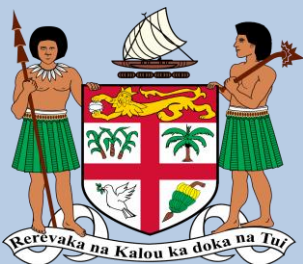


# The Independent Legal Services Commission

*Annual Report*

*2017*



PARLIAMENT OF FIJI

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## TABLE OF CONTENTS

<b>COMMISSIONER'S REPORT</b>	<b>4</b>
<b>GRAPHS AND DATA</b>	<b>10</b>
<i>How to make a complaint</i>	10
<i>ILSC stakeholders</i>	11
<b><i>ILSC APPLICATIONS INDEX</i></b>	<b>12</b>
<b><i>ILSC JUDGMENTS INDEX</i></b>	<b>13</b>
<b><i>ILSC SUMMARY JUDGMENTS INDEX</i></b>	<b>15</b>
<b><i>ILSC DISCIPLINE REGISTER 2017</i></b>	<b>36</b>
<b>APPENDIX 1 – AUDITED FINANCIAL STATEMENT 2014</b>	<b>67</b>
<b>APPENDIX 2 – AUDITED FINANCIAL STATEMENT 2015</b>	<b>83</b>

# Commissioner's Report

Your Excellency,  
Major General (Rtd) Jioji Konousi Konrote, OF, MC,  
President of the Republic of Fiji  
Government House  
Suva

In my capacity as the Commissioner of the Independent Legal Services Commission (“the Commission”), I am pleased to present to you and the Attorney-General, the 2017 Annual Report ‘*on the exercise of the Commission’s functions ... during the year*’ in accordance with section 96 of the *Legal Practitioners Decree 2009*.

## 1. Appointment

I was appointed as the Commissioner on 22 January 2016 for a term of three years. Hence, I shall be completing my term on 21 January 2019.

## 2. Section 96 and the submission of Annual Reports 2009-2016

I note that I previously submitted to you in 2017, an annual report for 2016 incorporating one combined report for the years 2011-2016 as well as a summary of the disciplinary proceedings undertaken by the Commission since its inception in 2009 together with a set of financial accounts for the year 2013.

## 3. 2014 and 2015 Accounts

Your Excellency, please find attached as **Appendices 1 and 2** the Financial Statements (“accounts”) that have been prepared during late 2017 until early 2018 by external accountants (Ernst & Young, Forensic Accountants) to provide a list of income and expenses of the Commission for the calendar years 2014 and 2015 (i.e. 1<sup>st</sup> January until 31<sup>st</sup> December for each year). The accounts were then audited during 2018 by the Office of the Auditor General.

The Commission received on 18<sup>th</sup> September 2018, the 2014 and 2015 accounts returned from the Auditor General as “qualified accounts”. You will note that the accounts can only be read as “qualified accounts” due to the following statement that I provided:

*The accounts can only be read as “qualified accounts” due to the following:*

*The person who fulfilled the role of the Commissioner during the year 2015 concluded their term on 30th November 2015.*

*The person who fulfilled the role as Secretary of the Commission for the year 2015 left the Commission in late 2016.*

*The current Secretary of the Commission (as at February 2018) was only appointed to that position as from 21 June 2017. In addition, the current Commissioner was only appointed as the new Commissioner as from 22nd January 2016 and sworn-in on 9th February 2016. Therefore, neither the current Secretary nor the current Commissioner are able to verify the authenticity of the 2015 accounts.*

*Ernst & Young were engaged initially as forensic accountants to undertake a forensic audit of the Commission's accounts in two stages: the first stage being 2013-2015 and the second stage being 2009-2012 and 2016 (till November). The 2013-2015 report was finalised in February 2017 and copies provided to the Auditor General with copies to the Office of the Director of Public Prosecutions (ODPP), the Fiji Independent Commission Against Corruption (FICAC), the Attorney-General, Solicitor General and Chief Justice.*

Now that the Commission has a finalised audited balance as at the end of the 2015 we can finally proceed on a correct footing to prepare to have the 2016 and 2017 accounts prepared and audited. In this regard, the Commission is presently awaiting approval to engage Ernest & Young to undertake this task. This is in light of the previous problems that necessitated them being engaged to undertake a complete forensic audit of the Commission 2009 to 2016. As I mentioned in my 2016 Annual Report, there is a matter which is still pending before the courts involving the inaugural Secretary of the Commission who was charged in 2016. Therefore, it would be inappropriate for me to comment further until such matter has been concluded.

#### 4. Staff

The forensic report of Ernest & Young recommended a complete restructure of the Commission. This was undertaken with the assistance of the Acting. Secretary, Mr Neel Singh on succumb from the Solicitor General's Office. It resulted in:

1. A new Secretary appointed who has both extensive experience as a legal clerk as well as knowledge of accounting procedures and is undertaking or prepared to undertake a law degree. Such a person was appointed.
2. The Typist position was restructured to **Administrative Assistant/Court Officer**, responsible for assisting the Secretary in the registry functions, during the hearings, administrative, financial, typing and driving responsibilities, if and when needed, suitable for a law student. Such a person was appointed.
3. The driver position was upgraded to **Clerical Officer/ Court Orderly** such that the day-to-day duties now comprise providing clerical assistance to the Administrative Assistant. Again, this is a position suitable for a law student. Such a person was appointed.
4. As a measure against previous issues that have arisen within the Commission, no member of staff is a signatory to ILSC accounts. Instead, the Secretary must obtain on all payments approval in writing (via email) from the Commissioner, who, in turn, copies email approval to both the Solicitor General and the Acting Principal Accounts Officer at the Solicitor-General's Office. A payment voucher is then prepared by the Administrative Assistant/Court Officer of the Commission, the cheque prepared by the

Secretary and then the payment voucher with the necessary approval documentation and cheque are taken by the Administrative Assistant/Court Officer or Clerical Officer/ Court Orderly to the Solicitor General and the Acting Principal Accounts Officer at the Solicitor-General's Office for signing. In the absence of one of these signatories, the Deputy Solicitor General is authorised to be the co-signatory on the cheques.

## 5. 2017 Hearings

In accordance with section 112 (1) of the *Legal Practitioners Decree 2009*, the Commission held five sessions (“Sittings”) of disciplinary proceedings during 2017 hearing allegations against legal practitioners:

- February 2017 Sittings (3-16 February)
- April 2017 Sittings (9-18 April)
- June 2017 Sittings (5-13 June)
- September 2017 Sittings (15-29 September)
- November/December 2017 Sittings (27 November-9 December)

## 6. Continuing Legal Education (CLE)

Apart from conducting disciplinary proceedings, the Commission also has an educative role to perform in assisting the legal profession by providing continuing legal education.

In 2017, I decided to concentrate on the Commission's core role – professional misconduct and unsatisfactory professional conduct. On Saturday, 2<sup>nd</sup> September 2017, I presented a one hour seminar titled '*Appearing In Disciplinary Matters: The Good, the Bad and What About the Mitigation – a forgotten art?*' during the Fiji law Society's 2017 Annual Conference that was held at the. The Fiji law Society paid for the cost of my economy flights, accommodation, meals and transport.

It is hoped, however, depending upon the Commission's workload, staffing levels and budget, that the Commission will be in a position to hold at least one seminar each year and/or for me to speak at one of the various annual legal conferences for the benefit of the legal profession.

## 7. Website

### *(1) ILSC site*

The Commission with the help of the student interns was able to develop a website in late November/December 2017 which was then went live in early 2018. The website covers the following:

- Cause List for each sitting
- Judgments 2009-2017
- Discipline Register 2009-2017
- Annual Reports
- How To Lodge a Complaint

### *(2) Assistance of law student interns*

I had the Secretary of the Commission write, on my behalf, in 2017, to each of the Deans of the

three law schools in Fiji (Fiji National University, University of Fiji, and the University of the South Pacific) to ascertain whether one of their students might be interested in being a volunteer intern (unpaid) with the Commission at some stage during the latter part of 2017.

Ideally, in terms of equity, I was hoping to offer an internship to a student from each of the three law schools in Fiji. I envisaged that the interns would be present during some of the hearings of the Commission as well as to assist with research on some of the activities of the Commission. In addition, I made an offer to give a lecture to students in the relevant ethics course at each law school.

I am pleased to report that Professor Shaista Shameem, Dean of the School of Law at the University of Fiji, again accepted my offer and two of her students attended and assisted during the November/December 2017 Sittings of the Commission. One of them assisted the Commission again during the February 2018 Sittings.

In addition, I made a similar offer (as I did in 2016) to my alma mater, the University of New South Wales in Sydney, Australia, where I am a Visiting Fellow. Four students paid their own travel, meals and accommodation to be with me during the November/December 2017 Sittings of the Commission.

Hence, with the university law students assisting me, we were able to design a web site for the Commission.

Therefore, I wish to record my thanks to the following interns for their assistance during the November/December 2017 Sittings of the Commission:

- *School of Law, University of Fiji, Suva Campus*
- Lavenia Talei Gaunavinaka
  
- *Faculty of Law, University of New South Wales, Australia*
- Hasminder Dhillon
- Teneale Houghton
- Robert Rourke
- Pooja Saini

The web site was later edited in February 2018 by a second group of interns before it went live. I would like to record my thanks to the following interns for their assistance during the February 2018 Sittings of the Commission:

- Lavenia Talei Gaunavinaka (University of Fiji)
- Yingzhu (Judy) Zhou (University of New South Wales)

## 8. Judgments and Orders

The Commission has certain statutory obligations in relation to the filing and publication of its Orders as follows:

### Section 122 – Filing of Orders

*(1) The Commission must give a written copy of any orders made by the Commission in*

*an application for disciplinary proceeding to:*

- (a) the legal practitioner, or the partner or partners of the law firm, against whom the application for disciplinary proceedings was made;*
- (b) the Registrar; and*
- (c) the Attorney-General.*

- (2) The Commission must, within 14 days of an order being made, file the order in the High Court.'*

AND

*Section 126 – Publication of Orders:*

*'The Commission shall publicise and make public any order made against a legal practitioner or law firm or any employee or agent of a legal practitioner or law firm in an application for disciplinary proceeding, in any way the Commission considers appropriate; provided that the Commission may withhold the publication of any order if the Commission is of the view that there are exceptional circumstances which warrant against any publication.'*

Therefore, apart from liaising with PaCLII to ensure the publication of the Commission's judgments for the year 2017 were uploaded, the Commission also provided a copy to the High Court Registry as well as the High Court Library to enable the legal profession to have access to them. Judgments are now also uploaded to the Commission's web site.

9. Transcripts

The one area where we are still delayed (apart from the financial statement issues) is in the provision of transcripts.

Many of the cases now being heard are complex with witnesses giving evidence over multiple hearing days. In addition, we have requests pending from the Court of Appeal. Ideally, it would be preferable to have transcripts typed on the day or days following a hearing. Due to an antiquated recording system that would only allow one member of staff access at any time, this has caused inevitable delays.

A new system was installed in September 2017. Due to the backlog, however, unless approval is given for further law students to work as clerical officers over the next 12 months, to assist with the transcripts backlog, as well as to perform other administrative tasks requiring some knowledge of legal procedure and, when required, to undertake legal research. In the meantime, I have tried to assist staff by continuing to type drafts of my judgments prior to them being read and edited by them. We are present, investigating a new video recording system,

10. Concluding remarks

In conclusion, I would like to formally record my thanks to the Chief Justice and Solicitor General for their assistance during my second year as the Commissioner.

I would like to also record my sincerest appreciation to Mr Neel Singh who was on secondment from the Solicitor-General's office from 9 December 2016 until June 2017 in the role of Acting



Secretary. His extraordinary work ethic and attention to detail were invaluable in assisting me in restructuring the administration of the Commission.

Finally, I have been fortunate in the restructuring of the Commission to have three conscientious members of the staff, Wati Bula (Secretary), Ritika Sami (Administrative Assistant/Court Officer) and Shristy Karan (Clerical Officer/ Court Orderly), who have taken the work of the Commission to a new level. It is best that I conclude my report with a quote about my staff taken from my judgment in *Chief Registrar v Renee Lal* ILSCJ 2; PacLII: [2018] FJILSC 2 (14 February 2018) where I concluded:

*Finally, I must place on the public record my sincere thanks to the staff of the Commission, without whom, the timely delivery of this ruling would not have been possible. They have worked on many evenings and weekends listening to the recordings of each appearance in this matter (bar one), stored mostly on a frustratingly antiquated system, from which they have, with patience and good humour, provided the transcripts and chronology, undertaken research and corrected the proofs of the drafts that became this ruling. It is their dedication that has provided the music, allowing this passing, fortunate, conductor to highlight some of the notes. Working with them has reminded me of a review by Neil McCormick published in The Telegraph (UK) on 19<sup>th</sup> October 2013 of Morgan Neville's uplifting documentary '20 Feet From Stardom', when McCormick wrote:*

*'Loosely framed as a history of how successive generations of young, black, predominantly female, church-raised American gospel singers brought soul and vitality to a stilted pop format, it is, essentially, a plucky underdog story, a feelgood celebration of incredibly talented people whose huge contributions to our general wellbeing have gone unnoticed and, in many cases, largely unrewarded.'*

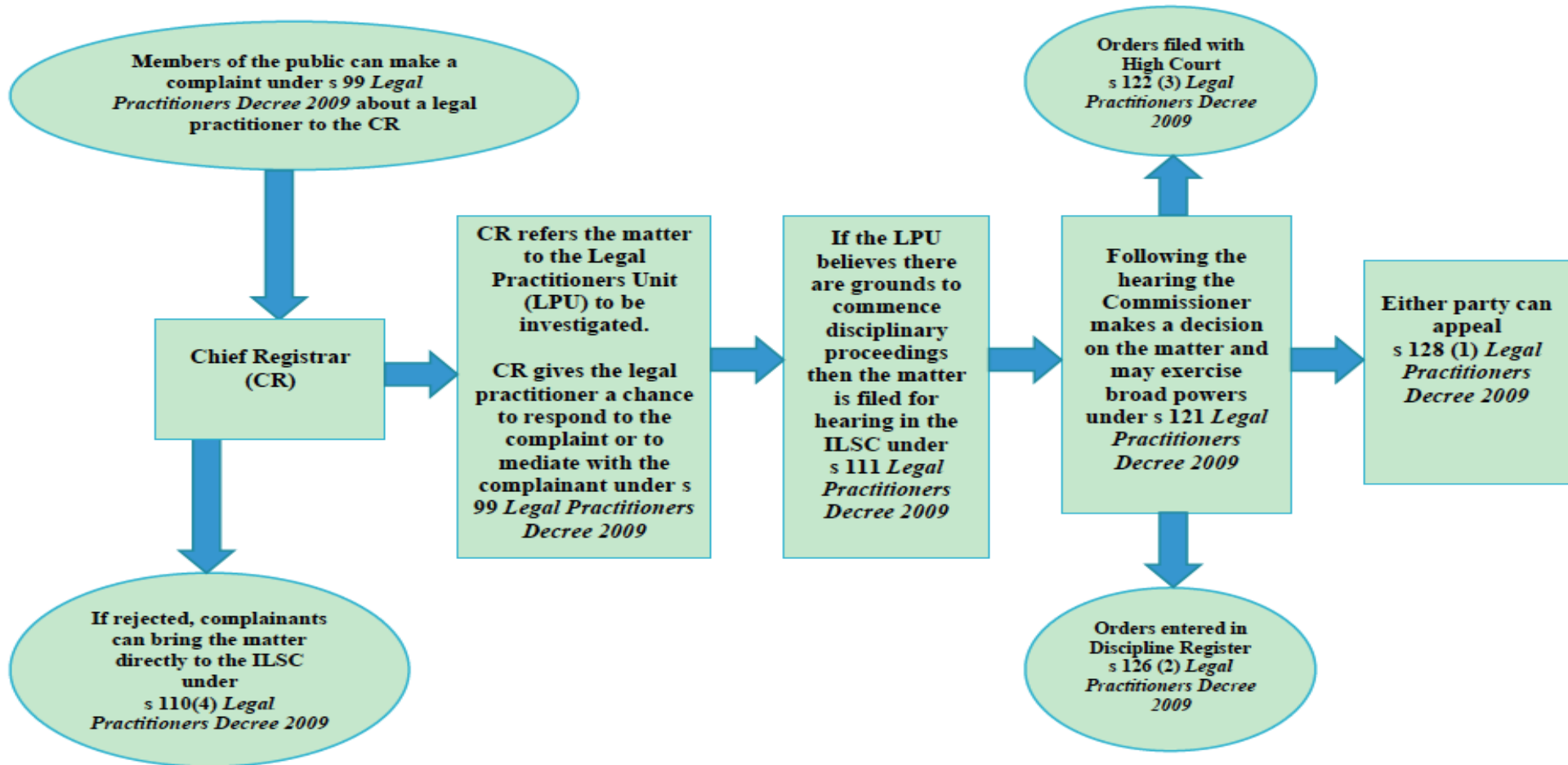
(Neil McCormick, '20 Feet From Stardom: the secret life of the backing singer', *The Telegraph* (UK), 19 October 2013, <<http://www.telegraph.co.uk/culture/music/rockandpop/features/10389065/20-Feet-From-Stardom-the-secret-life-of-the-backing-singer.html>>)

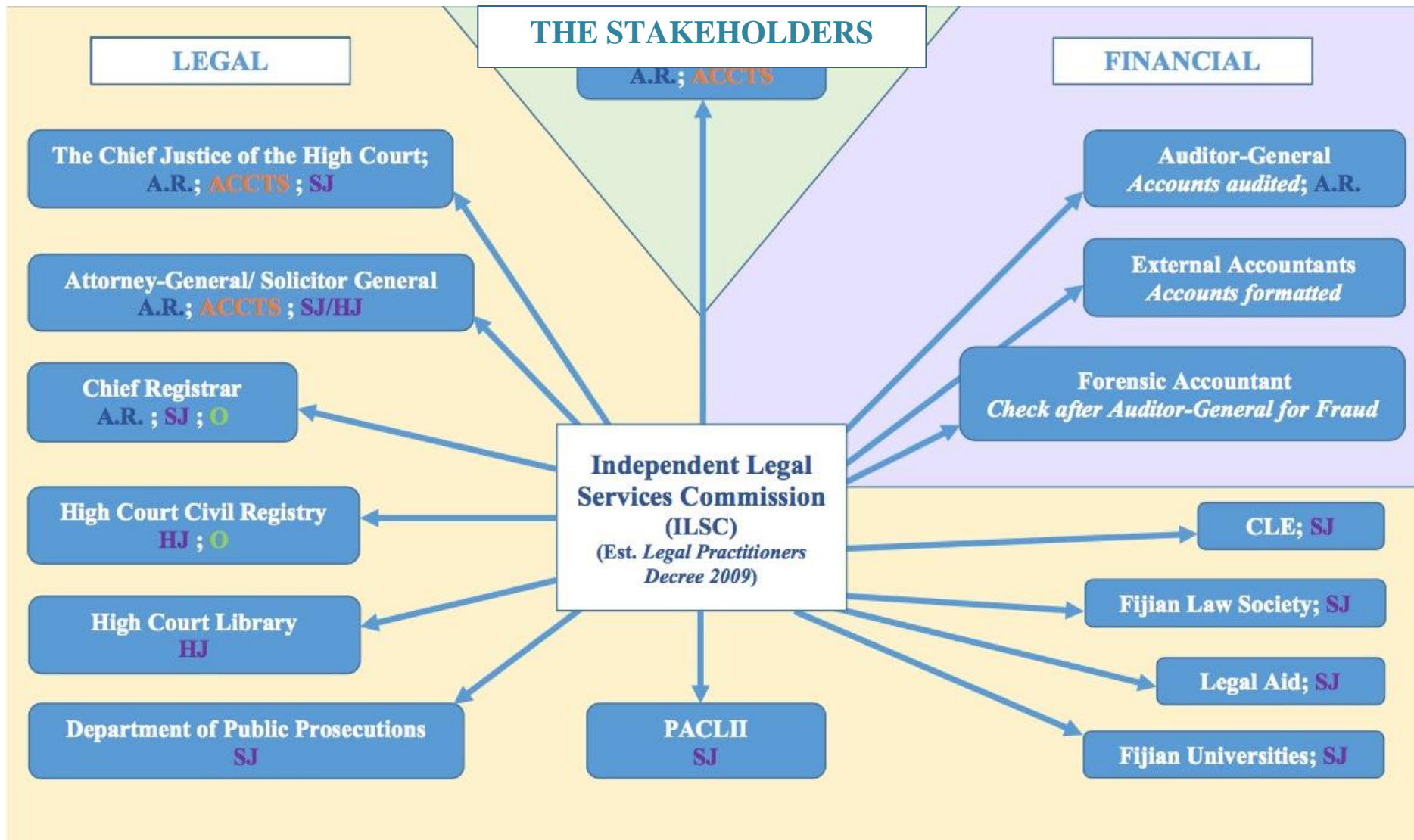
I look forward to continuing in my role as Commissioner until I complete my term on 21 January 2019.

*Dr Thomas Hickie  
Commissioner  
Independent Legal Services Commission  
Level 5, Civic Towers, Victoria Parade  
Suva  
21 September 2018*

## How to Make a Complaint

The Independent Legal Services Commission (ILSC) was established under the *Legal Practitioners Decree 2009*





Key:

A.R. = Annual Report; ACCTS = Accounts; HJ = Hard-copy of judgments; SJ = Soft-copy of judgments; O = Orders made by the Commissioner

## ILSC APPLICATIONS 2017

*(Indexed by Case Numbers)*

Case no.	Case name	Status	Orders	Summary Judgment Register Page Number
001/2017	CR v Aseri Vakaloloma	Closed	<b>Count 1:</b> Pleaded guilty to professional misconduct 1) Practising certificate suspended for one month 2) Fine of \$1000.00 to be paid to the Commission 3) Payment of \$500.00 to the Chief Registrar 4) Payment of \$500.00 to the Commission	27-28
002/2017	CR v Nacanieli Bulisea	Closed	<b>Count 1:</b> Pleaded guilty to professional misconduct 1) Practising certificate suspended for 3 months 2) Fine of \$2000.00 to be paid to the Commission 3) Undertake file legal and trials on pro bono basis 4) Payment of \$1000.00 to the Chief Registrar 5) Payment of \$1000.00 to the Commission	32-34
003/2017	CR v Renee Lal	Closed	Matter is withdrawn but not discontinued, with liberty to the Chief Registrar to re-file an application before the Independent Legal Services Commission in future.	N/A
004/2017	CR v Aseri Vakaloloma	Ongoing	Judgment on Notice	N/A
005/2017	CR v Raman Pratap Singh	Ongoing	Judgment on Notice	N/A
006/2017	CR v Babu Sing & Others	Closed	Matter withdrawn and wholly discontinued by the Applicant against the First, Second, Third and Fourth Respondents	N/A

## **ILSC JUDGMENTS 2017 - INDEX**

*(Indexed in date order of judgment)*

<b>Judgment No.</b>	<b>Judgment Date</b>	<b>Case No.</b>	<b>Case Name</b>	<b>Judgment Type</b>	<b>Page No.</b>
ILSCJ01/2017	6 February	002/2016	CR v Vilimone Vosarogo (aka Filimoni WR Vosarogo)	Ruling on Interlocutory Applications	15-16
ILSCJ02/2017	6 February	002/2015	CR v Hari Ram	Judgment	17-18
ILSCJ03/2017	6 February	002/2016 & 003/2016	CR v Vilimone Vosarogo(aka Filimoni WR Vosarogo) & CR v Laisa Lagilevu Vodo	Ruling on Interim Practising Certificate	18-19
ILSCJ04/2017	13 February	003/2015	CR v Raman Pratap Singh	Judgment	19-20
ILSCJ05/2017	15 February	004/2015	CR v Dorsami Naidu	Ruling on Validity of Charge	20-22
ILSCJ06/2017	18 April	013/2015	A Solicitor v CR	Judgment	22
ILSCJ07/2017	18 April	013/2015	A Solicitor v CR	Ex Tempore Ruling on Costs	23
ILSCJ08/2017	18 April	003/2015	CR v Raman Pratap Singh	Judgment on Sanctions	23-25
ILSCJ09/2017	18 April	004/2016	CR v Alipate Qetaki	Judgment on Sanctions	25-27
ILSCJ10/2017	13 June	001/2017	CR v Aseri Vakaloloma	Judgment on Sanctions	27-28
ILSCJ11/2017	14 June	002/2016	CR v Vilimone Vosarogo (aka Filimone WR Vosarogo)	Ruling on Interim Practising Certificate	28
ILSCJ12/2017	14 June	004/2017	CR v Aseri Vakaloloma	Ruling on Interim Practising Certificate	28
ILSCJ13/2017	18 September	004/2017	CR v Aseri Vakaloloma	Ruling on Interim Practising Certificate	29
ILSCJ14/2017	29 September	002/2016	CR v Vilimone Vosarogo (aka Filimoni WR Vosarogo)	Judgment on Sanctions	29-31
ILSCJ15/2017	29 September	004/2017	CR v Aseri Vakaloloma	Ruling on Interim Practising Certificate	31
ILSCJ16/2017	27 November	003/2015	CR v Raman Pratap Singh	Ex-Tempore Judgment	31-32

ILSCJ17/2017	28 November	004/2017	CR v Aseri Vakaloloma	Ruling on Tendering of Nauru Judgment Into Evidence	32
ILSCJ18/2017	30 November	002/2017	CR v Nacanieli Bulisea	Judgment	32-33
ILSCJ19/2017	5 December	002/2017	CR v Nacanieli Bulisea	Judgment on Sanctions	33-34
ILSCJ20/2017	6 December	004/2017	CR v Aseri Vakaloloma	Ex-Tempore Ruling on Interim Practising Certificate	34
ILSCJ21/2017	7 December	005/2017	CR v Raman Pratap Singh	Ex-Tempore Ruling On Stay	35

# **ILSC SUMMARY JUDGMENTS 2017 - INDEX**

*(Indexed in date order of judgment)*

*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.*

<b>NAME</b>	CR v Vilimone Vosarogo (aka Filimoni WR Vosarogo)
<b>CASE NUMBER</b>	002/2016
<b>ILSC JUDGMENT NO.</b>	01/2017
<b>DATE OF JUDGMENT</b>	6 February 2017
<b>FACTS</b>	<p>Mr Vosarogo, the principal of Mamlakah Lawyers and trustee of the Mamlakah Lawyers Trust Account, was charged with three counts of professional misconduct in relation to the operation and management of 12 clients' trust accounts:</p> <p>Count 1: He failed to ensure that multiple clients' trust accounts were not overdrawn, which constituted a breach of section 82(1)(b) of the Legal Practitioners Act 2009 ('LPA'). This prohibited conduct alleged in Count 1, if established, would mean that Mr Vosarogo was not a 'fit and proper person' to engage in legal practice. There were two main issues in relation to Count 1: firstly, whether the 12 acts alleged in the particulars were the components of one offence or 12 separate offences; and secondly, whether or not sanctions had been pleaded in the particulars.</p> <p>Count 2: He failed to discharge his duties as a trustee to properly monitor the internal account system, which resulted in 12 clients' accounts being overdrawn. This was said to amount to a breach of section 82(1)(b) of the LPA. Once again, two issues arose: firstly, whether Counts 1 and 2 were in fact the same offence or whether the particulars in both Counts 1 and 2 were identical; and secondly, whether the evidence to be relied upon in both Counts 1 and 2 were from the same source (namely the auditors).</p> <p>Count 3: He failed to provide the auditors with an authority letter from the client (Mr Daniel Wah) for withdrawal of monies from the trust account, after being requested by the auditors. This was</p>

	<p>said to be in breach of sections 12(5) and 17(b) of the Trust Accounts Act 1996 ('TAA'), and was therefore an act of professional misconduct pursuant to sections 82(1)(a) and 83(1)(h) of the LPA.</p> <p>This judgment concerns the outcome of Mr Vosarogo's application to have the counts struck out, in addition to the Chief Registrar's outcome to amend Count 3 to further include breaches of sections 12(4) and (5) of the TAA.</p>
<p><b>JUDGMENT</b></p>	<p>The Commissioner found that all three counts were duplicitous, in addition to Count 2 offending the rule against double jeopardy. Count 1 was held to be duplicitous as it incorporated 12 separate offences, namely a breach for each account which was allowed to be overdrawn. Further, the count impermissibly referred to sanctions within the particulars.</p> <p>Count 2 was held to be in breach of the rule against double jeopardy as it was, in substance, identical to Count 1. This is because both Counts 1 and 2 referred to the same offence and particulars, and were also seen to rely on the same sources of evidence. It followed that this count was also duplicitous.</p> <p>Count 3 was also held to be duplicitous as it alleged the commission of two separate offences, namely the breach of two provisions of the TAA. The Chief Registrar's application for leave to amend this count was refused on the basis that it could create further duplicity.</p> <p>However, notwithstanding these findings, Mr Vosarogo's application seeking a ruling that the three counts be struck out was refused. Instead, the Chief Registrar was granted leave to file a further amended application to remove the observed defects in the counts.</p>



<b>NAME</b>	CR v Hari Ram
<b>CASE NUMBER</b>	002/2015
<b>ILSC JUDGMENT NO.</b>	02/2017
<b>DATE OF JUDGMENT</b>	6 February 2017
<b>FACTS</b>	<p>Mr Hari Ram and his law firm (Rams Law) acted as the common solicitor administering a sale and purchase agreement for a Crown lease between Mr Sheik Haque (the vendor/landlord) and Mr Abid Hussain (the purchaser/tenant). Due to an alleged conflict of interest, the Chief Registrar raised against him six counts of professional misconduct section 82(1)(a) of the <i>Legal Practitioners Act 2009</i>:</p> <p>Count 1: Whilst acting for both parties to a single transaction, he failed to make a full and frank disclosure and did not obtain informed consent to continue engaging in such practice. This allegedly breached rule 1.2 of the <i>Rules of Professional Conduct and Practice</i>.</p> <p>Counts 2 and 3: He acted under a conflict of interest when instituting proceedings on behalf of Mr Hussain against Mr Haque in relation to the sale and purchase agreement, firstly in the Magistrates Court (Count 2) and secondly in the High Court at Lautoka (Count 3).</p> <p>Count 4: He instructed a legal practitioner from Rams Law to act on behalf of Mr Hussain in a tribunal action against Mr Haque.</p> <p>Count 5: He witnessed the signatures of both Mr Haque and Mr Hussain on the relevant documents in relation to the sale and purchase agreement.</p> <p>Count 6: Prior to witnessing Mr Haque's signature, he failed to read and explain to Mr Haque the contents of the relevant legal instruments.</p>
<b>JUDGMENT</b>	<p>The Commissioner held that the persuasive burden of proof is on the applicant to prove the charge upon a balance of probabilities, the civil standard, 'according to the gravity of the act to be proved' (<i>Chief Registrar v Kapadia</i> [2016] FJILSC 8 (21 September 2016)). In the present case, there were significant gaps in the evidence provided for Counts 1 and 6, and no evidence was provided for Count 5. Thus, the Chief Registrar</p>

	<p>failed to satisfy their burden in relation to Counts 1, 5 and 6. In relation to Counts 2, 3 and 4, Mr Haque (the complainant, and vendor/landlord) was unable to identify the actual conduct which gave rise to the alleged conflict of interest, other than the fact that Mr Ram was the common solicitor between the purchaser and vendor in the sale of land transaction. This was insufficient, as its connection to Mr Ram acting on behalf of Mr Hussain (the purchaser) in later proceedings was not established. Furthermore, he was not shown to have used any confidential information, obtained when acting as the common solicitor, when acting on behalf of Mr Hussain in the three proceedings.</p> <p>As such, all six counts of professional misconduct were dismissed. The Commissioner did however caution lawyers that while the six counts in the present case have been dismissed, practitioners are still to be cautious when acting as a common legal practitioner.</p>
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<b>NAME</b>	CR v Vilimone Vosarogo (aka Filimoni WR Vosarogo) & CR v Laisa Lagilevu Vodo
<b>CASE NUMBER</b>	002/2016 & 003/2016
<b>ILSC JUDGMENT NO.</b>	03/2017
<b>DATE OF JUDGMENT</b>	6 February 2017
<b>FACTS</b>	See <i>Chief Registrar v Vosarogo</i> (No 3) [2017] FJILSC 1 (6 February 2017); <i>Chief Registrar v LagilevuVodo</i> (No 3) [2016] FJILSC 10 (8 December 2016). The first respondent, Mr Vosarogo, and the second respondent, Ms Lagilevu-Vodo, were both without practising certificates from 1 March 2016 and 18 March 2016 respectively, until 23 September 2016. This judgment concerns the outcome of their interlocutory oral applications seeking the continuation of their respective interim practising certificates until 28 February 2017.
<b>JUDGMENT</b>	The Commissioner held that both Mr Vosarogo's and Ms Lagilevu-Vodo's applications would be successful, and as such their interim practising certificates should be renewed. In reaching this decision, the Commissioner noted that the fact that the Commission sits part-time could have a detrimental effect on legal practitioners. Further, he noted that in both cases, the

	<p>allegations against both practitioners were in relation to negligent, not fraudulent behaviour.</p> <p>For Mr Vosarago, the grant was subject to four conditions, namely that: 1. he was not allowed to operate any trust account, specifically the Trust Account No. 7703648 held at the Bank of the South Pacific, unless approved in writing by the Chief Registrar; 2. he was required to provide monthly bank statements for Mamlakah Lawyers Trust Account No. 7703648 to the Office of the Chief Registrar at the end of each month, unless further notice was provided; 3. he could only practice as a barrister and receive payment upon issuance of an invoice after completing his work; and 4. he had to conduct his work under the supervision of Mr Simone Valenitabua. For Ms Lagilevu-Vodo, the grant was subject to two conditions, namely: 1. she was not permitted to operate any trust account or receive any monies personally in relation to any legal work undertaken; and 2. she was only permitted to practice as an employee of an existing firm, and could not re-open her practice.</p>
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<b>NAME</b>	CR v Raman Pratap Singh
<b>CASE NUMBER</b>	003/2015
<b>ILSC JUDGMENT NO.</b>	04/2017
<b>DATE OF JUDGMENT</b>	13 February 2017
<b>FACTS</b>	Mr Raman Singh was charged with professional misconduct in relation to the conveyance of a cane farm, for which he was engaged to administer over 18 years ago. It was alleged that the sale and purchase agreement was never finalised, and as such land not transferred to the purchaser. The two counts for this case are same as in <i>Chief Registrar v Singh (No 1)</i> [2016] FJILSC 3 (7 June 2016). Mr Singh filed an application to dismiss Count 1. He entered a guilty plea in relation to Count 2 and offered to refund the fees and pay the complainant any costs reasonably incurred.
<b>JUDGMENT</b>	The Commissioner highlighted that the complainant has been waiting for some 6,808 days for the land to be transferred and emphasised that what had occurred was a disgrace.

	<p>Count 1 was dismissed, as it was held that the Chief Registrar had not adduced evidence capable of proving such a specific allegation. However, Count 2 was upheld, as Mr Singh was found to be guilty of professional misconduct under section 83(1)(a) of the <i>Legal Practitioners Act 2009</i> ('LPA') by reason of his breach of rules 8.1(1)(b) and (d) of the <i>Rules of Professional Conduct and Practice (Schedule of the LPA)</i>.</p> <p>The Commissioner declared that this case should be taken as a warning to practitioners about the unacceptability of such conduct, thereby encouraging them to keep detailed file notes.</p>
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<b>NAME</b>	CR v Dorsami Naidu
<b>CASE NUMBER</b>	004/2015
<b>ILSC JUDGMENT NO.</b>	05/2017
<b>DATE OF JUDGMENT</b>	15 February 2017
<b>FACTS</b>	<p>This case concerns an alleged conflict of interest by Mr Dorsami Naidu, which if proven, would have been a contravention of rule 1.3 of the <i>Rules of Professional Conduct and Practice</i>, thereby constituting professional misconduct under section 82(1)(a) of the <i>Legal Practitioners Act 2009</i> ('LPA').</p> <p>The relevant facts took place during the administration of the estate of the deceased, whom in 1998 had died intestate, leaving behind a large cane farm held under a native title lease. In 1999, under a grant of letters of administration, the deceased's son Mr Rajesh Pillay was appointed sole trustee of her estate for himself and his four siblings. Unfortunately, Mr Pillay's suitability as a trustee was doubtful. This was not least because of his poor management of the cane farm during the period from 1999 to 2005, the lease for which was at risk of termination because various breaches of covenant.</p> <p>To rectify this ongoing issue, Mr Naidu was engaged on behalf of all five parties to execute a deed of appointment, signed in 2005, whereby Mr Pillay would consent to be replaced as sole trustee by two of his siblings. Shortly thereafter, Mr Naidu instituted proceedings in the High Court at Lautoka to give effect to this deed. It was this action which was said to give rise to the purported conflict: namely that Mr Naidu was acting against the</p>

	<p>interests of Mr Pillay – a former client – in having him removed as trustee.</p>
<p><b>JUDGMENT</b></p>	<p>This application was pursued by the Chief Registrar (under section 124 of the <i>LPA</i>) in the absence of a complainant.</p> <p>On application by Mr Naidu, the count of professional misconduct was struck out. This was done on two separate bases:</p> <ol style="list-style-type: none"> <li>1. the facts did not disclose any actual or perceived conflict of interest; and</li> <li>2. even if they did, Mr Naidu had obtained informed consent from all parties involved.</li> </ol> <p>On the first basis, the Commissioner held that the Chief Registrar had misconceived their claim. This is because Mr Naidu was not acting against Mr Pillay in the High Court proceedings in seeking to give effect to the deed. It is difficult to see how the mere removal of a trustee could ever involve such a conflict given that a trustee does not derive any personal interest from their position, but rather owes a fiduciary duty of undivided loyalty to the beneficiaries (see generally <i>Breen v Williams</i> (1996) 186 CLR 71). In the circumstances of the present case it was in fact in Mr Pillay’s own interests (as a beneficiary) that he be removed as trustee, so as to save the cane farm lease from termination.</p> <p>On the second basis, the Commissioner held that the Chief Registrar’s own evidence (from the other four siblings) clearly corroborated Mr Naidu’s defence, namely that he fully advised all five parties and obtained their consent to prepare the deed and enforce it by means of a court order. However, it was rather concerning that the Chief Registrar pursued its claim <i>without</i> having first interviewed Mr Pillay himself, whose interests were said to have been compromised. This was unacceptable practice, which is certainly not justified by the Chief Registrar’s explanation that on one night, ‘[the] judicial vehicle ... could not make it [to his house] ... due to heavy rain and road condition [sic] and it was also getting dark’.</p> <p>The Commissioner emphasised that, but for the restrictions on remedies contained within section 124(2) of the <i>LPA</i>, he would have been minded to making an indemnity costs order in favour of Mr Naidu for what was arguably ‘an abuse of process’ by the Chief Registrar. Notwithstanding this unfortunate predicament, it was suggested that an aggrieved legal practitioner (like Mr Naidu) might potentially be able to obtain redress through a ‘<i>Mosely</i>-type Order’, which would involve an indefinite stay of</p>

	proceedings until certain costs are paid by the applicant (see <i>Chief Registrar v Vosarogo</i> (Unreported, ILSC Application No. 002 of 2016, 6 February 2017), citing <i>R v Mosely</i> (1992) 28 NSWLR 735).
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<b>NAME</b>	A Solicitor v CR
<b>CASE NUMBER</b>	013/2015
<b>ILSC JUDGMENT NO.</b>	06/2017
<b>DATE OF JUDGMENT</b>	18 April 2017
<b>FACTS</b>	The applicant (a legal practitioner) was seeking to have their name be suppressed from mention in the judgment of Commissioner Mr Justice P K Madigan, made on 25 November 2015 (ILSC Case No. 013 of 2015), due to references therein to the legal practitioner’s medical condition. Thus, the issue in this case was whether the Commission had the power to make orders restricting the publication of and access to the 2015 judgment.
<b>JUDGMENT</b>	<p>The Commissioner emphasised that the ‘primary objective of the Commission is to safeguard the public combined with there being a public interest in open justice’. Nonetheless, the Commissioner held that the 2015 judgment would not be published on the website of the Pacific Islands Legal Information Institute (‘PacLII’). He further declared that:</p> <ol style="list-style-type: none"> <li>1. should PacLII be restructured to either become an Institute of the University of the South Pacific or any other new entity, the 2015 judgment would not be published on those websites; and</li> <li>2. there would a prohibition on any publication, disclosure and/or public dissemination of the 2015 judgment and/or any information that would reveal or would likely to reveal the identity and/or the medical condition of the applicant.</li> </ol> <p>Subsequently, it was concluded that if any person wished to have access to the Commission’s file in Case No. 013 of 2015, they must first obtain an order from the Commission granting them access. However, the Commissioner ordered that the applicant’s name would remain on “Discipline Register” maintained by the Independent Legal Services Commission, in accordance with the requirements set out in section 126(2)(a) of the <i>Legal Practitioners Act 2009</i>.</p>

<b>NAME</b>	A Solicitor v CR
<b>CASE NUMBER</b>	013/2015
<b>ILSC JUDGMENT NO.</b>	07/2017
<b>DATE OF JUDGMENT</b>	18 April 2017
<b>FACTS</b>	See <i>A Solicitor v Chief Registrar (No 1)</i> [2017] FJILSC 5 (18 April 2017). This judgment concerns the making of a costs order in relation to the applicant's failure to appear before the Commission on 11 April 2017. The applicant sought an adjournment of the costs hearing, submitting that they were unaware of the relisting of their matter (for which they failed to appear) due to an illness.
<b>JUDGMENT</b>	<p>The Commission rejected the applicant's request for an adjournment. This decision on costs was made with reference to the following two pieces of evidence:</p> <ol style="list-style-type: none"> <li>1. the recorded emails sent to the applicant's legal practitioners (on 4 April 2017) notifying the applicant of the relisting; and</li> <li>2. an email from the applicant (discovered by the Acting Secretary for the Commission) asking that the hearing be rescheduled.</li> </ol> <p>The applicant was ordered to pay wasted costs for their non-appearance on 11 April 2017, namely two sums of \$300 to the Chief Registrar and the Commission respectively.</p>

<b>NAME</b>	CR v Raman Pratap Singh
<b>CASE NUMBER</b>	003/2015
<b>ILSC JUDGMENT NO.</b>	08/2017
<b>DATE OF JUDGMENT</b>	18 April 2017
<b>FACTS</b>	See <i>Chief Registrar v Singh (No 1)</i> [2016] FJILSC 3 (7 June 2016) and <i>Chief Registrar v Singh (No 2)</i> [2017] FJILSC 3 (13 February 2017).

## JUDGMENT

In determining the appropriate sanction, the Commissioner applied the three-stage test from *Fulgers and Others v Solicitors Regulation Authority* [2014] EWHC 179, namely:

1. assessing the seriousness of the conduct, which involves considering Mr Singh's culpability, along with the harm caused and any aggravating or mitigating factors;
2. considering the purpose for imposing sanctions; and then
3. combining the first and second stage into determining the appropriate sanction which involves its deterrent purpose and reflects the seriousness of the legal practitioner's conduct.

### First Stage

#### *Culpability*

It was held that five factors tended towards increasing Mr Singh's culpability, namely that:

1. he had attempted to shift blame, both onto his client and the surveyor, in relation to his own inaction;
2. his conduct was deliberate and was not spontaneous;
3. his actions were a breach of trust as Mr Singh's client relied on upon him to resolve the dispute with the vendor;
4. he had direct control of or responsibility for the circumstances giving rise the misconduct; and
5. he had approximately four decades of experience as a legal practitioner.

#### *Harm Caused*

It was held that Mr Singh's misconduct had caused significant harm, as his client had been waiting 18 years for the land to be transferred.

#### *Aggravating and/or Mitigating Factors*

It was held that there were five relevant aggravating factors, as quoted from the *Guidance Note on Sanctions* (5<sup>th</sup> edition) published by the Solicitors Disciplinary Tribunal of England and Wales, namely:

1. 'Misconduct continuing over a period of time', namely for a period of 14 years and 5 months;
2. 'Taking advantage of a vulnerable person', as Mr Singh's client was an illiterate cane farmer and had only come to Mr Singh after the police had advised him to do so;
3. 'Misconduct where the respondent knew or ought reasonably to have known that the conduct was in material breach of obligations to protect the public and reputation of the legal profession';
4. 'Previous disciplinary matters before the Tribunal where allegations were found proved' – there have been three findings



	<p>of professional misconduct and it has not been overturned by the Court of Appeal; and</p> <p>5. ‘The extent of the impact on those affected by the misconduct’ - Mr Singh showed a lack of understanding as to the harm done to his client and the legal profession.</p> <p>There were no relevant mitigating factors.</p> <p>Second Stage</p> <p>The Commissioner emphasised two primary objects for which for sanctions are imposed:</p> <ol style="list-style-type: none"> <li>1. as a general deterrence to other legal practitioners; and</li> <li>2. as a means of upholding public confidence in the legal profession.</li> </ol> <p>Third Stage</p> <p>The Commissioner considered that the most appropriate sanction for Mr Singh would be the suspension of his practising certificate for a period of 15 months (‘Order 1’). Further, he was ordered to pay a sum of \$1,155 to the Chief Registrar for its reasonably incurred costs.</p> <p>It was further ordered however that Order 1 would be deferred on the condition that Mr Singh sign and file a consent order that he would undertake and complete the first 11 steps set out in his own supplementary submission. The matter was adjourned for a further hearing on the 27 November 2017, and if the Commission was satisfied that Mr Singh had completed all 11 steps or that he had used his best endeavours to do so, it would consider reducing his suspension to a period of not less than eight months.</p>
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<b>NAME</b>	CR v Alipate Qetaki
<b>CASE NUMBER</b>	004/2016
<b>ILSC JUDGMENT NO.</b>	09/2017
<b>DATE OF JUDGMENT</b>	18 April 2017
<b>FACTS</b>	Mr Alipate Qetaki opened a trust account with the Bank of the South Pacific (‘BSP’), without obtaining written approval from the Minister of Justice, leading to breaches of sections 3(1) and (1B) of the <i>Trust Accounts Act 1996</i> (‘TAA’). Mr Qetaki was

	<p>charged with two counts of professional misconduct, pursuant to sections 82(1)(a) and 83(1)(h) of the <i>Legal Practitioners Act 2009</i> ('LPA'), for which he was found guilty. This judgment concerns the sanctions which were to be imposed.</p>
<p><b>JUDGMENT</b></p>	<p>In determining the appropriate sanction, the Commissioner applied the three-stage test from <i>Fulgers and Others v Solicitors Regulation Authority</i> [2014] EWHC 179, namely:</p> <ol style="list-style-type: none"> <li>1. assessing the seriousness of the conduct, which involves considering Mr Singh's culpability, along with the harm caused and any aggravating or mitigating factors;</li> <li>2. considering the purpose for imposing sanctions; and then</li> <li>3. combining the first and second stage into determining the appropriate sanction which involves its deterrent purpose and reflects the seriousness of the legal practitioner's conduct.</li> </ol> <p><i>First Stage</i> <i>Culpability</i></p> <p>It was held that two factors tended towards reducing Mr Qetaki's culpability, namely that:</p> <ol style="list-style-type: none"> <li>1. he did not have an intention to engage in the misconduct and it was a spontaneous breach; and</li> <li>2. he also did not attempt to conceal his action from the Chief Registrar, there was no dishonesty involved.</li> </ol> <p><i>Harm Caused</i></p> <p>It was held that the impact of Mr Qetaki's was minimal, given that no member of the public was harmed, nor was the client's money ever at risk (as there were no transactions through the account once it was established). However despite this, the Commissioner emphasised that obtaining approval to open trust accounts is a mandatory requirement for all practitioners, and should not be taken lightly.</p> <p><i>Aggravating Factors</i></p> <p>It was held that there was one relevant aggravating factor, namely that Mr Qetaki ought reasonably to have known that his actions were in breach of his statutory obligations.</p> <p><i>Mitigating Factors</i></p> <p>It was held that there were two relevant mitigating factors, namely that:</p> <ol style="list-style-type: none"> <li>1. there was transparency in the sense that Mr Qetaki kept the Legal Practitioners Unit informed about his actions;</li> <li>2. the misconduct only occurred once; and</li> <li>3. the misconduct only occurred for a brief period.</li> </ol>

	<p><b>Second Stage</b> The Commissioner emphasised two main purposes for which for sanctions are imposed:</p> <ol style="list-style-type: none"> <li>1. as a general deterrence to other legal practitioners; and</li> <li>2. as a means of upholding public confidence in the legal profession.</li> </ol> <p><b>Third Stage</b> The Commissioner declined to impose any sanctions upon Mr Qetaki, noting that the level of culpability was low in relation to both counts and minimum harm was caused by the actions. As such, Mr Qetaki’s name was not entered into the “Discipline Register”. Additionally, pursuant to section 124 of the <i>LPA</i>, Mr Qetaki was ordered to pay (within 28 days) two sums of \$1000 to the Chief Registrar and the Commission respectively, as compensation for their reasonably incurred costs.</p> <p>In making these orders, the Commissioner accepted that it was the conduct of BSP in this matter which was truly blameworthy, namely its failure to obtain a copy of the approval letter from Mr Qetaki, who was a trustee. This failure had amounted to a breach of section 3(1) of the <i>TAA</i>, for which the bank had already been prosecuted (in accordance with section 28(1)(a) of the <i>TAA</i>), found guilty, and ordered to pay a fine of \$1,500.</p>
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<b>NAME</b>	CR v Aseri Vakaloloma
<b>CASE NUMBER</b>	001/2017
<b>ILSC JUDGMENT NO.</b>	10/2017
<b>DATE OF JUDGMENT</b>	13 June 2017
<b>FACTS</b>	Mr Aseri Vakaloloma had appeared in the High Court of Lautoka without a valid practising certificate, in breach of sections 42(1) and (2) of the <i>Legal Practitioners Act 2009</i> ( <i>‘LPA’</i> ). By reason of this conduct, Mr Vakaloloma was charged with one count of professional misconduct in accordance with sections 82(1)(a) and 83(1)(a) of the <i>LPA</i> .
<b>JUDGMENT</b>	Mr Vakaloloma entered into a guilty plea in relation to professional misconduct. Therefore, this judgment dealt with only sanctions. The Commissioner ordered that his practising certificate be suspended for one month, and that he pay two sums

	of \$500 to the Chief Registrar and the Commission respectively, as compensation for costs reasonably incurred.
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<b>NAME</b>	CR v Vilimone Vosarogo (aka Filimone WR Vosarogo)
<b>CASE NUMBER</b>	002/2016
<b>ILSC JUDGMENT NO.</b>	11/2017
<b>DATE OF JUDGMENT</b>	14 June 2017
<b>FACTS</b>	The facts of this case are same as in <i>Chief Registrar v Vosarogo (No 1)</i> [2016] FJILSC 6 (23 September 2016). This judgment concerns the outcome of Mr Vosarogo’s oral application for the issuing of an interim practising certificate.
<b>JUDGMENT</b>	The oral application was refused. The Commissioner held that it was inappropriate to issue an interim practising certificate without considering all the submissions on the substantive matters of the case. The Commissioner noted that he did not want to hastily grant an interim practising certificate, as it would create an undesirable precedent for matter involves trust accounts.

<b>NAME</b>	CR v Aseri Vakaloloma
<b>CASE NUMBER</b>	004/2017
<b>ILSC JUDGMENT NO.</b>	12/2017
<b>DATE OF JUDGMENT</b>	14 June 2017
<b>FACTS</b>	See <i>Chief Registrar v Vakaloloma – Ruling on Interim Practising Certificate</i> [2017] FJILSC 10 (14 June 2017). This judgment concerns the outcome of Mr Vakaloloma’s application for the issuing of an interim practising certificate.
<b>JUDGMENT</b>	A practising certificate was issued to Mr Vakaloloma for the period from 14 June 2017 to 18 September 2017 (inclusive), on payment of the prescribed pro rata fees. Additional conditions were to be imposed following hearing from Counsel for both parties.

<b>NAME</b>	CR v Aseri Vakaloloma
<b>CASE NUMBER</b>	004/2017
<b>ILSC JUDGMENT NO.</b>	13/2017
<b>DATE OF JUDGMENT</b>	18 September 2017
<b>FACTS</b>	See <i>Chief Registrar v Vakaloloma – Ruling on Interim Practising Certificate</i> [2017] FJILSC 10 (14 June 2017). This judgment concerns the outcome of Mr Vakaloloma’s application for an extension of his interim practising certificate.
<b>JUDGMENT</b>	The Commissioner granted an extension of Mr Vakaloloma’s interim practising certificate for the period from 18 September 2017 to 27 September 2017 (inclusive), upon payment of the prescribed pro rata fees. Additional conditions were to be imposed following hearing from Counsel for both parties. Mr Vakaloloma was also ordered to pay a sum of \$1,000 to the Chief Registrar for its reasonably incurred costs.

<b>NAME</b>	CR v Vilimone Vosarogo (aka Filimone WR Vosarogo)
<b>CASE NUMBER</b>	002/2016
<b>ILSC JUDGMENT NO.</b>	14/2017
<b>DATE OF JUDGMENT</b>	29 September 2017
<b>FACTS</b>	See <i>Chief Registrar v Vilimone Vosarogo (aka Filimone WR Vosarogo)</i> [2017] FJILSC 14 (29 September 2017). The judgment is concerning Mr Vosarogo, the principal of Mamlakah Lawyers and trustee of the Mamlakah Lawyers Trust Account, was charged with four counts of professional misconduct in relation to the operation and management of 12 clients’ trust accounts leading to breaches of sections 12(5) and 17(b) of the Trust Accounts Act 1996 and sections 82(1)(a) and 83(1)(h) of the Legal Practitioners Act 2009.  This judgment concerns the sanctions which were to be imposed.

## JUDGMENT

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* (5<sup>th</sup> 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.
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<b>NAME</b>	CR v Aseri Vakaloloma
<b>CASE NUMBER</b>	004/2017
<b>ILSC JUDGMENT NO.</b>	15/2017
<b>DATE OF JUDGMENT</b>	29 September 2017
<b>FACTS</b>	See <i>Chief Registrar v Aseri Vakaloloma – Ruling on Ex-Tempore Judgment</i> [2017] FJILSC 13 (18 September 2017). This judgment concerns the outcome of Mr Vakaloloma’s application for an extension of his interim practising certificate.
<b>JUDGMENT</b>	The Commissioner ordered the Chief Registrar to issue a practising certificate to Mr Vakaloloma for the period from 29 September 2017 up to and including 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.

<b>NAME</b>	CR v Raman Pratap Singh
<b>CASE NUMBER</b>	003/2015
<b>ILSC JUDGMENT NO.</b>	16/2017
<b>DATE OF JUDGMENT</b>	27 November 2017
<b>FACTS</b>	This matter concerned the failure of Mr Singh to comply with his own consent order made in pursuance of Order 2 in <i>Chief Registrar v Singh (No 3) - Judgment on Sanctions</i> [2017] FJILSC 8 (18 April 2017), namely to complete the 11 steps set out in his written submissions on mitigation.

<b>JUDGMENT</b>	At the time of this judgment, there was no evidence before the Commissioner that Mr Singh had completed any of the 11 steps, or made any reasonable efforts to do so. Therefore, Order 1 in <i>Chief Registrar v Singh (No 3) - Judgment on Sanctions</i> [2017] FJILSC 8 (18 April 2017) was activated and Mr Singh was suspended for a period of 15 months.
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<b>NAME</b>	CR v Aseri Vakaloloma
<b>CASE NUMBER</b>	004/2017
<b>ILSC JUDGMENT NO.</b>	17/2017
<b>DATE OF JUDGMENT</b>	28 November 2017
<b>FACTS</b>	See <i>Chief Registrar v Aseri Vakaloloma - Ruling On Tendering of Nauru Judgment Into Evidence</i> [2017] FJILSC 17 (28 November 2017). This Ruling concerns the outcome of Mr Vakaloloma's application objecting the tendering by Counsel for the Chief Registrar of a copy of judgment from the Supreme Court of Nauru (whereby it was ordered that the name of Mr Vakaloloma be struck off from the roll of legal practitioners in Nauru).
<b>JUDGMENT</b>	The Commissioner refused the objection application filed by Mr Vakaloloma.

<b>NAME</b>	CR v Nacanieli Bulisea
<b>CASE NUMBER</b>	002/2017
<b>ILSC JUDGMENT NO.</b>	18/2017
<b>DATE OF JUDGMENT</b>	30 November 2017
<b>FACTS</b>	See <i>Chief Registrar v Nacanieli Bulisea – Judgment</i> [2017] FJILSC 18 (30 November 2017). This Ruling concerns the outcome of the Counsel for the Chief Registrar's application alleging that Mr Bulisea misled a judge of the High Court of Fiji by informing the judge that his legal practitioner's application (as well as of his principal employee together with that of his



	fellow associates in the legal firm) had been lodged for renewal that day, when in fact, his application and those of his fellow employees were not lodged until the following day and his principal the following day.
<b>JUDGMENT</b>	The Commissioner found Mr Bulisea guilty of Count 1 contrary to sections 82(1) and 83(1)(a) of the Legal Practitioners Act 2009 as he has breached rule 3.1(1).

<b>NAME</b>	CR v Nacanieli Bulisea
<b>CASE NUMBER</b>	002/2017
<b>ILSC JUDGMENT NO.</b>	19/2017
<b>DATE OF JUDGMENT</b>	5 December 2017
<b>FACTS</b>	<p>See <i>Chief Registrar v Nacanieli Bulisea – Judgment on Sanctions</i> [2017] FJILSC 19 (5 December 2017).</p> <p>Mr Nacanieli Bulisea was charged with one count of professional misconduct under sections 83(1)(a) and 82 (1)(a) of the <i>Legal Practitioners Act 2009</i> ('LPA'). It was alleged that Mr Bulisea had breached rule 3.1 of the <i>Rules of Professional Conduct and Practice</i>: namely, '[a] practitioner shall not knowingly deceive or mislead the Court'.</p> <p>The misconduct was said to have occurred during proceedings in the High Court, during which Mr Bulisea made five separate misleading statements to the effect that his and his principal employer Mr Aseri Vakaloloma's, applications for practising certificates had been lodged on that same day (28 February 2017). In reality however, they were in fact lodged the following day, on 1 March 2017. At the time of making the statements, Mr Bulisea had only provided the applications to the firm's administrator, who was instructed to lodge the applications.</p>
<b>JUDGMENT</b>	The Commissioner identified that the burden of proof is on the 'applicant to prove the charge to the civil standard', the balance of probabilities, which is varied 'according to the gravity of the fact to be proved' ( <i>Chief Registrar v Cevalawa</i> [2011] FJILSC (5 December 2011), citing <i>In A Solicitor and The Law Society of Hong Kong</i> [2008] HKCFA 15). It was not disputed that the actus reus of the offence had been proven, as the court transcript from 28 February 2017 clearly included the five statements made by

	<p>Mr Bulisea to the effect that his application for a practising certificate had been lodged that day.</p> <p>What was disputed however was the applicable standard of mens rea. The Commissioner stated that the focus should be upon determining the meaning and scope of the term ‘knowingly’, as it appears in rule 3.1 of the <i>Rules of Professional Conduct and Practice</i>. Ultimately, it was held that the offence required proof of full mens rea was required, and that notwithstanding Mr Bulisea’s submissions to the contrary, neither the standards of strict nor absolute liability were applicable. This was because the inclusion of a qualifying adverb such as ‘knowingly’ clearly provides for guilty intent as an element of the offence (see <i>He Kaw Teh v The Queen</i> (1985) 157 CLR 523, 594 (Dawson J)). In the present case, the Commissioner held that Mr Bulisea ‘knowingly’ made the five misleading statements. He had not inadvertently made the statements, nor had there been a “slip of the tongue”. He had made the first statement of his own volition knowing well that he could not confirm at that time that, as a matter of fact, the applications had been lodged. Nevertheless, he continued to insist through four further statements that the applications had been lodged, without so much as even speaking to the firm’s administrator about the status of the applications.</p>
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<b>NAME</b>	CR v Aseri Vakaloloma
<b>CASE NUMBER</b>	004/2017
<b>ILSC JUDGMENT NO.</b>	20/2017
<b>DATE OF JUDGMENT</b>	6 December 2017
<b>FACTS</b>	See <i>Chief Registrar v Aseri Vakaloloma – Ruling on Ex-Tempore Judgment</i> [2017] FJILSC 19 (6 December 2017). This judgment concerns the outcome of Mr Vakaloloma’s application for an extension of his interim practising certificate.
<b>JUDGMENT</b>	The Commissioner ordered the Chief Registrar to issue a practising certificate to Mr Vakaloloma for the period from 6 <sup>th</sup> December 2017 up to and including 5 <sup>th</sup> February 2018, upon his payment of the prescribed pro rata fees. Additional conditions were imposed by the Commissioner.

<b>NAME</b>	Raman Pratap Singh v CR
<b>CASE NUMBER</b>	005/2017
<b>ILSC JUDGMENT NO.</b>	21/2017
<b>DATE OF JUDGMENT</b>	7 December 2017
<b>FACTS</b>	<p>See <i>Raman Pratap Singh v Chief Registrar – Ex Tempore Ruling on Stay</i> [2017] FJILSC 16 (7 December 2017)</p> <p>This matter is concerned the applicant (legal practitioner) filed an application for a stay of the Order of the Commission made on 27 November 2017 pending the determination of an appeal by the Applicant to the Fiji Court of Appeal. The basis of his application was that the Commissioner may have made an error concerning the transfer of the land as this was “<i>the charge which he [the legal practitioner] was acquitted</i>” and also failed to take into account the early plea of guilty.</p> <p>The application was opposed by the Respondent Chief Registrar. The misconduct was established against the legal practitioner when acting for a client involving proceedings issued in the High Court at Labasa seeking orders to enforce an agreement for the transfer of land.</p>
<b>JUDGMENT</b>	The applicant’s application seeking a stay of the Order dated 27 November 2017 was refused.

# ILSC DISCIPLINE REGISTER

## 2009-2017

Case No	Practitioner	Address	Date of judgment	Date of sentence	Particulars	Actual orders	Other particulars as prescribed by rules and regulations
001/2009	Abhay Kumar Singh	Lot 11 Dilkusha Road, Nausori	25 January 2010	25 January 2010	<p><b>Count 1:</b> Perverting the course of justice</p> <p><b>Count 4:</b> Acting for both parties to an agreement</p>	<p><u>Orders (Penalty):</u></p> <p><b>Count 1:</b> Professional misconduct found.</p> <p>1) Practitioner struck off roll <del>40 years</del> <b>REDUCED BY SUP.CT 20/10/2011 to 6 years</b></p> <p><b>Count 4:</b> Unsatisfactory professional conduct found. 2) Fined \$1,000</p>	<p><b>Count 1:</b> Legal Practitioners Decree 2009 s 82(1)</p> <p><b>Count 4:</b> Legal Practitioners Decree 2009 s 81</p>
001/2009	Abhay Kumar Singh	Lot 11 Dilkusha Road, Nausori	1 February 2010	1 February 2010	<p><b>Count 2:</b> Falling short of the standard of competence and diligence expected of a reasonable professional legal practitioner.</p>	<p>Unsatisfactory Professional conduct found.</p> <p><u>Orders (Penalty):</u></p> <p>1) Fined of \$1,000.00</p>	<p>Legal Practitioners Decree 2009 s 81.</p>

002/2009	Hemendra Nagin	2 <sup>nd</sup> Floor Harifam Center Greig Street, Suva	7 May 2010	7 May 2010	<p><b>Count 2(A):</b> Abused the relationship of confidence and trust of the client.</p> <p><b>Count 2(B):</b> Acted for both parties in a transaction and purchase of land.</p> <p><b>Count 2(C):</b> Failed to protect the best interest of the client.</p>	<p>Unsatisfactory Professional conduct found.</p> <p><u>Orders (Penalty):</u></p> <p>1) Respondent to be publicly reprimanded</p> <p>2) Fine of \$15,000.00</p>	<p><b>Count 2(A):</b> Legal Practitioners Decree 2009 s 83(1).</p> <p><b>Count 2(B) and (C):</b> Legal Practitioners Decree 2009 s 81.</p>
007/2009	Akuila Naco	Naco Chambers 1 <sup>st</sup> Floor ,340 Waimanu Rd P O Box 2267  Govt Building Suva	9 June 2010	9 June 2010	<p><b>Count 2:</b> Falling short of the standard of competence and diligence that a member of the public is entitled to expect of a reasonable professional legal practitioner.</p> <p><b>Count 3:</b> Failure to appear in court.</p> <p><b>Count 5:</b> Failure to cross examines a prosecution witness resulting in the complainant as a client being prosecuted.</p> <p><b>Count 6:</b> Abused the relationship of confidence and trust with the</p>	<p>Professional Misconduct/ Unsatisfactory Professional conduct found.</p> <p><u>Orders (Penalty):</u></p> <p>1) Publically Reprimanded</p> <p>2) Fine \$1,000.00</p> <p>3) Cost to CR in the sum \$500.00</p> <p>4) Pay compensation to complainant A \$3600.00, and Complainant B \$300.00.</p> <p>5) pay witness expenses of \$25.00 and</p>	<p><b>Count 2, 3, 5, 6:</b> Legal Practitioners Decree 2009 s 81.</p>

					client by failure to represent and protect the interest of the client.	\$30.00 respectively to each witness.	
004/2009	Sheik Hussain Shah	Savilla House, Valelevu, Nasinu.	15 June 2010	15 June 2010	<p><b>Count 1:</b> Issues trust fund account cheque which was dishonoured.</p> <p><b>Count 3A:</b>Falling short of the standards of competence and diligence of a reasonably competent or professional legal practitioner.</p> <p><b>Count 3B:</b> Delayed the process</p> <p><b>Count 5:</b>Failed to appear for complainant.</p>	<p>Professional Misconduct found for count 1 Unsatisfactory Professional conduct found for counts 3A, 3B, and 5.</p> <p><u>Orders (Penalty):</u></p> <p><b>Count 1</b></p> <p>1) To pay \$ 1,000 to the complainant</p> <p>2) To pay witness expenses of \$ 610.20</p> <p><b>Count 3A</b></p> <p>3) Fined \$500</p> <p><b>Count 3B</b></p> <p>4) Fined \$500</p> <p>5) To pay witness expenses of \$ 144</p> <p>6) To make an application in Lautoka High Court for complainant without delay and on pro bono basis.</p>	<p><b>Count 1</b></p> <p>Legal Practitioners Decree 2009 s 82(1)(a)</p> <p><b>Count 3A, 3B, 5:</b></p> <p>Legal Practitioners Decree 2009 s 81</p>

						<p><b>Count 5</b></p> <p>7) To pay \$750</p> <p>8) To pay \$ 250 to complainant</p>	
007/2009	Akuila Naco	1st Floor, 340 Waimanu Rd, PO box 2267, Government buildings Suva	16 June 2010	16 June 2010	<b>Count 1:</b> Overdrew Trust Account	<p>Unsatisfactory Conduct found.</p> <p><u>Orders (Penalty):</u></p> <p>1) Fined \$1,000.00</p> <p>2) Pay costs to the sum of \$500 to Chief Registrar.</p> <p>3) Publically reprimanded</p>	Legal Practitioners Decree 2009 s 81
004/2009	Sheik Hussain Shah	Savilla House, Valelevu, Nasinu.	15 June 2010	9 July 2010	<b>Count 6:</b> Failed to attend the Magistrate Court proceedings.	<p>Professional Misconduct found.</p> <p><u>Orders (Penalty):</u></p> <p>1) To pay \$ 1,000 to the complainant.</p> <p>2) To pay \$ 180 to applicant</p> <p>3) Fine of \$500 to the commission.</p> <p>4) All payments to be made within 28 days as failing could lead to suspension of practicing certificate without further order until payment is made.</p>	Legal Practitioners Decree 2009 s 82(1) (a)

007/2009	Akuila Naco	1st Floor, 340 Waimanu Rd, PO box 2267, Government buildings Suva	16 June 2010	9 July 2010	<p><b>Count 2:</b> Failed to distribute the monies received therein to claimants according to the order</p> <p><b>Count 3:</b> Failed to appear in the court and Judgment was issued against the complainant</p>	<p>Unsatisfactory professional conduct found.</p> <p><u>Orders (Penalty):</u></p> <p>1) Publically reprimanded.</p> <p>2) Pay \$3,600 by way of compensation</p> <p>3) Pay \$300</p> <p>4) Pay witness expenses \$25 and \$30</p>	Legal Practitioners Decree 2009 s 81
002/2009	Hamendra Nagin	2nd Floor, Harifam Centre  GPO Box 1004, Suva	7 May 2010	9 July 2010	<p><b>Count 2A:</b> Abused relationship of confidence and trust advising clients to increase consideration in transaction for no advantage</p> <p><b>Count 2B:</b> Acted for both parties in transaction for sale and purchase of land</p> <p><b>Count 2C:</b> Acted for both parties and thereby failed to protect best interests of client</p>	<p>Unsatisfactory professional conduct found.</p> <p><u>Orders (Penalty)</u></p> <p>1) The practitioner to be publicly reprimanded</p> <p>2) A fine of \$15,000.00 payable to the commission</p> <p>3) Respondent to indemnify the Complainants against any monies ordered to be paid by them</p>	Unsatisfactory Professional Conduct (Rules of Professional Conduct and Practice r 1.1 , Legal Practitioners Decree 2009 s 81)
005/2009	Dorsami Naidu	N/A	13 August, 2010	16 August 2010	<p><b>Count 1B:</b> Failed to inform the client on progress of their case.</p> <p><b>Count 3A:</b> Failed to inform client that the land was co-owned; failed</p>	<p>Unsatisfactory professional conduct found for counts 1B, 3A, 4A, 6C, 6D</p>	<b>Count 1B:</b> Legal Practitioners Decree 2009 ss 81 and 83(1)(c)



				<p>to inform client about conflict of interest.</p> <p><b>Count 3B:</b> Failed to obtain the consent of the third party on behalf of vendor.</p> <p><b>Count 4A:</b> Trust account mismanagement.</p> <p><b>Count 6C:</b> Failed to reinstate proceedings on behalf of client after matter had been struck out.</p> <p><b>Count 6D:</b> Failed to carry out client instructions and protect his client's interests.</p> <p><b>Count 6E:</b></p>	<p>Professional misconduct found for counts 3B, and 6E.</p> <p><u>Orders (Penalty):</u></p> <p>1) Must undertake no less than 10 hours of professional development or legal education each of: Conveyancing, Real Property and Practice Management. To be undertaken in Fiji, New Zealand or Australia.</p> <p>2) Order 1 to be complied with before 30 June 2011, or practising certificate is to be suspended without further order.</p> <p>3) To pay the Commission \$1,500.00</p> <p>4) To pay applicant witness expenses totalling \$1,428.95</p> <p>5) BY CONSENT with respect to complaint 3, respondent shall prepare all necessary documents and arrange their execution. If cost exceeds the amount currently held in trust by the respondent, Hari Prasad Lal shall meet all necessary survey costs and the</p>	<p><b>Count 3A, 4A, 6C, 6D</b></p> <p>Legal Practitioners Decree 2009 s 81.</p> <p><b>Count 3B:</b></p> <p>Legal Practitioners Decree 2009 s 82(1)(a)</p>
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						<p>cost of extraction of fresh title documents.</p> <p>6) Respondent has 5 months to complete the performance of order 5.</p> <p>7) Chief Registrar shall supervise the performance of orders 5 and 6.</p> <p>[Appeal pending in Fiji Court of Appeal]</p>	
008/2009	Haroon Ali Shah	1 <sup>st</sup> Floor Sunbeam Building, 7 Yasawa Street, P O Box 5104 Lautoka	15 September 2010	15 September 2010	<p><b>Count 1:</b> Failure to pay client's money.</p> <p><b>Count 2:</b> Failure to ensure that encumbrances were settled by the vendor.</p> <p><b>Count 3:</b> Failure to pay clients compensation that was awarded.</p> <p><b>Count 4:</b> Failure to return client's fee.</p> <p><b>Count 5(1):</b> Charging excessive legal costs or fees in connection to the practice of law.</p>	<p>Professional Misconduct found.</p> <p><u>Orders (Penalty)</u></p> <p>1) Take 5 criminal trials in Lautoka High Court on behalf of Legal Aid At no cost before 1st October 2011</p> <p>2) Trials to be selected by Director Legal Aid</p> <p>3) The Condition is to be removed on the Director Legal Aid certifying to the CR of the completion of the 5 trials</p>	<p><b>Count 1, 4, 10(2), 11(2), 12(2):</b></p> <p>Legal Practitioners Decree 2009 s 82(1)(b).</p> <p><b>Count 2, 3, 5(2), 6(1), 7, 8, 10(1), 11, 12(1):</b></p> <p>Legal Practitioners Decree 2009 s 82(1)(a).</p> <p><b>Count 5(1):</b></p>

				<p><b>Complaint 5(2):</b> Failure to move the case; delay in the case reaching hearing stage.</p> <p><b>Count 6(1):</b> Constant failure to reach or maintain a reasonable standard of competence and diligence.</p> <p><b>Count 6(2):</b> Failed to bring a case to hearing date; failed to appear in court.</p> <p><b>Count 7:</b> Failure to advise the client of any progress of her case.</p> <p><b>Count 8:</b> Failure to represent a company to court.</p> <p><b>Count 9:</b> Abused the relationship of confidence and trust with the client and excessive legal cost.</p> <p><b>Count 10(1):</b> Failure to keep the client informed and refused to meet him on several occasions.</p> <p><b>Count 10(2):</b> Failure to refund clients' money.</p> <p><b>Count 11(1):</b> Failure to transfer money from trust accounts.</p>	<p>4) If the condition is removed on or before 1st October 2011 the respondents Practicing Certificate shall be suspended from that date.</p> <p>5) Pay \$7,000.00 to ILSC account to be paid to complainant</p> <p>6) Pay from Trust account \$4060.00 and from office \$778.00</p> <p>7) Pay witness Expenses \$288.65</p>	<p>Legal Practitioners Decree 2009 ss 83(1)(b) and (c).</p> <p><b>Count 6 (2):</b> Legal Practitioners Decree 2009 s 82(1)(c).</p> <p><b>Count 9:</b> Legal Practitioner Decree 2009 ss 83(1)(b) and (c).</p>
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					<p><b>Count 11(2):</b> Trust Account Mismanagement</p> <p><b>Count 12(1):</b> Failure to execute the clients agreement; failed to fulfilled his duties to his clients by making false promises.</p> <p><b>Count 12(2):</b> Failure to properly discharge duties as a legal practitioner in reaching the required standard of a professional lawyer.</p> <p><b>Count 12(3):</b> Failure to settle a case between clients where they are in conflicts in regards to the money paid and the instrument of the agreement.</p>		
008/2009	Haroon Ali Shah	1st Floor Subeam Building, 7 Yasawa Street, PO BOX 5104 Lautoka.	30 September 2010	30 September 2010	<p><b>Count 2:</b> Respondent was paid \$25,000.00 in legal fees, and \$4,00.00 for a hotel liquor licence transfer, when in actual fact there was no liquor licence attached to the hotel.</p> <p><b>Count 2B:</b> Failed to ensure that all debts or encumbrances by way of utility bills or rates had been paid off by the vendor before the</p>	<p>Unsatisfactory professional conduct found.</p> <p><u>Orders (Penalty)</u></p> <p>1) Practising certificate is to be conditioned until the respondent is to undertake five criminal trials in the Lautoka High Court on behalf of Legal Aid at no cost before 1 October 2011. Trials are to have an estimated duration of no more than five days each.</p>	Legal Practitioners Decree 2009 s 82(1)(b))

				<p>transfer when in actual fact \$10,790.65 remained outstanding.</p> <p><b>Count 11B:</b> Failed to account properly for money received from proceeds of sale. Money is still unaccounted for, and is yet to be paid to the client.</p>	<p>2) Trials to be selected by the Director Legal Aid.</p> <p>3) Condition is to be removed upon the certification of the Director Legal Aid that trials have been satisfactorily completed.</p> <p>4) Should condition not be completed before 1 October 2011, respondents practicing certificate shall be suspended for 5 months without further order.</p> <p>5) Pay \$7,000.00 to the Commission to be distributed to the specified complainants.</p> <p>6) Pay the Commission \$4,060 from his Trust Account and \$778 from his office account. To be distributed to the specified complainant.</p> <p>7) Pay Commission witness expenses totalling \$2,881.65.</p> <p>9) In the event that the respondent is unable to complete order 1 due to circumstances outside of his control, he is apply to for liberty.</p>	
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002/2010	Vipul Mishra	16 Mana Street Lautoka.	3 March 2011.	4 May 2011.	<b>Count 1 and 2:</b> Failed to disclose important information that is ought to have reasonably been known by the legal practitioner. Conduct involved a substantial failure to reach or a reasonable standard of competence and diligence.	Professional Misconduct found. <u>Orders (Penalty):</u> 1) Shall facilitate the removal of mortgage from the Crown Land (16375) whether by legal action, payment of the mortgage debt or otherwise.  2) If prior to the removal of the mortgage, the mortgagee seeks to exercise such rights as it might have pursuant to the mortgage, respondent shall keep Sashi Kiran Pratap indemnified against any payment for principal, interest or legal expenses.  2) Should mortgage not be removed on the specified Crown Land before 31 December 2011, Respondent's practicing certificate shall be suspended until further notice.	Legal Practitioners Decree 2009 s 82(1)(a)
002/2010	Muhammed Shamsud- Dean Sahu Khan.	17 Ganga Singh Street, Varoka, Ba	3 March 2011.	4 May 2011.	<b>Count 1:</b> Not fit and proper to person to engage in legal practice.	Professional Misconduct found. <u>Orders (Penalty):</u> 1) To be struck from the roll of legal practitioners.	Legal Practitioners Decree 2009 s 82(1)(b)

						<p>2) To indemnify the purchaser with respect to any money payable as a result of actions commenced by him.</p> <p>3) Pay all principal and other interest owing on the loan in the sum of \$120,000.00 referred to the 'Deed of Guarantee' within 28 days.</p> <p>4) Pay witness expenses totalling \$478.00 to the ILSC.</p> <p>5) To lodge his passport with the ILSC for retention until orders 2, 3, 4 are complied with.</p>	
001/2011	Muhammad Shansud-Dean Sahu Khan	17 Ganga Singh Street, Varoka, Ba	27 September 2011	6 October 2011	<p><b>Count 1, 2, 3, 5, 6, 7:</b> witnessed the signature when the client did he was not instructed by the client leading to substantial failure to reach a reasonable standard of competence and diligence. Conflict of interest.</p> <p><b>Count 8:</b> Substantial failure to reach a reasonable standard of competence and diligence expected of a professional legal practitioner.</p>	<p>Unsatisfactory professional conduct found for count 8, 9;</p> <p>Professional misconduct found for counts 1, 2, 3, 5, 6, 7,</p> <p><u>Orders (Penalty):</u></p> <p>1) Must not apply for a practising certificate for 10 years.</p> <p>2) Pay to ILSC \$ 862.10.</p> <p>3) Surrender passport.</p>	<p><b>Counts 1, 2, 3, 5, 6, 7:</b></p> <p>Legal Practitioners Decree 2009 s82(1)(a).</p> <p><b>Count 8:</b></p> <p>Legal Practitioners Decree 2009 s 81</p> <p><b>Count 9:</b></p>

					<b>Count 9:</b> Is not a fit and proper person to engage in legal practice.		Legal Practitioners Decree 2009 s 82(1)(b).
001/2011	Sahu Khan & Sahu Khan	17 Ganga Singh Street, Varoka, Ba	27 September 2011	6 October 2011	<b>Count 1:</b> Respondent Is not fit and proper to operate as a law firm.	Unsatisfactory professional conduct found.  <u>Orders (Penalty):</u>  1) Shall cease to operate and shall not engage in legal practice.	Legal Practitioners Decree 2009 s 82(1)(b).
004/2011	Adi Kolora Naliva	Fiji Public Trustee Corporation, 1 <sup>st</sup> Floor LICI Building, 11 Butt Street, P. O. Box 2276, Government Building, Suva	5 December 2011	5 December 2011	<b>Count 1, 2, 3, 4:</b>  Practiced without having a valid practising certificate  <b>Count 5:</b>  Falling short of the standards of competence and diligence that a member of the public is entitled to expect of a reasonably competent or professional legal practitioner.	Pleaded guilty to Unsatisfactory Professional Conduct.  <u>Orders (Penalty):</u>  1) Publicly reprimanded	<b>Count 1, 2, 3, 4:</b>  Legal Practitioners Decree 2009 s 52(1)(a).  <b>Count 5:</b>  Legal Practitioners Decree 2009 s 81.
006/2011	Siteri Adidreu Cevalawa	Telecom Fiji Ltd Ganilau House Edward Street Suva	5 December 2011	5 December 2011	<b>Count 1-8:</b> Solicitor practicing without having a valid practising certificate	Pleaded guilty to unsatisfactory professional conduct.  <u>Orders (Penalty):</u>  1) Publically reprimanded 2) Fined \$1,000	Legal Practitioners Decree 2009 ss 52(1)(a) Legal and 83(1)(a).



003/2011	Divendra Prasad	Diven Prasad Lawyers 14 Kimberly St Suva	24 January 2012	7 March 2012	<p>Solicitor failed to convey settlement offer and acceptance to 3 clients seeking damages for personal injuries having made a contingency fee agreement with the clients.</p> <p><b>Count 1A:</b> Acting without instructions from client,</p> <p><b>Count 1D:</b> Failed to keep client informed of progress of instructions given</p>	<p>Finding of professional misconduct (count 1A); Finding of unsatisfactory professional conduct (count 1D).</p> <p><u>Orders (Penalty):</u></p> <ol style="list-style-type: none"> <li>1) Publically reprimanded</li> <li>2) \$30,000 penalty</li> <li>3) Refund \$2,000 to Complainant</li> <li>4) Refund \$6,359.38 to High Court for Costs</li> <li>5) Pay \$87 to Commission (witness expenses)</li> <li>6) Suspend Practising certificate if moneys not paid by 30/4/2012 until paid</li> </ol>	Legal Practitioners Decree 2009 ss 81 and 82(1)(a).
005/2011	Alena Koroi	K 1 Law, 31 Salesi Road, Namadi Heights, Tamavua	1 December 2011	14 March 2012	<b>Count 1:</b> Refusal to lower the voice down at the High Court Judge	<p>Unsatisfactory Professional Conduct found.</p> <p><u>Orders (Penalty):</u></p> <ol style="list-style-type: none"> <li>1) Payment of Witness expenses of \$ 35</li> <li>2) A warning given</li> <li>3) Needs to spend 12 months of practice under supervision</li> <li>4) Conditional practicing certificate for 2013 would be</li> </ol>	Legal Practitioners Decree 2009 s 83(1)(a).

						based on the 2012 report provided by Chief Registrar	
001/2012	Laisa Lagilevu	9 Lester Street, Delainavesi	16 March 2012	16 March 2012	<b>Count 1:</b> Appeared in High Court without a valid practising certificate	Unsatisfactory Professional Conduct found.  <u>Orders (Penalty):</u>  1) Publicly reprimanded. 2) Pay fine of \$ 1000 3) Practising Certificate suspended until fine paid and upon satisfactory of Trust Account requirements of the Chief Registrar	Legal Practitioners Decree 2009 ss 52(1)(a) and 83(1)(a)
002/2012	Kini Marawai	1 <sup>st</sup> Floor nona House, 26 Roberts road, Suva	12 September 2012	5 October 2012	<b>Count 1:</b>  Conflict of interest: Prepared and Witnessed the first affidavit for client containing rape allegation against 2 <sup>nd</sup> Respondent and then again prepared and witnessed second affidavit for the client about withdrawal of same rape allegation against 2 <sup>nd</sup> Respondent.  <b>Count 2:</b>  Information present in both the affidavits was conflicting evidence.  <b>Count 3:</b>	Unsatisfactory professional conduct found for counts 1 and 2;  Professional conduct found for count 3.  <u>Orders (Penalty):</u>  1) Certificate suspended until 1 <sup>st</sup> March 2016 2) Publicly reprimanded 3) Pay cost of \$ 1000 which would be equally shared between LPU and the Commission 4) Be only certified on proof of having taken 5 hours of training in Legal Ethics	<b>Count 1:</b> Legal Practitioners Decree 2009 s 81.  <b>Count 2:</b> Legal Practitioners Decree 2009 s 83(1)(a).  <b>Count 3:</b> Legal Practitioners Decree 2009 s 82(1)(b).

					Asked 2 <sup>nd</sup> Respondent to represent his client where 2 <sup>nd</sup> Respondent was himself a victim and a witness in the same legal matter.		
002/2012	Rajendra Chaudhry	19 Rewa Street, Suva.	12 September 2012	5 October 2012	<p><b>Count 1:</b></p> <p>Conflict of interest: Acted as a counsel for client who was accused of giving false information to a public servant in a matter where the Respondent was a victim and a witness.</p> <p><b>Count 2:</b></p> <p>He showed discourtesy to High Court.</p>	<p>Professional misconduct found for count 1;</p> <p>Unsatisfactory professional conduct found for count 2.</p> <p><u>Orders (Penalty):</u></p> <p>1) Certificate suspended until 1<sup>st</sup> March 2017.</p> <p>2) Publicly reprimanded.</p> <p>3) Pay cost of \$ 1000 to be equally shared between LPU and the Commission.</p> <p>4) In order to pursue his current matter, he be allowed to remain in practice until 26<sup>th</sup> October 2012 however he cannot appear in Court, nor accept any new instructions from either existing or new clients.</p> <p>5) Be only certified on proof of having taken 5 hours of training in Legal Ethics</p>	<p><b>Count 1:</b> Legal Practitioners Decree 2009 s 82(1)(b).</p> <p><b>Count 2:</b> Legal Practitioners Decree 2009 s 83 (1)(a).</p>
003/2012; 004/2012	Luseyane Ligabalavu	Yatu Lau Arcade, Suva	21 September 2012	23 October 2012	<b>Count 1 and 2:</b> Failing to comply with any orders or directions of the Chief Registrar	<p>Professional misconduct found.</p> <p><u>Orders (Penalty)</u></p>	Legal Practitioners Decree 2009 s 83(1)(g)

						<p>1) Suspended from practice until 1 March 2015.</p> <p>2) Must pay \$200 to Joeli Tudrau [arising from mediation agreement]</p>	
008/2012	Naipote Vere	Naipote Vere and Associates  Lot 34 Namosi Lane	6 November 2012	21 January 2013	<b>Count 1:</b> Failed to comply with any orders or directions of the Registrar	<p>Professional misconduct found.</p> <p><u>Orders (Penalty):</u></p> <p>1) The respondent is publicly reprimanded</p> <p>2) To pay \$2,000 fine before his practising certificate is renewed for 2013</p>	Legal Practitioners Decree 2009 s 83(1)(g).
010/2012	Kalisito Maisamoa	Nacolawa and Davita Solicitors	23 January 2013	23 January 2013	<b>Count 1:</b> 8 offences of appearing before completing 2 years of practice on the same day. (8 offences regarded as one count with concurrent penalties).	<p>Pleaded guilty to professional misconduct.</p> <p><u>Orders (Penalty):</u></p> <p>1) Respondent publicly reprimanded</p> <p>2) Fined \$1, 500 to be paid by 28 February 2013</p>	Legal Practitioners Decree 2009 s 52(2).

009/2012	Niko Nawaikula	26 Robertson Road Suva	12 April 2013	12 April 2013	<b>Count 1:</b> Instructed uncertified solicitor to act	Professional misconduct found.  <u>Orders (Penalty):</u> 1) Publically reprimanded 2) Fined \$2,000 within 28 days or 3) Practising certificate will be suspended without further order.	<b>Count 1:</b>  Legal Practitioners Decree 2009 ss 53 and 83(1)(a).
009/2012	Savenaga Komaisavai	26 Robertson Road Suva	12 April 2013	12 April 2013	<b>Count 1:</b> Appeared for an accused in criminal case without practising certificate  <b>Count 2:</b> Prepared instruments for legal proceeding without practising certificate	Professional misconduct found.  <u>Orders (Penalty):</u> 1) Publically reprimanded 2) Practising certificate suspended for 3 months from judgment date	<b>Counts 1 and 2:</b>  Legal Practitioners Decree 2009 s 52(1)(a)
006/2012	Kini Marawai	Lot 16 Nasagavoki Rd  Tamavua Heights  Suva	15 May 2013	15 May 2013	<b>Counts 1 to 3:</b> Appearing before court without a practising certificate  <b>Count 4:</b> Without a practising certificate, instructed another solicitor  <b>Counts 5:</b> Failed to establish and keep trust account	Pleaded guilty to all 5 counts of Professional Misconduct.  <u>Orders (Penalty):</u> 1) Suspended for three years to run consecutively with period of suspension he is already undergoing not to apply for practicing certificate until 1 March 2019. 2) Fined \$1,000	<b>Counts 1 to 4:</b>  Legal Practitioners Decree 2000 ss 52(1)(a), 52(1)(b), and 83(1)(a)  <b>Count 5:</b> Legal Practitioners Decree 2009 s 83(1)(h); Trust Account Act 1996 s 3a.

007/2012	Melaia Ligabakavu	Ligabakavu Solicitors	7 June 2013	7 June 2013	<p><b>Count 1 and 2:</b> Appeared in Magistrate's Court without holding valid practising certificate (1 and 19 March 2012)</p> <p><b>Count 3 and 4:</b></p> <p>Law firm appeared in Magistrate's Court without holding valid practising certificate (1 and 19 March 2012)</p>	<p>Unsatisfactory professional conduct found for counts 1 and 2; Professional misconduct found for counts 3 and 4.</p> <p><u>Orders (Penalty):</u></p> <p>1) Publicly reprimanded</p> <p>2) Suspended from practice for rest the current practising year. Not eligible to apply for a practising certificate until 1 March 2012.</p>	<p><b>Count 1 and 2:</b></p> <p>Legal Practitioners Decree 2009 ss 83(1)(a) and 52(1)(a)</p> <p><b>Count 3 and 4:</b></p> <p>Legal Practitioners Decree 2009 ss 83(1)(a) and 42(2)</p>
007/2012	Luseyane Ligabalavu	Ligabakavu Solicitors	7 June 2013	7 June 2013	<p><b>Count 1 and 2:</b></p> <p>Being the sole practitioner of the law firm employed, instructed 1<sup>st</sup> respondent to appear in Magistrate's Court without holding valid practising certificate (1 and 19 March 2012)</p> <p><b>Count 3:</b></p> <p>Failed to cause accounting and other records to be audited for financial period 1<sup>st</sup> October to 30<sup>th</sup> September</p> <p><b>Count 4:</b></p>	<p>Professional misconduct found for all 4 counts.</p> <p><u>Orders (Penalty)</u></p> <p>1) Suspension for practice for 2 years and cannot apply for practising certificate until 1 March 2017.</p>	<p><b>Count 1 and 2:</b></p> <p>Legal Practitioners Decree 2009 ss 83(1)(a) and 42(2).</p> <p><b>Count 3:</b></p> <p>Legal Practitioners Decree 2009 s 83(1)(h); Trust Accounts Act 1996 s 12(1).</p> <p><b>Count 4:</b></p> <p>Legal Practitioners Decree 2009 s 83(1)(h); Trust</p>

					Failed to lodge, or cause to be lodged, by the required date a statement signed by the trustee with Registrar and the Minister.		Accounts Act 1996 s 12(3).
001/2013	Vilitati Macanawai Daveta	Suite 3, Winina Arcade, main Street Nausori	20 June 2013	20 June 2013	-	Professional Misconduct <u>Orders (Penalty)</u> 1) Restrained from operating under the style of Nacolawa & Daveta Law. 2) Submit a list of pending files and contacts of the clients to the LPU. 3) Fiji police can assist in the enforcement of the order. 4) Daveta and his staff are not to enter the office of the firm. 5) CR at liberty to appoint receive of firm. 6) Daveta to pay costs of \$1000 by 4 July 2013.	-
013/2013	John Rabuku	71 Gordon street, Suva	30 July 2013	30 July 2013	<b>Count 1:</b> Failure to respond to complaint issued by Chief Registrar and subsequent reminder notice	Professional misconduct by plea of guilty/ admission. <u>Orders (Penalty)</u> 1) Publicly reprimanded	Legal Practitioners Decree 2009 ss 83(1)(g) and 108(2).

						2) Practising certificate suspended for 3 months 3) \$500 fine	
014/2013	Sushil Chand Sharma	S Ram Prasad Building, Sigatoka Town, Sigatoka	30 July 2013	30 July 2013	<b>Count 1:</b> Failure to respond to complaint issued by Chief Registrar and subsequent reminder notice	Professional misconduct by plea of guilty. <u>Orders (Penalty)</u> 1) Publicly reprimanded 2) Practising certificate suspended for one month 3) \$500 fine	Legal Practitioners Decree 2009 ss 83(1)(g) and 108(2).
016/2013	Muhammed Azeem Ud-Dean Sahu Khan	M K Sahu Khan & Co PO Box 3561, Nadi	30 July 2013	30 July 2013	Two counts of gross misrepresentation. Letterhead fraudulently referred to respondent as being 'Bar-at-Law (Lincoln's Inn)' when:  <b>Count 1:</b> Not a UK barrister  <b>Count 2:</b> Not a member of Lincoln's Inn	Professional misconduct found for both counts. <u>Orders (Penalty)</u> 1) Publicly reprimanded. 2) Remove all references from letterheads to Lincoln's Inn 3) Practising certificate suspended for 18 months 4) Fined \$20, 000.00	Legal Practitioners Decree 2009 s 83(1)(a).
005/2013	Vilimone Vosarogo	Ground Floor, 46 Gordon St, Damodar Centre, Suva	20 August 2013	20 August 2013	<b>Count 1:</b> Instructed another legal practitioner without holding a valid practicing certificate	Unsatisfactory professional conduct found. <u>Orders (Penalty):</u> 1) Publically reprimanded 2) Fined \$2,500	Legal Practitioners Decree 2009 s 52(1).



017/2013	Ram Chand	46 Augustus St, Toorak, Suva	3 October 2013	3 October 2013	<b>Count 1:</b> Knowingly deceiving or misleading the High Court by seeking an adjournment for health reasons whilst appearing on the same day in the Magistrates Court.	Professional misconduct found. <u>Orders (Penalty):</u> 1)Publicly reprimanded 2)Practising certificate suspended from 3 October 2013- 1 March 2014 3)\$5000 fine	Legal Practitioners Decree 2009 s 83(1)(a).
021/2013	Savenaca Komaisavai	PO Box 5980, Valelevu	8 October 2013	8 October 2013	<b>Count 1:</b> Attacked the reputation of another person without good in written form.	<b>Count 1:</b> Unsatisfactory professional conduct found. <u>Orders (Penalty):</u> 1) Publically reprimanded 2) Practising certificate is to be suspended for four months from 8 October 2013 3) Pay costs of the commission totalling \$750.00 by 31 October 2013. 4) If order 3 is not paid by specified date, 2 months will be added to the suspension.	Legal Practitioners Decree 2009 s 83(1)(a).
020/ 2013	Kelera Baleisuva Buatoka	Lvl 4 FNPF Pl, Victoria	11 October 2013	11 October 2013	<b>Counts 1 and 2:</b> Acting as a Commissioner for Oaths by witnessing an affidavit while not	Finding of unsatisfactory professional misconduct on both counts.	Legal Practitioners Decree 2009 ss

		Pd, PO BOX 15859, Suva			holding a valid practicing certificate	<u>Orders (Penalty)</u> 1) Publicly reprimanded 2) Fined \$300 on each charge	52(1)(a) and 83(1)(a).
002; 003/ 2013	Luseyane Ligabalavu	Yatu Lau Arcade, Suvas	17 October 2013	17 October 2013	<p>Application No 002</p> <p><b>Count 1:</b> Failed to pay a sum of money to a third party in accordance with client/ vendors instructions.</p> <p><b>Count 2:</b> Deposited sum of money in own operating account at firm instead of law firm's trust account.</p> <p><b>Count 3:</b> Acted for both vendor and purchaser and failed to protect the interests of the purchaser.</p> <p><b>Count 4:</b> Withdrew sum from Operating Account for purposes other than the purpose of trust.</p> <p>Application No 003</p> <p><b>Count 1:</b> Failed to respond to complaint within stipulated time period</p>	<p>Professional misconduct found for all counts on both applications.</p> <p><u>Orders (Penalty)</u></p> <p>1) Name be struck from the roll of legal practitioners.</p>	Legal Practitioners Decree 2009 ss 82(1)(a) and 83(1)(g).

010/2013	Amrit Sen	Maqbool & Company	6 November 2013	6 November 2013	<b>Count 2:</b> Showed discourtesy to the court by raising his voice to an unacceptable level and by attacking the reputation of the prosecutor in court	Professional misconduct found. <u>Orders (Penalty)</u> 1) Publically reprimanded 2) Fined \$5,000	Rules of Professional Conduct and Practice r 3.5 and 3.2(i).  Legal Practitioners Decree 2009 s 82(1)(a).
024/2014	Anand Singh	94 Waimanu Rd, Suva	7 November 2013	7 November 2013	<b>Count 1:</b> Failed to respond to a complaint and the subsequent notice from the Chief Registrar.	Professional misconduct found. <u>Orders (Penalty)</u> 1) Practicing certificate is suspended for 2 months	Legal Practitioners Decree 2009 ss 83(1)(g) and 108(2).
011/2013	Raman Pratap Singh	Labasa Civic Centre Labasa, Fiji	19 November 2013	19 November 2013	<b>Count 1:</b> Unreasonably delayed seeking consent of the Director of Lands for transfer of the lease  <b>Count 2:</b> Included a clause which breached the lease conditions of the said Crown land  <b>Count 3:</b> Failed to fulfil instructions received for completing settle for sale, failed to have lease transferred to purchasers, failed to ensure that	Unsatisfactory professional conduct found for all counts. <u>Orders (Penalty):</u> 1) Publically reprimanded 2) Fined a total of \$3000 for each offence 3) Pay costs to the Commission \$2000 4) Pay vendor \$3,000	Legal Practitioners Decree 2009 s 82(1)(a).

					vendor fully paid sum for consideration	5) If the fine and costs not paid by 13 December 2013, practitioner's practising certificate suspended until time penalties are paid	
009/2009	Iftakhar Iqbal Ahmad Khan	157 Vitogo Parade, P O Box 870, Lautoka	11 December 2013	11 December 2013	<p><b>Count 1A:</b> Failing to conduct himself in a professional manner by passing derogatory remarks.</p> <p><b>Count 1B:</b> Failing to conduct himself in a professional manner by opening talking about a pending High Court Case.</p> <p><b>Count 4:</b> Failing to inform client that he was also acting for the other party despite receiving payment.</p>	<p>Professional misconduct found for all counts.</p> <p><u>Orders (Penalty):</u></p> <p>1) For counts 1A and 1B (acting sub justice) practising certificate is suspended for 15 months with immediate effect.</p> <p>2) For count 4 (conflict of interest) practising certificate is suspended for 15 months with immediate effect.</p> <p>3) Two suspensions to be served concurrently. Practitioner not eligible to apply for practising certificate until March 2015.</p> <p>4) Pay costs to the Commission of \$1,500.00 by 10 January 2014.</p> <p>5) practitioner to be publicly reprimanded</p>	<p><b>Counts 1A and 1B:</b></p> <p>Legal Practitioners Decree 2009 s 82(1)(a)</p> <p><b>Count 4:</b></p> <p>Legal Practitioners Decree 2009 s 82.</p>

025/2013	Jolame Uludole	J.U.Esquire-Block 3 Flat 6, Kaukimoce Flats, Balabala Crescent, Newtown, Nasinu	5 February 2014	5 February 2014	<p><b>Count 1:</b> Failure to open a trust account</p> <p><b>Count 2:</b> Failure to open a trust account when operating as J.U. Esquire and acting for a client.</p>	<p>Professional misconduct by admission.</p> <p><u>Orders (Penalty)</u></p> <p>1) Publicly reprimanded</p> <p>2) Suspension of practising certificate for 2 years. Ineligible to apply for practicing certificate until March 2016.</p> <p>3) Fined \$3000</p>	Legal Practitioners Decree 2009 s 82(1)(b).
027/2013	Saimoni Nacolawa	11 Vitogo Pd, Lautoka	11 March 2014	11 March 2014	<p><b>Count 1:</b> Failure to make proper enquiry into accreditation of accounting firm engaged to prepare Trust Account Audit report.</p>	<p>Unsatisfactory professional misconduct by plea of guilty.</p> <p><u>Orders (Penalty)</u></p> <p>1) Publically reprimanded</p> <p>2) Fined \$1,500</p>	Legal Practitioners Decree 2009 s 83(1)(a)
001/2014	Silika Vuilagi Waqabitu	35A Kikau St, Samabula, Suva	28 July 2014	28 July 2014	<p><b>Count 1:</b> Failure to ensure that trust monies were applied in accordance with client's instructions. Failure to ensure that monies were not utilised by staff for unauthorised purposes.</p> <p><b>Count 2:</b> Misrepresenting trust account in Trustees Report.</p>	<p>Professional misconduct found for both counts. Admission to count 1.</p> <p><u>Orders (Penalty):</u></p> <p>1) Struck off the roll of practitioners.</p>	Legal Practitioners Decree 2009 s 82(1)(a).

013/2014	Nikolau Nawaikula	6800, Nina St Suva, Fiji	16 February 2015	16 February 2015	<b>Count 1:</b> Failed to respond to complaint; failed to respond to notice and reminder sent by Chief Registrar	Pleaded guilty to Professional Misconduct. <u>Orders (Penalty)</u> 1)Publically reprimanded 2)Practicing certificate Suspended for one month 3)Fined \$1000 4)Practitioner to remain suspended until the fine is paid	Legal Practitioners Decree 2009 ss 83(1)(g) and 108(2).
014/2014	Nikolau Nawaikula	6800, Nina St Suva, Fiji	16 February 2015	16 February 2015	<b>Count 1:</b> Failed to respond to complaint; failed to respond to notice and reminder sent by Chief Registrar.	Plead guilty to Professional Misconduct. <u>Orders (Penalty)</u> 1)Publically reprimanded 2)Practicing certificate Suspended for one month 3)Fined \$1000 4)Practitioner to remain suspended until the fine is paid	Legal Practitioners Decree 2009 ss 83(1)(g) and 108(2).
012/2014	Nitij Pal	Level 22, 1 Market Street, Sydney 2000, NSW, Australia/ Suva Business Centre,	21 July 2015	23 October 2015	<b>Count 1:</b> Operated without a valid practicing certificate.	Plead guilty to Professional Misconduct. <u>Orders (Penalty)</u> 1) Practicing certificate to be struck out for the remainder of the practicing year. Not eligible to apply for a practicing certificate until February March 2016	Legal Practitioners Decree 2009 ss 42(2) and 83(1)(a).

		Victoria Parade, Suva.				2) Fine of \$2,000 to be paid to the Commission	
005/2015	Vilitatai Daveta	Maraniba Farm Road, Sawani, Nausori	30 November 2015	30 November 2015	<b>Count 1:</b> Failed to provide sufficient and satisfactory explanation in writing of matters in a complaint; failed to respond to notice and reminder sent by Chief Registrar.	Plead guilty to professional Misconduct. <u>Orders (Penalty)</u> 1) Practice certificate suspended for two months 2) Fined \$500	Legal Practitioners Decree of 2009 ss 82(1)(a) and 108(2).
006/2015	Subject to interim non publication order pending determination of the Court of Appeal decision		3 December 2015	3 December 2015	<b>Count 1:</b> Failed to provide sufficient and satisfactory explanation in writing of matters in a complaint; failed to respond to notice and reminder sent by Chief Registrar.	Plead guilty to professional Misconduct. <u>Orders (Penalty)</u> 1) Practice certificate suspended for one month. 2) Fined \$500.00	Legal Practitioners Decree of 2009 ss 82(1)(a) and 108(2).
013/2015	Anonymised	-	25 November 2015	11 December 2015	<b>Count 1:</b> Failed to provide sufficient and satisfactory explanation in writing of matters in a complaint; failed to respond to notice and reminder sent by Chief Registrar.	Professional Misconduct found. <u>Orders (Penalty):</u> 1) Fined \$1,500.00 2) Publically Reprimanded.	Legal Practitioners Decree of 2009 ss 82(1)(a) and 108(2).
014/2015	Angeline Kiran Lata	Suite 7, Central Building, Sigatoka	24 March 2016	24 March 2016	<b>Count 1:</b> Failed to appear at Lautoka High Court and failed to make formal application for withdrawal as Counsel	Unsatisfactory professional conduct found. <u>Orders (Penalty):</u>	<b>Count 1 and 2:</b> Legal Practitioners Decree 2009 s 81.

		Town, Sigatoka.			<b>Count 2:</b> Failed to give precedence to the Lautoka High Court over the Sigatoka Magistrates Court.	<b>Count 1:</b> 1) Publicly reprimanded. 2) Fined \$500.00. <b>Count 2:</b> 1) Publicly reprimanded.	
001/2016	Tevita Vakayarutabu a Qauqau Burkarau	Unit 6, 4 <sup>th</sup> Floor Carnavon Building, Carnavon Street, Suva.	7 June 2016	7 June 2016	<b>Count 1:</b> Failed to respond to the Chief Register sufficient and satisfactory explanation in writing of matters; Failed to respond to reminder of notice.	Pleaded guilty professional misconduct.  <u>Orders (Penalty):</u> 1) Publicly reprimanded. 2) Fined \$1,000.00	Legal Practitioners Decree 2009 s 82(1)(a).
003/2015	Raman Pratap Singh	Kohli & Singh Associates  77 Cummin Street, Suva	13 February 2017	18 April 2017	Count 2: failed to inform Mr Mani Lal, by providing written confirmation, both at the outset and during the course of the matter between <i>Mani Lal v Mike Cardigan Labasa High Court Civil Action No. 16 of 1999</i>	<b>Count 2:</b> Professional misconduct found  1) Practising certificate suspended for 15 months 2) Order 1 is suspended, conditional on the legal practitioner completing the 11 steps contained in the legal practitioner's "Supplementary Submissions" 3) Payment of \$1000.00 to the Commission 4) Payment of \$1000.00 to the Chief Registrar 5) Payment of \$1000.00 to the Chief Registrar, to then be paid to Mani Lal, the complainant	<b>Count 2:</b>  <i>Legal Practitioners Act 2009 as 83(1)(a) and 124;</i>  <i>Rules of Professional Conduct and Practice (Schedule of the Legal Practitioners Act 2009) rr 8.1(1)(b) and (d)</i>



001/2017	Aseri Vakaloloma	57 Amy St, Toorak, Suva	14 June 2017	14 June 2017	<b>Count 1:</b> Appeared in the High Court without a valid practising certificate	<b>Count 1:</b> Pleaded guilty to professional misconduct  1) Practising certificate suspended for one month 2) Fine of \$1000.00 to be paid to the Commission 3) Payment of \$500.00 to the Chief Registrar 4) Payment of \$500.00 to the Commission	<b>Count 1:</b>  <i>Legal Practitioners Act 2009 ss 82(1)(a) and 83(1)(1)</i>
002/2016	Vilimone Vosarogo	Ground Floor, 46 Gordon Street, Damodar Centre, Suva	29 September 2017	29 September 2017	<b>Counts 1 to 4:</b> Overdrew client's trust account	<b>Counts 1 to 4:</b> Pleaded guilty to professional misconduct  1) Practising certificate suspended for 10 months and 17 days 2) Restriction on practicing certificate imposed for 20 months and seven days 3) Undertake file legal and trials on pro bono basis 4) Fine of \$3000.00 to be paid to the Commission 5) Payment of \$1500.00 to the Chief Registrar 6) Payment of \$1500.00 to the Commission	<b>Counts 1 to 4:</b>  <i>Legal Practitioners Act 2009 s 82(1)(a)</i>
003/2015	Raman Pratap Singh	Kohli & Singh Associates 77	13 February 2017	27 November 2017	<b>Count 2:</b> Failed to inform Mr Mani Lal, by providing written confirmation, both at the outset and	<b>Count 2:</b> Professional misconduct found	<b>Count 2:</b>

		Cummin St, Suva			during the course of the matter between <i>Mani Lal v Mike Cardigan Labasa High Court Civil Action No. 16 of 1999</i>	1) Practising certificate suspended for 15 months (Order 1, dated 18 April 2017 was activated)	<i>Legal Practitioners Act 2009 ss 83(1)(1) and 124</i>  <i>Rules of Professional Conduct and Practice (Schedule of the Legal Practitioners Act 2009) rr 8.1(1)(b) and (d)</i>
002/2017	Nacanieli Bulisea	Quarters 67A, Nasova Police Compound, Nasese, Suva	30 November 2017	5 December 2017	<b>Count 1:</b> Appeared in High Court without a valid practising certificate	Unsatisfactory Professional Conduct found.  1) Practising certificate suspended for 3 months 2) Fine of \$2000.00 to be paid to the Commission 3) Undertake file legal and trials on pro bono basis 4) Payment of \$1000.00 to the Chief Registrar 5) Payment of \$1000.00 to the Commission	<b>Count 1:</b> <i>Legal Practitioners Act 2009 as 83(1)(1) r3.1(1) and 82(1)(a)</i>

## **Appendix 1**

**Independent Legal Services Commission**

**Audited Financial Statements**

**for the**

**Year Ended 31 December 2014**

**INDEPENDENT LEGAL SERVICES COMMISSION**

**FINANCIAL STATEMENTS**

**FOR THE YEAR ENDED 31 DECEMBER 2014**

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Contents

Table of contents.....	1
Commissioner's statement.....	2
Independent auditor's report.....	3-4
Statement of comprehensive income.....	5
Statement of changes in equity.....	6
Statement of financial position.....	7
Statement of cash flows.....	8
Notes to the financial statements.....	9 - 14
Detailed income statement.....	15

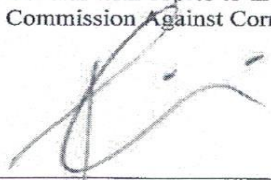
**INDEPENDENT LEGAL SERVICES COMMISSION  
- COMMISSIONER'S STATEMENT  
FOR THE YEAR ENDED 31 DECEMBER 2014**

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The attached Financial Statements ("accounts") have been prepared by the Commission's external accountants, Ernst & Young, to provide a list of income and expenses of the Independent Legal Services Commission for the calendar year 2014 i.e. 1st January until 31st December 2014.

The accounts can only be read as "qualified accounts" due to the following:

1. The financial statements of the Commission have been prepared from the general ledgers provided to the external accountants. There was a fire in the Independent Legal Service Commission in October 2014 and it is the current Commissioner's understanding (as at April 2017) that most of the 2014 financial records including payment vouchers, receipt books and deposit books went "missing" around October 2014. The current Commissioner has been further advised that despite the intervention of both the Police and FICAC, these records have not been recovered.
2. The person who fulfilled the role of the Commissioner during the year 2014 concluded their term on 30th November 2015.
3. The person who fulfilled the role as Secretary of the Commission for the year 2014 left the Commission in late 2014. The current Commissioner understands that she has subsequently been formally charged by FICAC and those matters were pending before the courts as at April 2017.
4. The current Secretary of the Commission (as at February 2018) was only appointed to that position as from 21 June 2017. In addition, the current Commissioner was only appointed as the new Commissioner as from 22nd January 2016 and sworn-in on 9th February 2016. Therefore, neither the current Secretary nor the current Commissioner are able to verify the authenticity of the 2014 accounts.
5. Ernst & Young were engaged initially as forensic accountants to undertake a forensic audit of the Commission's accounts in two stages: the first stage being 2013-2015 and the second stage being 2009-2012 and 2016. The 2013-2015 report was finalised in February 2017 and copies provided to the Auditor General with copies to the Office of the Director of Public Prosecutions (ODPP), the Fiji Independent Commission Against Corruption (FICAC), the Attorney-General, Solicitor General and Chief Justice.

  
\_\_\_\_\_  
Dr. Thomas V. Hickie  
COMMISSIONER

Dated this 8th day of JUNE 2018.



## INDEPENDENT AUDITOR'S REPORT

### INDEPENDENT LEGAL SERVICES COMMISSION

#### Report on the Financial Statements

I have audited the accompanying financial statements of Independent Legal Services Commission ("the Commission"), which comprise, the statement of financial position as at 31 December 2014, the statement of comprehensive income and retained earnings, statement of cash flows for the year then ended, and a summary of significant accounting policies and other explanatory information as set out in Notes 1 to 14.

#### Commission's Responsibility for the Financial Statements

The Commission is responsible for the preparation and fair presentation of these financial statements in accordance with International Financial Reporting Standards for Small and Medium-sized Entities ("IFRS for SMEs") and the requirements of Legal Practitioners Decree 2009. This responsibility includes: designing, implementing and maintaining internal controls relevant to the preparation of financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies, and making accounting estimates that are reasonable in the circumstances.

#### Auditor's Responsibility

My responsibility is to express an opinion on these financial statements based on conducting the audit in accordance with International Standards on Auditing. Because of the matters described in the Basis for Disclaimer of Opinion paragraph, however, I am not able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion.

#### Basis for Disclaimer of Opinion

1. Critical documents necessary for the performance of the audit were missing hence were not made available. This has also been highlighted by the Commissioner in his statement on page 3 of the financial statements. As the remaining accounting records were not adequate to permit the application of necessary auditing procedures, I am unable to obtain all of the information and explanations which I require in order to form an opinion on the financial statements for the year ended 31 December 2014.
2. The person appointed and was performing the duties of the Secretary of the Commission for year ended 31 December 2014 was investigated by the Fiji Independent Commission Against Corruption and subsequently charged for various matters including falsification of documents which are currently with the Courts.

**Disclaimer of Opinion**

Because of the existence of the limitation on the scope of my audit and significance of the matters described in the Basis for Disclaimer of Opinion paragraphs, I am unable to and do not express an opinion on the financial statements for the year ended 31 December 2014.



Ajay Nand  
**AUDITOR-GENERAL**



Suva, Fiji  
26 July, 2018

**INDEPENDENT LEGAL SERVICES COMMISSION  
STATEMENT OF COMPREHENSIVE INCOME  
FOR THE YEAR ENDED 31 DECEMBER 2014**

	Notes	2014 \$	2013 \$
Distributions from contribution fund	3	157,431	102,606
Other revenue	3	82,817	167,875
Total operating income		<u>240,248</u>	<u>270,481</u>
Employee expenses	4	(153,453)	(122,625)
Operating expenses	5	(113,930)	(157,789)
Depreciation		-	(45,380)
Total expenditure		<u>(267,383)</u>	<u>(325,794)</u>
Net (deficit)		(27,135)	(55,313)
Other comprehensive income		-	-
<b>Total comprehensive (deficit) for the year</b>		<u>(27,135)</u>	<u>(55,313)</u>

*The accompanying notes form an integral part of this Statement of Comprehensive Income.*



**INDEPENDENT LEGAL SERVICES COMMISSION  
STATEMENT OF CHANGES IN EQUITY  
FOR THE YEAR ENDED 31 DECEMBER 2014**

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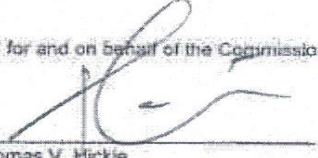
	2014	2013
	\$	\$
<b>Accumulated funds</b>		
Balance at 1 January	855,235	910,548
(Deficit) for the year	<u>(27,135)</u>	<u>(55,313)</u>
Balance at 31 December	<u>828,100</u>	<u>855,235</u>
Total accumulated funds	<u><u>828,100</u></u>	<u><u>855,235</u></u>

*The accompanying notes form an integral part of this Statement of Changes in Equity.*

**INDEPENDENT LEGAL SERVICES COMMISSION  
STATEMENT OF FINANCIAL POSITION  
AS AT 31 DECEMBER 2014**

	Notes	2014 \$	2013 \$
<b>Current assets</b>			
Cash and cash equivalents	6	3,898	28,241
Receivable from contribution fund	7	27,399	27,399
Interest receivable		21,464	21,464
Held to maturity investment	8	715,464	715,464
		<u>767,933</u>	<u>792,568</u>
<b>Non-current assets</b>			
Property, plant and equipment	9	119,385	119,385
		<u>119,385</u>	<u>119,385</u>
<b>Total assets</b>		<u>887,318</u>	<u>911,953</u>
<b>Current liabilities</b>			
Payables and accruals	10	10,748	8,248
		<u>10,748</u>	<u>8,248</u>
<b>Non-current liability</b>			
Deferred income	11	48,470	48,470
<b>Total liabilities</b>		<u>59,218</u>	<u>56,718</u>
<b>Net assets</b>		<u>828,100</u>	<u>855,235</u>
<b>Accumulated funds</b>			
		<u>828,100</u>	<u>855,235</u>
<b>Total accumulated funds</b>		<u>828,100</u>	<u>855,235</u>

Signed for and on behalf of the Commission.

  
\_\_\_\_\_  
Dr. Thomas V. Hickie  
COMMISSIONER

Dated this 8th day of JUNE 2015.

The accompanying notes form an integral part of this Statement of Financial Position.

**INDEPENDENT LEGAL SERVICES COMMISSION  
STATEMENT OF CASH FLOWS  
FOR THE YEAR ENDED 31 DECEMBER 2014**

	Notes	2014 \$	2013 \$
<b>Cash flow from Operating Activities</b>			
Receipts from contribution fund	3	157,431	98,634
Workshop and other receipts		82,817	112,457
Payments to suppliers and employees		<u>(264,883)</u>	<u>(280,414)</u>
Net cash used in Operating Activities	6(b)	(24,635)	(69,323)
<b>Net (decrease) in cash and cash equivalents</b>		(24,635)	(69,323)
Cash and cash equivalents at 1 January		28,241	97,564
<b>Cash and cash equivalents at 31 December</b>	6(a)	<u><u>3,606</u></u>	<u><u>28,241</u></u>

*The accompanying notes form an integral part of Statement of Cash Flows.*

**INDEPENDENT LEGAL SERVICES COMMISSION  
NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 31 DECEMBER 2014**

---

**1. COMMISSION INFORMATION**

In accordance with section 92(2) of the Legal Practitioners Decree 2009, herewith is submitted for audit by the Auditor General the financial statements of the Commission as at 31 December 2014. The address of its registered office and principal place of business is level 5, Civic Tower, Victoria Parade, Suva.

**2. STATEMENT OF SIGNIFICANT ACCOUNTING POLICIES**

**2.1 Basis of preparation of financial statements**

The Financial Statements have been prepared under the convention of historical cost accounting and do not take into account changing money valued or current valuations of non-current assets unless stated otherwise.

Statement of compliance

The Financial Statements have been drawn up in accordance with International Financial Reporting Standard for Small and Medium-sized Entities ("IFRS for SMEs") issued by the International Auditing Standards Board ("IASB").

Use of estimates and judgments

The preparation of the Financial Statements requires the management to make judgments, estimates and assumptions that affect the application of accounting policies and the reported amounts of assets, liabilities, income and expenses, and the disclosure of contingent liabilities at the reporting date. However, uncertainty about these assumptions and estimates could result in outcomes that could require a material adjustment to the carrying amount of the asset or liability affected in the future.

Estimates and underlying assumptions are reviewed on an on-going basis. Revisions to accounting estimates are recognised in the period in which the estimates are revised and in any future periods affected.

**2.2 Summary of significant accounting policies**

**a) Cash and cash equivalents**

Cash in the Statement of Financial Position comprise of cash on hand and cash at bank balances at balance date.

**b) Property, plant and equipment**

Items of property, plant and equipment are measured at cost less accumulated depreciation and any accumulated impairment losses. Depreciation is calculated on the estimated useful lives, using the straight-line method. The following annual rates are used:

	<u>Rates</u>
Furniture and equipme	10% -15%
Motor Vehicle	20%

If there is an indication that there has been a significant change in the depreciation rate, useful life or residual value of an asset, the depreciation of that asset is revised prospectively to reflect the new expectations.

**INDEPENDENT LEGAL SERVICES COMMISSION  
NOTES TO THE FINANCIAL STATEMENTS *continued*  
FOR THE YEAR ENDED 31 DECEMBER 2014**

---

**2.2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES *continued***

**c) Financial assets**

*Held-to-maturity investments*

Held-to-maturity investments are non-derivative financial assets with fixed or determinable payments and fixed maturities that the Commission's management has the positive intention and ability to hold to maturity.

Held-to-maturity investments represent term deposit and are recorded at cost. Interest earned on term deposits are brought to account on an accrual basis.

**d) Impairment of assets**

At each reporting date, property, plant and equipment, intangible assets, and investments in associates are reviewed to determine whether there is any indication that those assets have suffered impairment loss. If there is an indication of possible impairment, the recoverable amount of any affected asset (or group of related assets) is estimated and compared with its carrying amount. If estimated recoverable amount is lower, the carrying amount is reduced to its estimated recoverable amount, and an impairment loss is recognized immediately in the Statement of Comprehensive Income.

**e) Accounts payable and accruals**

Liabilities for trade creditors and other amounts are carried at cost (inclusive of VAT where applicable) which is the fair value of the consideration to be paid in the future for goods and services received whether or not billed to the entity. Payables to related parties are carried at the principal amount. Interest when charged by the lender, is recognised as an expense when incurred.

**f) Employee entitlements**

Employee entitlements relating to wages, salaries, annual leave, and sick leave represents the amount which the Commission has a present obligation to pay resulting from the employees' services provided up to balance date.

*Wages and salaries*

Liabilities for wages and salaries are recognised, and are measured as the amount unpaid at the reporting date at current pay rates in respect of employees' services up to that date.

**g) Revenue recognition**

Revenue and grants are brought to account when the cash is received. Subscriptions in arrears are not brought into account until realisation is virtually certain.

**h) Value added tax ("VAT")**

The Financial Statements have been prepared inclusive of Value added tax ("VAT").

**i) Deferred capital gain**

Assets acquired through capital grants are capitalised to plant and equipment and the corresponding credit is taken to deferred capital grant. Plant and equipment are depreciated over their estimated useful lives. The benefit arising from the grants being the recoupment through depreciation is credited to revenue over the period of the useful lives of those assets.

**INDEPENDENT LEGAL SERVICES COMMISSION**  
**NOTES TO THE FINANCIAL STATEMENTS *continued***  
**FOR THE YEAR ENDED 31 DECEMBER 2014**

**2.2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES *continued***

**j) Foreign currency**

Foreign currency transactions are converted to Fiji dollars at rates of exchange ruling at the dates of the transactions. Amounts receivable and payable in foreign currencies are translated to Fiji currency at the rates of exchange ruling at the balance date. All exchange gains or losses whether realised or unrealised are reflected in the Statement of Comprehensive Income.

**k) Comparative figures**

Comparative figures have been amended where necessary, for changes in presentation in the current year.

**l) Income tax**

The Commission is exempted from income tax in accordance with the Income Tax legislation.

<b>3. INCOME</b>	<b>2014</b>	<b>2013</b>
	<b>\$</b>	<b>\$</b>
Distributions from contribution fund	157,431	102,606
Interest on investment	-	26,586
Workshop registration fees	-	112,457
Litigation skills Workshop	29,205	-
Amortisation of deferred income	-	28,832
Miscellaneous income	53,612	-
	<u>240,248</u>	<u>270,481</u>
<b>4. EMPLOYEE EXPENSES</b>	<b>\$</b>	<b>\$</b>
Fiji National Provident Fund contribution	23,101	10,267
Wages and salaries	130,352	112,358
	<u>153,453</u>	<u>122,625</u>
<b>5. OPERATING EXPENSES</b>	<b>\$</b>	<b>\$</b>
Audit fees	2,500	2,500
Accounting fees	690	2,093
Accommodation	562	1,455
Electricity	10,062	9,387
Fuel	1,683	-
Insurance	2,878	3,712
Motor vehicle expense	9,831	5,811
Workshop costs	35,167	63,253
Office supplies	11,872	6,843
Professional fees	-	2,210
Telephone	6,751	6,953
Other operating expenses	31,934	53,572
	<u>113,930</u>	<u>157,789</u>

**INDEPENDENT LEGAL SERVICES COMMISSION**  
**NOTES TO THE FINANCIAL STATEMENTS *continued***  
**FOR THE YEAR ENDED 31 DECEMBER 2014**

**6. NOTES TO THE STATEMENT OF CASH FLOWS**

**a) Cash and cash equivalents**

Cash on hand and at bank included in the financial statement of cash flows comprise of the following Statement of Financial Position amounts :

	2014	2013
	\$	\$
Cash at bank	3,229	28,041
Cash on hand	200	200
Petty cash	177	-
	<u>3,606</u>	<u>28,241</u>

**b) Reconciliations of net cash used in Operating Activities to operating deficit:**

Operating deficit	(27,135)	(55,313)
Depreciation	-	45,380
Amortisation of deferred income	-	(28,832)
Interest reinvested	-	(26,293)
<i>Changes in assets and liabilities:</i>		
(Increase) in accounts receivables	-	(4,265)
(Decrease) in trade and other payables	2,500	-
Net cash (used in) Operating Activities	<u>(24,635)</u>	<u>(69,323)</u>

**7. RECEIVABLE FROM CONTRIBUTION FUND**

	2014	2013
	\$	\$
Receivable from contribution fund	27,399	27,399
	<u>27,399</u>	<u>27,399</u>

**8. HELD TO MATURITY INVESTMENTS**

	2014	2013
	\$	\$
<i>Current</i>		
Term deposit	<u>715,464</u>	<u>715,464</u>

The term deposit is held at the Merchant Finance at 3.6% (2013: 3.6%) interest per annum for a term of six months.

**9. PROPERTY, PLANT AND EQUIPMENT**

	2014	2013
	\$	\$
<b><u>Furniture, fittings and equipment</u></b>		
<i>Cost</i>		
At 1 January	45,331	45,331
At 31 December	<u>45,331</u>	<u>45,331</u>
<i>Depreciation and impairment</i>		
At 1 January	22,097	13,449
Annual depreciation	-	8,648
At 31 December	<u>22,097</u>	<u>22,097</u>
Net written down value	<u>23,234</u>	<u>23,234</u>

**INDEPENDENT LEGAL SERVICES COMMISSION  
NOTES TO THE FINANCIAL STATEMENTS *continued*  
FOR THE YEAR ENDED 31 DECEMBER 2014**

**9. PROPERTY, PLANT AND EQUIPMENT *continued***

	2014 \$	2013 \$
<i>Cost</i>		
At 1 January	79,000	79,000
At 31 December	<u>79,000</u>	<u>79,000</u>
<i>Depreciation and impairment</i>		
At 1 January	31,319	23,419
Annual depreciation	-	7,900
At 31 December	<u>31,319</u>	<u>31,319</u>
Net written down value	<u>47,681</u>	<u>47,681</u>
<b><u>Furniture, fittings and equipment- Grant assets</u></b>		
<i>Cost</i>		
At 1 January	165,946	165,946
At 31 December	<u>165,946</u>	<u>165,946</u>
<i>Depreciation and impairment</i>		
At 1 January	117,476	117,476
Annual depreciation	-	-
At 31 December	<u>117,476</u>	<u>117,476</u>
Net written down value	<u>48,470</u>	<u>48,470</u>
Net written down value	<u>119,385</u>	<u>119,385</u>

**10. PAYABLES AND ACCRUALS**

	2014 \$	2013 \$
Payables and accruals	10,748	8,248
	<u>10,748</u>	<u>8,248</u>

**11. DEFERRED CAPITAL GRANT**

	2014 \$	2013 \$
Balance at 1 January	48,470	165,946
Less: Release of deferred income	-	(117,476)
Balance at 31 December	<u>48,470</u>	<u>48,470</u>



**INDEPENDENT LEGAL SERVICES COMMISSION  
NOTES TO THE FINANCIAL STATEMENTS *continued*  
FOR THE YEAR ENDED 31 DECEMBER 2014**

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	2014 \$	2013 \$
<b>12. COMMITMENTS AND CONTINGENCIES</b>		
a) Capital expenditure commitments at balance date	-	-
c) Contingent liabilities at balance date amounted to \$nil (2013 : \$nil)		

**13. SEGMENT INFORMATION**

**(a) Business segment**

The principal activity of the Commission is to deal with complaints against lawyers in Fiji independently and fairly.

**(b) Geographical segment**

The Commission operates predominantly in Fiji.

**14. ORGANISATION DETAILS**

**Registered office/ principal place of business**

Level 5, Civic Tower  
Victoria Parade  
Suva

**Number of Employees as at year end**

As at balance date, the Commission employed 3 permanent staff (2013: 3).

**INDEPENDENT LEGAL SERVICES COMMISSION  
 DETAILED INCOME STATEMENT  
 FOR THE YEAR ENDED 31 DECEMBER 2014**

<b>Income</b>	<b>2014</b>	<b>2013</b>
	<b>\$</b>	<b>\$</b>
Distributions from contribution fund	157,431	102,606
Interest on investment	-	26,586
Workshop registration fees	-	112,457
Litigation skills Workshop	29,205	-
Amortisation of deferred income	-	28,832
Miscellaneous income	53,612	-
<b>Total income</b>	<b>240,248</b>	<b>270,481</b>
<b>Expenditure</b>		
Accounting fees	690	2,093
Accommodation	562	1,455
Audit Fees	2,500	2,500
Bank Fees	48	67
Depreciation	-	45,380
Dues and subscriptions	61	-
Electricity	10,062	9,387
Fiji National Provident Fund contribution	23,101	10,267
Fuel	1,683	-
Insurance	2,878	3,712
Motor vehicle expense	9,831	5,811
Office supplies	11,872	6,843
Printing	649	-
Professional fees	-	2,210
Sundry	30,341	52,785
Telephone	6,751	6,953
Wages and salaries	130,352	112,358
Water	835	720
Workshop costs	35,167	63,253
<b>Total expenditure</b>	<b>267,383</b>	<b>325,794</b>
Deficit for the year	<b>(27,135)</b>	<b>(55,313)</b>

## **Appendix 2**

**Independent Legal Services Commission**

**Audited Financial Statements**

**for the**

**Year Ended 31 December 2015**

**INDEPENDENT LEGAL SERVICES COMMISSION**

**FINANCIAL STATEMENTS**

**FOR THE YEAR ENDED 31 DECEMBER 2015**

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Contents

Table of contents.....	1
Commissioner's statement.....	2
Independent auditor's report.....	3
Statement of comprehensive income.....	4
Statement of changes in equity.....	5
Statement of financial position.....	6
Statement of cash flows.....	7
Notes to the financial statements.....	8 - 13
Detailed income statement.....	14

**INDEPENDENT LEGAL SERVICES COMMISSION  
COMMISSIONER'S STATEMENT  
FOR THE YEAR ENDED 31 DECEMBER 2015**

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The attached Financial Statements ("accounts") have been prepared by the Commission's external accountants, Ernst & Young, to provide a list of income and expenses of the Independent Legal Services Commission for the calendar year 2015 i.e. 1st January until 31st December 2015.

The accounts can only be read as "qualified accounts" due to the following:

1. The person who fulfilled the role of the Commissioner during the year 2015 concluded their term on 30th November 2015.
2. The person who fulfilled the role as Secretary of the Commission for the year 2015 left the Commission in late 2016.
3. The current Secretary of the Commission (as at February 2018) was only appointed to that position as from 21 June 2017. In addition, the current Commissioner was only appointed as the new Commissioner as from 22nd January 2016 and sworn-in on 9th February 2016. Therefore, neither the current Secretary nor the current Commissioner are able to verify the authenticity of the 2015 accounts.
4. Ernst & Young were engaged initially as forensic accountants to undertake a forensic audit of the Commission's accounts in two stages: the first stage being 2013-2015 and the second stage being 2009-2012 and 2016 (till November). The 2013-2015 report was finalised in February 2017 and copies provided to the Auditor General with copies to the Office of the Director of Public Prosecutions (ODPP), the Fiji Independent Commission Against Corruption (FICAC), the Attorney-General, Solicitor General and Chief Justice.



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Dr. Thomas V. Hickie  
COMMISSIONER

Dated this 17th day of September 2018.



**INDEPENDENT AUDITOR'S REPORT**

**INDEPENDENT LEGAL SERVICES COMMISSION**

**Audit opinion**

I have audited the accompanying financial statements of Independent Legal Services Commission ("the Commission"), which comprise, the statement of financial position as at 31 December 2015, the statement of comprehensive income and retained earnings, statement of cash flows for the year then ended, and a summary of significant accounting policies and other explanatory information as set out in Notes 1 to 14.

**Commission's Responsibility for the Financial Statements**

The Commission is responsible for the preparation and fair presentation of these financial statements in accordance with International Financial Reporting Standards for Small and Medium-sized Entities ("IFRS for SMEs") and the requirements of Legal Practitioners Decree 2009. This responsibility includes: designing, implementing and maintaining internal controls relevant to the preparation of financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies, and making accounting estimates that are reasonable in the circumstances.

**Auditor's Responsibility**

My responsibility is to express an opinion on these financial statements based on conducting the audit in accordance with International Standards on Auditing. Because of the matters described in the Basis for Disclaimer of Opinion paragraph, however, I am not able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion.

**Basis for Disclaimer of Opinion**

Critical documents necessary for the performance of the audit were missing hence not made available. This has also been highlighted by the Commissioner in his statement on page 2 of the financial statements. As the remaining accounting records were not adequate to permit the application of necessary auditing procedures, I am unable to obtain all of the information and explanations which I require in order to form an opinion on the financial statements for the year ended 31 December 2015.

**Disclaimer of Opinion**

Because of the existence of the limitation on the scope of my audit and significance of the matters described in the Basis for Disclaimer of Opinion paragraph, I am unable to and do not express an opinion on the financial statements for the year ended 31 December 2015.

Ajay Nand  
**AUDITOR-GENERAL**



Suva, Fiji  
17<sup>th</sup> September 2018

**INDEPENDENT LEGAL SERVICES COMMISSION  
STATEMENT OF COMPREHENSIVE INCOME  
FOR THE YEAR ENDED 31 DECEMBER 2015**

	Notes	2015 \$	2014 \$
Distributions from contribution fund	3	155,787	157,431
Other revenue	3	83,350	82,817
Total operating income		<u>239,137</u>	<u>240,248</u>
Employee expenses	4	(100,538)	(153,453)
Operating expenses	5	(89,971)	(113,930)
Depreciation		-	-
Total expenditure		<u>(190,509)</u>	<u>(267,383)</u>
Net surplus/(deficit)		48,628	(27,135)
Other comprehensive income		-	-
<b>Total comprehensive surplus/(deficit) for the year</b>		<u><u>48,628</u></u>	<u><u>(27,135)</u></u>

*The accompanying notes form an integral part of this Statement of Comprehensive Income.*

**INDEPENDENT LEGAL SERVICES COMMISSION  
STATEMENT OF CHANGES IN EQUITY  
FOR THE YEAR ENDED 31 DECEMBER 2015**

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	2015	2014
	\$	\$
<b>Accumulated funds</b>		
Balance at 1 January	828,100	855,235
Surplus/(deficit) for the year	48,628	(27,135)
Balance at 31 December	<u>876,728</u>	<u>828,100</u>

*The accompanying notes form an integral part of this Statement of Changes in Equity.*



**INDEPENDENT LEGAL SERVICES COMMISSION  
STATEMENT OF FINANCIAL POSITION  
AS AT 31 DECEMBER 2015**

	Notes	2015 \$	2014 \$
<b>Current assets</b>			
Cash and cash equivalents	6	54,734	3,606
Receivable from contribution fund	7	27,399	27,399
Interest Receivable		21,464	21,464
Held to maturity investment	8	715,464	715,464
		<u>819,061</u>	<u>767,933</u>
<b>Non-current assets</b>			
Property, plant and equipment	9	119,385	119,385
		<u>119,385</u>	<u>119,385</u>
<b>Total assets</b>		<u>938,446</u>	<u>887,318</u>
<b>Current liabilities</b>			
Payables and accruals	10	13,248	10,748
		<u>13,248</u>	<u>10,748</u>
<b>Non-current liability</b>			
Deferred income	11	48,470	48,470
<b>Total liabilities</b>		<u>61,718</u>	<u>59,218</u>
<b>Net assets</b>		<u>876,728</u>	<u>828,100</u>
Accumulated funds		<u>876,728</u>	<u>828,100</u>
<b>Total accumulated funds</b>		<u>876,728</u>	<u>828,100</u>

Signed for and on behalf of the Commission.

  
.....  
Dr. Thomas V. Hickie  
Commissioner

*The accompanying notes form an integral part of this Statement of Financial Position.*

**INDEPENDENT LEGAL SERVICES COMMISSION  
STATEMENT OF CASH FLOWS  
FOR THE YEAR ENDED 31 DECEMBER 2015**

	Notes	2015 \$	2014 \$
<b>Cash flow from Operating Activities</b>			
Receipts from contribution fund	3	155,787	157,431
Workshop and other receipts		83,350	82,817
Payments to suppliers and employees		<u>(188,009)</u>	<u>(264,883)</u>
Net cash provided by/(used in) Operating Activities	6(b)	51,128	(24,635)
<b>Net increase/(decrease) in cash and cash equivalents</b>		51,128	(24,635)
Cash and cash equivalents at 1 January		3,606	28,241
<b>Cash and cash equivalents at 31 December</b>	6(a)	<u><u>54,734</u></u>	<u><u>3,606</u></u>

*The accompanying notes form an integral part of Statement of Cash Flows.*

**INDEPENDENT LEGAL SERVICES COMMISSION  
NOTES TO THE FINANCIAL STATEMENTS  
FOR THE YEAR ENDED 31 DECEMBER 2015**

---

**1. Commission INFORMATION**

In accordance with section 92(2) of the Legal Practitioners Decree 2009, herewith is submitted for audit by the Auditor General the financial statements of the Commission as at 31 December 2015. The address of its registered office and principal place of business is level 5, Civic Tower, Victoria Parade, Suva.

**2. STATEMENT OF SIGNIFICANT ACCOUNTING POLICIES**

**2.1 Basis of preparation of financial statements**

The Financial Statements have been prepared under the convention of historical cost accounting and do not take into account changing money valued or current valuations of non-current assets unless stated otherwise.

Statement of compliance

The Financial Statements have been drawn up in accordance with International Financial Reporting Standard for Small and Medium-sized Entities ("IFRS for SMEs") issued by the International Auditing Standards Board ("IASB").

Use of estimates and judgments

The preparation of the Financial Statements requires the management to make judgments, estimates and assumptions that affect the application of accounting policies and the reported amounts of assets, liabilities, income and expenses, and the disclosure of contingent liabilities at the reporting date. However, uncertainty about these assumptions and estimates could result in outcomes that could require a material adjustment to the carrying amount of the asset or liability affected in the future.

Estimates and underlying assumptions are reviewed on an on-going basis. Revisions to accounting estimates are recognised in the period in which the estimates are revised and in any future periods affected.

**2.2 Summary of significant accounting policies**

**a) Cash and cash equivalents**

Cash in the Statement of Financial Position comprise of cash on hand and cash at bank balances at balance date.

**b) Property, plant and equipment**

Items of property, plant and equipment are measured at cost less accumulated depreciation and any accumulated impairment losses. Depreciation is calculated on the estimated useful lives, using the straight-line method. The following annual rates are used:

	<u>Rates</u>
Furniture and equipment	10% -15%
Motor Vehicle	20%

If there is an indication that there has been a significant change in the depreciation rate, useful life or residual value of an asset, the depreciation of that asset is revised prospectively to reflect the new expectations.

**INDEPENDENT LEGAL SERVICES COMMISSION  
NOTES TO THE FINANCIAL STATEMENTS *continued*  
FOR THE YEAR ENDED 31 DECEMBER 2015**

---

**2.2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES *continued***

**c) Financial assets**

*Held-to-maturity investments*

Held-to-maturity investments are non-derivative financial assets with fixed or determinable payments and fixed maturities that the Commissions management has the positive intention and ability to hold to maturity.

Held-to-maturity investments represent term deposit and are recorded at cost. Interest earned on term deposits are brought to account on an accrual basis.

**d) Impairment of assets**

At each reporting date, property, plant and equipment, intangible assets, and investments in associates are reviewed to determine whether there is any indication that those assets have suffered impairment loss. If there is an indication of possible impairment, the recoverable amount of any affected asset (or group of related assets) is estimated and compared with its carrying amount. If estimated recoverable amount is lower, the carrying amount is reduced to its estimated recoverable amount, and an impairment loss is recognized immediately in the Statement of Comprehensive Income.

**e) Accounts payable and accruals**

Liabilities for trade creditors and other amounts are carried at cost (inclusive of VAT where applicable) which is the fair value of the consideration to be paid in the future for goods and services received whether or not billed to the entity. Payables to related parties are carried at the principal amount. Interest when charged by the lender, is recognised as an expense when incurred.

**f) Employee entitlements**

Employee entitlements relating to wages, salaries, annual leave, and sick leave represents the amount which the Commission has a present obligation to pay resulting from the employees' services provided up to balance date.

*Wages and salaries*

Liabilities for wages and salaries are recognised, and are measured as the amount unpaid at the reporting date at current pay rates in respect of employees' services up to that date.

**g) Revenue recognition**

Revenue and grants are brought to account when the cash is received. Subscriptions in arrears are not brought into account until realisation is virtually certain.

**h) Value added tax ("VAT")**

The Financial Statements have been prepared inclusive of Value added tax ("VAT").

**i) Deferred capital gain**

Assets acquired through capital grants are capitalised to plant and equipment and the corresponding credit is taken to deferred capital grant. Plant and equipment are depreciated over their estimated useful lives. The benefit arising from the grants being the recoupment through depreciation is credited to revenue over the period of the useful lives of those assets.

**INDEPENDENT LEGAL SERVICES COMMISSION  
NOTES TO THE FINANCIAL STATEMENTS *continued*  
FOR THE YEAR ENDED 31 DECEMBER 2015**

**2.2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES *continued***

**j) Foreign currency**

Foreign currency transactions are converted to Fiji dollars at rates of exchange ruling at the dates of the transactions. Amounts receivable and payable in foreign currencies are translated to Fiji currency at the rates of exchange ruling at the balance date. All exchange gains or losses whether realised or unrealised are reflected in the Statement of Comprehensive Income.

**k) Comparative figures**

Comparative figures have been amended where necessary, for changes in presentation in the current year.

**l) Income tax**

The Commission is exempted from income tax in accordance with the Income Tax legislation.

<b>3. INCOME</b>	<b>2015</b>	<b>2014</b>
	<b>\$</b>	<b>\$</b>
Distributions from contribution fund	155,787	157,431
Interest on investment	-	-
Workshop registration fees	-	-
Litigation skills Workshop	62,350	29,205
Amortisation of deferred income	-	-
Miscellaneous income	21,000	53,612
	<u>239,137</u>	<u>240,248</u>
<b>4. EMPLOYEE EXPENSES</b>	<b>\$</b>	<b>\$</b>
Fiji National Provident Fund contribution	19,737	23,101
Wages and salaries	80,801	130,352
	<u>100,538</u>	<u>153,453</u>
<b>5. OPERATING EXPENSES</b>	<b>\$</b>	<b>\$</b>
Audit fees	2,500	2,500
Accounting fees	-	690
Accommodation	1,365	562
Electricity	10,702	10,062
Fuel	4,089	1,683
Insurance	-	2,878
Motor vehicle expense	7,017	9,831
Workshop costs	9,040	35,167
Office supplies	3,611	11,872
Professional fees	10,560	-
Telephone	6,507	6,751
Other operating expenses	34,580	31,934
	<u>89,971</u>	<u>113,930</u>

**INDEPENDENT LEGAL SERVICES COMMISSION**  
**NOTES TO THE FINANCIAL STATEMENTS *continued***  
**FOR THE YEAR ENDED 31 DECEMBER 2015**

**6. NOTES TO THE STATEMENT OF CASH FLOWS**

**a) Cash and cash equivalents**

Cash on hand and at bank included in the financial statement of cash flows comprise of the following Statement of Financial Position amounts :

	2015	2014
	\$	\$
Cash at bank	54,357	3,229
Cash on hand	200	200
Petty cash	177	177
	<u>54,734</u>	<u>3,606</u>

**b) Reconciliations of net cash used in Operating Activities to operating surplus/(deficit):**

Operating surplus/(deficit)	48,628	(27,135)
Depreciation	-	-
Amortisation of deferred income	-	-
Interest reinvested	-	-
<i>Changes in assets and liabilities:</i>		
(Increase) in accounts receivables	-	-
(Increase) in investment	-	-
(Decrease) in trade and other payables	2,500	2,500
Increase in provisions	-	-
Net cash provided by/(used in) Operating Activities	<u>51,128</u>	<u>(24,635)</u>

**7. RECEIVABLE FROM CONTRIBUTION FUND**

	2015	2014
	\$	\$
Receivable from contribution fund	27,399	27,399
	<u>27,399</u>	<u>27,399</u>

**8. HELD TO MATURITY INVESTMENTS**

	\$	\$
<i>Current</i>		
Term deposit	<u>715,464</u>	<u>715,464</u>

The term deposit is held at the Merchant Finance at 3.6% (2014: 3.6%) interest per annum for a term of six months.

**9. PROPERTY, PLANT AND EQUIPMENT**

	2015	2014
<b><u>Furniture, fittings and equipment</u></b>	\$	\$
<i>Cost</i>		
At 1 January	45,331	45,331
At 31 December	<u>45,331</u>	<u>45,331</u>
<i>Depreciation and impairment</i>		
At 1 January	22,097	13,449
Annual depreciation	-	8,648

At 31 December

22,097

22,097

**INDEPENDENT LEGAL SERVICES COMMISSION  
NOTES TO THE FINANCIAL STATEMENTS *continued*  
FOR THE YEAR ENDED 31 DECEMBER 2015**

**9. PROPERTY, PLANT AND EQUIPMENT *continued***

	<b>2015</b>	<b>2014</b>
	<b>\$</b>	<b>\$</b>
Net written down value	23,234	23,234
<b><u>Motor Vehicle</u></b>		
<i>Cost</i>		
At 1 January	79,000	79,000
At 31 December	79,000	79,000
<i>Depreciation and impairment</i>		
At 1 January	31,319	23,419
Annual depreciation	-	7,900
At 31 December	31,319	31,319
Net written down value	47,681	47,681
<b><u>Furniture, fittings and equipment- Grant assets</u></b>		
<i>Cost</i>		
At 1 January	165,946	165,946
At 31 December	165,946	165,946
<i>Depreciation and impairment</i>		
At 1 January	117,476	117,476
Annual depreciation	-	-
At 31 December	117,476	117,476
Net written down value	48,470	48,470
Net written down value	119,385	119,385

**INDEPENDENT LEGAL SERVICES COMMISSION  
NOTES TO THE FINANCIAL STATEMENTS *continued*  
FOR THE YEAR ENDED 31 DECEMBER 2015**

	2015	2014
	\$	\$
<b>10. PAYABLES AND ACCRUALS</b>		
Payables and accruals	13,248	10,748
	<u>13,248</u>	<u>10,748</u>
<b>11. DEFERRED CAPITAL GRANT</b>		
	2015	2014
	\$	\$
Balance at 1 January	48,470	48,470
Less: Release of deferred income	-	-
Balance at 31 December	<u>48,470</u>	<u>48,470</u>
<b>12. COMMITMENTS AND CONTINGENCIES</b>		
a) Capital expenditure commitments at balance date	<u>-</u>	<u>-</u>
c) Contingent liabilities at balance date amounted to \$nil (2014 : \$nil)		

**13. SEGMENT INFORMATION**

**(a) Business segment**

The principal activity of the Commission is to deal with complaints against lawyers in Fiji independently and fairly.

**(b) Geographical segment**

The Commission operates predominantly in Fiji.

**14. ORGANISATION DETAILS**

**Registered office/ principal place of business**

Level 5, Civic Tower  
Victoria Parade  
Suva

**Number of Employees as at year end**

As at balance date, the Commission employed 3 permanent staff (2014: 3).



**INDEPENDENT LEGAL SERVICES COMMISSION  
DETAILED INCOME STATEMENT  
FOR THE YEAR ENDED 31 DECEMBER 2015**

<b>Income</b>	<b>2015</b>	<b>2014</b>
	<b>\$</b>	<b>\$</b>
Distributions from contribution fund	155,787	157,431
Litigation skills Workshop	62,350	29,205
Amortisation of deferred income	-	-
Miscellaneous income	21,000	53,612
<b>Total income</b>	<u>239,137</u>	<u>240,248</u>
 <b>Expenditure</b>		
Accounting fees	-	690
Accommodation	1,365	562
Audit Fees	2,500	2,500
Bank Fees	2,356	48
Depreciation	-	-
Dues and subscriptions	764	61
Electricity	10,702	10,062
Fiji National Provident Fund contribution	19,737	23,101
Fuel	4,089	1,683
Insurance	-	2,878
Motor vehicle expense	7,017	9,831
Office supplies	3,611	11,872
Printing	755	649
Professional fees	10,560	-
Sundry	20,899	30,341
Telephone	6,507	6,751
Travelling and entertainment	9,568	-
Staff expenses	80,801	130,352
Water	238	835
Workshop costs	9,040	35,167
<b>Total expenditure</b>	<u>190,509</u>	<u>267,383</u>
Surplus/(deficit) for the year	<u>48,628</u>	<u>(27,135)</u>