

**IN THE INDEPENDENT LEGAL SERVICE COMMISSION**

**SUVA**

**ILSC CASE NO: 011 OF 2019**

**BETWEEN :** CHIEF REGISTRAR

**AND :** SEMI TITOKO

**Applicant :** Ms J Sharma for the Chief Registrar

**Respondent :** Mr D Toganivalu for the Respondent

**Dates of Hearing:** 23 March 2020

**Date of Sanction:** 19 June 2020

**DISCIPLINARY SANCTION**

- [1] The legal practitioner has pleaded guilty to a charge of professional misconduct contrary to section 82(1) (a) of the Legal Practitioners Act 2009 (the Act). The allegation arose from the practitioner's failure to respond to a notice of complaint brought against him by one of his clients. The complaint was filed with the Chief Registrar on 16 October 2017.
- [2] However, the Chief Registrar did not bring the complaint to the notice of the practitioner until 26 March 2019. The practitioner was granted 21 days to respond to the complaint in writing. The practitioner did not respond.
- [3] On 9 May 2019, the Chief Registrar gave the practitioner a second notice to respond to the complaint within 14 days pursuant to section 108 of the Act. The practitioner did not respond.
- [4] On 22 July 2019, the Chief Registrar charged the practitioner with professional misconduct.

[5] Section 82(1) (a) of the Act defines 'professional misconduct' as:

unsatisfactory professional conduct of a legal practitioner, a law firm or an employee or agent of a legal practitioner or law firm, if the conduct involves a substantial or consistent failure to reach or maintain a reasonable standard of competence and diligence.

[6] Section 108 of the Act states:

(1) Where any legal practitioner of law firm fails to comply with any notice issued under section 105 or section 106, the Registrar may notify the legal practitioner or law firm in writing that if such failure continues for a period of fourteen days from the date of receipt of such notice, the legal practitioner or law firm will be liable to be dealt with for professional conduct.

(2) If such failure referred to in subsection (1) continues for a period of fourteen days from the date of such notification to the practitioner, such failure shall be deemed to be professional misconduct, unless the legal practitioner or law firm furnishes a reasonable explanation for such failure. In any proceedings before the Commission, the tendering of a communication or requirement from the Registrar with which the legal practitioner or law firm has failed to comply, together with proof of service of such communication or requirement, shall be prima facie evidence of the truth of the matters contained in such communication and any enclosures or annexures accompanying such communication.

[7] It is rather unfortunate that many legal practitioners are not complying with the statutory requirement to respond to a notice of complaint even after a reminder is served on them by the Chief Registrar. Such failure is deemed to be professional misconduct unless the legal practitioner provides a reasonable explanation for such failure. The practitioner in the present case did not have a reasonable explanation for his failure to respond to the complaint even after a reminder was served on him. The conduct of the practitioner constitutes a substantial or consistent failure to reach or maintain a reasonable standard of competence and diligence.

- [8] The legal practitioner only responded to the complaint after he was charged with professional misconduct. Although he had pleaded guilty to the charge he has said very little about being genuinely remorseful for his conduct.
- [9] The legal practitioner is 47 years of age and single. He has a daughter who is in school. He had not practised law since March 2018. He earns a living by farming and does not have means to comply with monetary sanctions.
- [10] The primary purpose of sanction that I identify for the legal practitioner is deterrence. The practitioner has brought disrepute to the legal profession by his misconduct.
- [11] A comparable case for sanction is *Chief Registrar v Meru* [2020] FJILSC 1 (28 February 2020).
- [12] I publicly reprimand the legal practitioner and order that he must not apply for a renewal of his practising certificate until January 2021.



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**Justice Daniel Goundar**  
**COMMISSIONER**