

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

ILSC No. 008 of 2022

**BETWEEN:** CHIEF REGISTRAR

APPLICANT

**AND:** SIONE FA

RESPONDENT

**Counsel:** Mr. Ravinesh Lal for the Chief Registrar  
Mr. Sione Fa, In Person

**Date of Hearing:** 13<sup>th</sup> September 2022  
**Written submissions:** 28<sup>th</sup> September 2022  
**Date of Ruling** : 29<sup>th</sup> November 2022

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**SANCTION RULING**

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1. On the 17<sup>th</sup> of August 2022 the Chief Register ("CR") filed this application against the Respondent ("The Practitioner") in this Commission with a count of professional misconduct.
2. On the 13<sup>th</sup> of September 2022 when the charges were explained the practitioner accepted liability to the following allegation of professionally misconducted:

**ALLEGATION BY:** *The Chief Registrar*

**PROFESSIONAL MISCONDUCT:** *Contrary to section 82(1)(a) and section 108(2) of the Legal Practitioners Act of 2009.*

**PARTICULARS**

*Sione Fa , a legal practitioner, failed to respond to matters contained in a complaint lodged one **ALIVEO AISAKE ACAREVA** on 7<sup>th</sup> March 2022, as required by the Chief Registrar by a notice dated 18<sup>th</sup> March 2022 pursuant to section 105 & 106 of the Legal Practitioners Act 2009 and thereafter failed*

*to respond to a subsequent reminder notice dated 21<sup>st</sup> April 2022 issued by the Chief Registrar pursuant to section 108(1) of the Legal Practitioners Act 2009, which conduct is a breach of section 108(2) of the Legal Practitioners Act 2009 and is an act of professional misconduct.*

3. As the practitioner at the first call date the 13<sup>th</sup> of September 2022 voluntarily and freely admitted the aforesaid allegation was correct this Commission finds the said allegation is thus established on her own plea.
4. Upon the practitioner readily admitting the said allegation she was granted time to mitigate.
5. Having considered the mitigation of the Respondent and the submission of Applicant I now proceed to pronounce the appropriate sanction as it deem fit to this Commission.
6. “Failing to respond” to the Chief Registrar is a serious form of professional misconduct. As echoed in many a ruling it is not a mere lapse but is a serious and callous disregard of the very authority that issues the practicing certificate and the regulator of the legal practitioners. Majority of the Applications submitted to this Commission are in respect of such failures to respond. Issuing of notices pursuant to section 105 of the Legal Practitioners Decree 2009 is a first step in the investigative process. The failure to respond in a timely manner to such notices, scuttles and retards the prompt inquiry and investigation in to complaints made by the public. The delay so caused certainly will result in a serious loss of public confidence and erode the efficacy of the entire disciplinary process.
7. This charge in my view raises an important issue in relation to the ethical duty and the professional obligation upon members of the profession to respond in a timely manner to a notice they may receive from the Legal Practitioners’ Unit of the Office of the Chief Registrar who is endowed with the serious responsibility of investigating complaints against members of the legal profession.

8. Thus “*failure to respond*” should be considered with utmost seriousness in determining the sanction. However the seriousness may be mitigated firstly, if there be a reasonable cause for the said non-response and secondly, if a sufficient response even belated had been provided to the Legal Practitioners’ Unit as at the date of imposition of section.
9. The previous Commissioners, especially Mr. Justice Madigan has emphasized the importance and the need for practitioners to respond in a timely manner to such notices in the decisions of *Chief Registrar v Luseyane Ligabalavu* [2012] FJILSC 3; Case No.003 and 004.2012 (23 October 2012) and *Chief Registrar v John Rabuku* [2013] FJILSC 6; Case No.013.2013 (30 July 2013) and in *Chief Registrar v Teresia Rigsby*, Case No.006.2015 (dated 29 November 2015)has considered the perennial nature of the problem of not responding.
10. The sentiments expressed in the said decisions which I endorse were thus; the Chief Registrar is the regulatory head of the legal profession; it is his function to ensure that the profession is competently and professionally conducted and if practitioners do not co-operate with him in that regard then his mission is frustrated. Failure to respond to the Registrar is therefore a serious breach of professional duty not only because it is a clear breach of statutory duty as provided for in the Legal Practitioners Act 2009 but also because it is a professional courtesy which should be extended to the head of the profession.
11. It is common ground in this matter that the practitioner was personally served with the s.108 notice. The practitioner pleads for leniency given her remorse, her early plea and her regret for not replying to the Chief Registrar. This is the first time that this practitioner has been before the Commission.
12. The substantive complaint to the LPU was the failure to pay a sum of \$800 as salary and the FNPF contribution due to Mr. Acareva an employee of the Law firm Messrs. Law Solutions. The Respondent Practitioner is an Associate Solicitor of Messrs. Law Solutions. In his mitigation he submits that he failed to respond due to an oversight and mistake. He inter alia agrees and consents to the inclusion of an order in this regard as a part of the sanction in this matter.

13. In these circumstances the Practitioner has failed to respond to the notice as alleged and appears to have not responded up to-date.
14. He claims to be 44 years of age and has been in practice since 2010. He is married with 4 children eldest being 8 years and the youngest 1 month in age. He also is the sole breadwinner and claims to have been going through some financial as well as personal pressure.
15. The conduct of the legal practitioner clearly involves a substantial failure to maintain a reasonable standard of competence and diligence. The purpose of sanction is deterrence, both personal and general. The comparable cases for sanction are *Chief Registrar v Lutumailagi* [2020] FJILSC 4 (24 March 2020), *Chief Registrar v Cavubati* [2019] FJILSC 3 (13 June 2019) and *Chief Registrar v Khan* [2019] FJILSC 4 (13 September 2019). The legal practitioner does not deny any lack of means to comply with a monetary-sanctions.
16. In assessing the sanction in this instance, the Commission will be conscious that the practitioner has freely admitted his error as alleged and agrees to abide by an additional order to meet the substantive complaint too. The Practitioner will be subjected to a reasonable sanction considering all these facts and comparable past sanction rulings. Accordingly, the sanctions imposed are as follows.

Orders of the Commission are:

1. The legal practitioner is publicly reprimanded.
2. The legal practitioner is to pay costs to the Chief Registrar, which I summarily assess in a sum of \$200.00.
3. The legal practitioner is further directed to pay a sum of \$800 as salary due to Mr. Aliveo Aisake Acaeva an employee of the Law firm Messrs. Law Solutions and also to make the relevant FNPF contributions and have the FNPF form perfected and lodge the same with the FNPF.

4. The fine, costs and the payments as directed by order 5 above must be paid within 3 month of this ruling. If the legal practitioner fails to pay the costs and amounts directed to be paid to Mr. Acareva the within 3 months hereof i.e. on or before 28<sup>th</sup> February 2023, the Chief Registrar should not renew or issue the practitioner's practising certificate for 3 months from or if there be a valid practising certificate it shall be suspended for 3 months 28<sup>th</sup> February 2023 or until such time the payment is made in full within that period of 3 months or whichever that may occurs first.

Dated the 30<sup>th</sup> day of November, 2022.

  
**Justice Gihan Kulatunga**  
**Commissioner**

