

**IN THE INDEPENDENT LEGAL SERVICES COMMISSION**  
**AT SUVA**

Application No. 005 of 2015

**BETWEEN:** **CHIEF REGISTRAR**

**Applicant**

**AND:** **VILITATI DAVETA**

**Respondent**

**Counsel:** Mr. V. Sharma for the Chief Registrar  
Mr. Daveta in person

**Dates of hearing:** 30 September, 29 October, 2015

**Date of judgment:** 30 November, 2015

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**PENALTY JUDGMENT**

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- [1] On the 22<sup>nd</sup> September 2015 the Chief Registrar ("CR") filed an application against the Respondent ("The Practitioner") in this Commission.

- [2] The Chief Registrar alleged that the practitioner had professionally misconducted himself in the following manner:

COUNT 1

ALLEGATION OF PROFESSIONAL MISCONDUCT pursuant to section 82(1)(a) and section 108(2) of the Legal Practitioners Decree of 2009.

PARTICULARS

VILTATAI DAVETA, a legal practitioner, failed to provide the Chief Registrar with a sufficient and satisfactory explanation in writing of matters contained in the complaint of Ram Autar dated 22 May 2013 as required by the Chief Registrar by a notice dated 25 October 2013 pursuant to section 105 of the Legal Practitioners Decree 2009 and thereafter failed to respond to a subsequent reminder notice dated 17 October 2014 issued by the Chief Registrar pursuant to section 108(1) of the Legal Practitioners Decree 2009, which conduct is a breach of section 108(2) of the Legal Practitioners Decree 2009 and is an act of professional misconduct.

- [3] When first appearing before the Commission in answer to the allegation the practitioner readily admitted the allegation and asked for time to mitigate.
- [4] Having heard and seen that mitigation the Commission now proceeds to discuss an appropriate penalty.
- [5] The allegation is established.
- [6] The practitioner has appeared before the Commission once before on a very similar application. In August 2013 facing an identical charge, the Commission took a very lenient view of his offending because he at the time had his law firm closed because

he was practising without a practising certificate. The Commission took the view in August 2013 that it was concurrent offending and imposed no penalty.

- [7] It is evidenced that, and accepted by the practitioner, that he was served personally with this s.108 notice.
- [8] The practitioner pleads for leniency given his remorse, his early plea and his regret for not replying to the Chief Registrar.
- [9] To commit this offence of not replying to a request from the Chief Registrar twice is unforgiveable. The practitioner is very aware of how seriously this Commission takes the offence and is aware that the tariff for not replying to the notice is a term of suspension of practice of one to three months.
- [10] The practitioner is now in practice with another as an associate.
- [11] The practitioner pleads in mitigation that he is still "lost" after his own firm was closed and that the complaint to which he didn't reply was an embezzlement by his former staff members without his knowledge.
- [12] Of course the nature of the complaint and the practitioner's explanation for it is entirely irrelevant to this offence of non-communication. It would have been open to him to make this excuse to the Chief Registrar by way of reply to the notice.
- [13] As a remorseful practitioner who admits the charge at first appearance he would ordinarily be penalised by a one month suspension, but given that it is his second time to offend in this manner then that must be extended by making him suspend practice for two months.
- [14] He is additionally ordered to pay costs of \$500 to this Commission.

Dated the 30<sup>th</sup> day of November, 2015.

*P. Madigan*

Justice P. Madigan  
Commissioner

