

**IN THE INDEPENDENT
LEGAL SERVICES COMMISSION**

NO. 13 OF 2013

BETWEEN:

**CHIEF REGISTRAR
Applicant**

AND:

**JOHN RABUKU
Respondent**

**Applicant: Mr. V. Sharma
Respondent: In Person**

**Dates of Hearing: 15th July 2013
Date of Judgment: 30th July 2013**

JUDGMENT and SENTENCE

1. The Respondent faces one allegation of Professional Misconduct, contrary to section 83(1)(g) of the Legal Practitioners' Decree 2009. The particulars of the allegation are stated to be that:

"Mr. John Rabuku, a legal practitioner, failed to respond to a complaint lodged by one Janette Kapio within the time stipulated in the notice issued by the Chief Registrar pursuant to section 105 of the Legal Practitioners' Decree and thereafter failed to respond to a subsequent reminder notice issued by the Chief Registrar pursuant to section 108(1) of the Legal Practitioners' Decree which conduct was a contravention of Section 108(2) of the Legal Practitioners' Decree 2009 and was an act of professional misconduct.

2. At the hearing of this matter before the Commission, the Respondent was clearly confused between issues that arose from the original complaint and from the complaint of the Chief Registrar himself. It was on an "untangling" of these quite diverse issues, that the Respondent admitted the allegation and proceeded to mitigate.

3. The Respondent in mitigation told the Commission of the embarrassment and worry occasioned to him when acting for the original lady complainant and her appellate boyfriend who was instructing him from prison. He explained the reasons for the embarrassment and it is not necessary to expand on these in this judgment not only because of their irrelevance to the present application but also for the extremely confidential nature of the reasons that the Respondent would want to keep retained for the time being.

4. This application is but one of 5 "*failing to respond*" allegations heard by the Commission on the 15th of July; and prior to that there had been only one before the Commission and that was an application that was just part of other allegations against the Respondent concerned. In that *Application Nos. 03 and 04 of 2012, Chief Registrar –v- Luseyane Ligabalavu*, this Commission made observations on the failure of practitioners to respond to the Chief Registrar and the consequences of such failure. These observations still hold true for the similar applications before

the Commission presently.

It was said:

"failure to respond to the Registrar is not only in direct contravention to the stipulation in section 105 of the Legal Practitioners' Decree but it is also showing complete disdain and disregard for the authority of the regulatory arm of the profession. Should such practice go unchecked then the profession would become totally unmanageable with the public then being unprotected and the spirit of the legislation defeated."

and later,

"The Commission regards non-compliance with the Chief Registrar's requests and demands are very serious failures on the part of the practitioner. If a practitioner cannot regulate his/her own affairs, how can he regulate the affairs of his clients?"

and still later,

"To defy authority and in doing so to contravene the provisions of Division 3 of the Legal Practitioners' Decree 2009, calls into question the practitioners' suitability to be in practice. In its role of guardian of professional standards, the Commission has no option but to suspend the Respondent's right to practise."

5. With that background of the severity of the offending and the calling into question the suitability of a member of the profession ignoring both legislative stipulations and a request from the Regulatory Head of the Profession, a great deal of anxious thought was given to this Respondent's dereliction of duty and its consequences.

6. He appeared before the Commission displaying a complete lack of remorse and quite arrogantly sought to shift blame for his non compliance on to the nefariousness of his client. Utter disdain for one's client, no matter what be the reason, does not absolve a practitioner from failing to answer the Chief Registrar's enquiries in respect of that client.

7. The Commission regards this practitioner's failure to respond as very serious indeed and having found the allegation **established** on the practitioner's own admission, would make the following orders by way of penalty.

ORDERS

1. The Respondent is publicly reprimanded.

2. That the Respondent be suspended from practice for a period of three months from the date of this judgment.

3. The Respondent is fined the sum of \$500 to be paid to the Independent Legal Services Commission, such fine to be paid by 30th of August, 2013 and failure to pay by that date will result in a further two months' suspension of his practising certificate.

30 JULY 2013

**JUSTICE PAUL MADIGAN
COMMISSIONER**