ticked a box confirming that:

I do not have any criminal convictions for dishonesty or any other offences that may disqualify me from being a trustee.

[5] Laurence told me that wasn't correct. He advised that Junior had been convicted for "[u]sing money that wasn't his while serving as a lawyer".² Laurence didn't object as such to Junior's appointment, but he considered this should be brought to my attention.

[6] Junior wasn't at that hearing. I appointed the remaining trustees and adjourned the application so that Junior could have an opportunity to respond.

[7] I heard the application again earlier this year. Junior attended. He told me that he did not have any criminal convictions for dishonesty. He advised that there were some irregularities in the operation of his solicitor's trust account as a transfer had been made without it being properly documented. Despite that, Junior was emphatic:³

¹ 270 Taitokerau MB 91–100 (270 TTK 91–100).

² At 96.

³ 294 Taitokerau MB 174–179 (294 TTK 174–179) at 178.

... Your Honour that I didn't [mis]appropriate any funds.

[8] I adjourned the application and told Junior that I would obtain a copy of the decision from the Law Society after which I would issue my decision in writing.

He aha te whakataua a Te Kāhui Ture o Aotearoa?

What did the Law Society decide?

[9] The New Zealand Lawyers and Conveyancers Disciplinary Tribunal issued a decision concerning Junior's conduct on 3 April 2012. The Tribunal made the following findings:⁴

[28] Serious misconduct has been admitted. The accepted facts show that Mr Witehira has misappropriated client funds totalling \$23,728.10, and applied funds so taken for his own benefit. ...

[29] The Tribunal does not accept that this was a single, spur-of-the-moment lapse in judgment as claimed for Mr Witehira. This was a deliberate misappropriation occurring on two separate occasions, followed, in the case of the first amount misappropriated, by a number of separate acts involving further application of those funds; ...

[30] The Tribunal also does not accept Mr Witehira's suggestion that he did not seek to disguise what he had done, and that he always knew that it would come to the attention of [*suppressed*]. The evidence indicates that it was highly likely that he intended that the misappropriations not be discovered; ...

[10] The Tribunal found that this was serious misconduct and ordered that Junior's name be struck off the roll of barristers and solicitors.

Me kopoua e au a Junior hei tarahitī?

Should I appoint Junior as a trustee?

[11] Per s 222(2)(a) of Te Ture Whenua Māori Act 1993, when deciding whether to appoint a trustee, I must have regard to their ability, experience and knowledge. In other words, I have to consider whether he or she is suitable for appointment as a trustee.⁵

[12] A marae trustee holds the land, and other assets, including marae funds, on trust for the benefit of the beneficiaries of the reservation. This requires a high level of trust that the

⁴ *Auckland Standards Committee v Witehira* [2012] NZLCDT 5 at [28]–[30].

⁵ While s 222 of the Act doesn't strictly apply to the appointment of trustees to Māori reservations, the same approach applies when appointing trustees to a reservation per s 338 of the Act.

trustee will discharge the strict obligations on him or her when dealing with the marae assets. Those obligations are similar to that owed by a solicitor who operates a client trust account. The solicitor has strict obligations to hold and administer the funds for the benefit of his or her client.

[13] I accept that being charged with misconduct before the New Zealand Lawyers and Conveyancers Disciplinary Tribunal is different to being convicted of criminal offending in the District Court. As such, Junior may have been correct when he indicated in his trustee consent form that he does not have any criminal convictions for dishonesty. However, when I questioned Junior about what happened, he attempted to downplay what occurred. He told me that there were only some procedural irregularities in the operation of his trust account. He also told me, clearly and unequivocally, that he did not misappropriate any client funds. That is clearly not true. I consider that Junior was attempting to mislead me in relation to his past in an effort to seek appointment as a trustee on this Marae.

[14] This Court plays an important supervisory role in relation to Māori land trusts, including marae. The Court needs to be able to rely on the honesty and integrity of the trustees in the administration of the trust. I cannot rely on Junior's honesty or integrity. He is not suitable for appointment as a trustee.

Whakataunga

Decision

[15] Junior Lambert Witehira is not suitable for appointment as a trustee on Ngai Tawake Marae. This application is dismissed.

I whakapuaki i te wā 4:00pm i Whangarei, 21st o ngā rā o Noema i te tau 2025.
Pronounced at 4:00pm in Whangarei on this 21st day of November 2025.

M P Armstrong
JUDGE