

It was held that Mr Vosarogo's level of culpability was high, notwithstanding that the misconduct resulted from his negligence in failing to properly oversee the staff managing his trust account. Furthermore, whereas the harm caused in relation to Counts 2, 3 and 4 were considered minor, the level of harm caused in relation Count 1 was serious.

Aggravating Factors

It was held that there were four relevant aggravating factors, namely:

1. that the misconduct occurred over a continuing period of time;
2. that Mr Vosarogo knew or ought to have known that the conduct complained of, was in material breach of his obligations to protect the public and the reputation of the legal professional;
3. that Mr Vosarogo had previously proven disciplinary matters; and
4. the overall extent of the impact of Mr Vosarogo's conduct, namely that four accounts had been overdrawn - Counts 3 and 4 were considered minor, Count 2 was deemed sufficiently serious and Count 1 was deemed very serious.

Mitigating Factors

It was held that there were two relevant mitigating factors, namely:

1. that Mr Vosarogo had taken immediate steps to 'make good the loss' in the sense that all funds were returned; and
2. that Mr Vosarogo should be given credit for his open and frank admission in the early stages of the proceedings.

Second Stage

The Commissioner, referring to the *Guidance Note on Sanctions* (5th edition), emphasised two main purposes for which for sanctions are imposed:

1. as a general deterrence to other legal practitioners; and
2. as a means of upholding public confidence in the legal profession.

Third Stage

Given that Mr Vosarogo's level of culpability in relations to Counts 2, 3 and 4 was deemed to be high, the Commissioner assessed them as being sufficiently serious to justify a fine rather than a reprimand. Further, it was held that the misconduct under Count 1 was serious enough to warrant a suspension.

By considering of the totality of the four counts, the Commissioner held that Mr Vosarogo was to receive a backdated suspension for a combined period of 10 months and 17 days, a restricted practising certificate for a combined period of 20 months and 7 days, and was ordered to undertake five pro bono Legal Aid trials over the next 12 months.

Vakaloloma v Chief Registrar (No 3)
ILSCJ15/2017; [2017] FJILSC 15 (29 September 2017)

This summary is not intended to be a substitute for the reasons of the Independent Legal Services Commission or to be used in any later consideration of the Commission's reasons

Facts

See *Chief Registrar v Vakaloloma - Judgment on Sanctions* [2017] FJILSC 10 (14 June 2017). This judgment concerns the outcome of Mr Vakaloloma's application for an extension of his interim practising certificate.

Judgment

The Commissioner ordered the Chief Registrar to issue a practising certificate to Mr Vakaloloma for the period from 29 September 2017 to 27 November 2017 (inclusive), upon his payment of the prescribed pro rata fees. He also noted that additional conditions would be imposed following submissions from both parties.