

IN THE INDEPENDENT LEGAL SERVICE COMMISSION

AT SUVA

ILSC CASE NO. 002 OF 2022

BETWEEN : **CHIEF REGISTRAR**

APPLICANT

AND : **NATASHA KHAN**

RESPONDENT

Counsel : **Mr N Narayan for the Applicant**
Mr R I Singh for the Respondent

Date of Hearing : 7 & 8 August 2023

Date of Decision : 15 September 2025

DECISION

Allegations

[1] The legal practitioner, Natasha Khan, faces the following allegations:

Count 1: Professional Misconduct

Contrary to Section 82(1)(a) of the Legal Practitioners Act 2009 and Rule 3.7 of the Rules of Professional Conduct and Practice.

Particulars:

Natasha Khan, as principal of Natasha Khan Associates, between 4 January 2011 and 28 July 2011, in the matter of *Flour Mills of Fiji Limited v Dayals (Fiji) Artesian Waters Limited* (HBC 157 of 2009), failed to act in the best interests of Dayals (Fiji) Artesian Waters Limited by not complying with directions of the Master given on 1 February and 31

May 2011. This non-compliance led to the Defendant's Statement of Defence and Counterclaim being struck out on 28 July 2011, in contravention of Rule 3.7 of the Rules of Professional Conduct and Practice and Section 82(1)(a) of the Legal Practitioners Act 2009, amounting to professional misconduct.

Count 2: Unsatisfactory Professional Conduct

Contrary to Section 81 of the Legal Practitioners Act 2009 and Rule 8.1(1)(b) of the Rules of Professional Conduct and Practice.

Particulars:

Natasha Khan, as principal of Natasha Khan Associates, failed to ensure that Dayals (Fiji) Artesian Waters Limited was kept informed during the proceedings and after their case was struck out. The failure to provide updates significantly prejudiced Dayals (Fiji) Artesian Waters Limited in *Flour Mills of Fiji Limited v Dayals (Fiji) Artesian Waters Limited* (HBC 157 of 2009), contrary to Rule 8.1(1)(b) of the Rules of Professional Conduct and Practice and Section 81 of the Legal Practitioners Act 2009, constituting unsatisfactory professional conduct.

Standard of Proof

- [2] The proceedings apply the civil standard, that is, balance of probabilities, with more serious allegations requiring stronger evidence (*Chief Registrar v Adish Kumar Narayan*, ILS No. 009 of 2013 (2 October 2014); *Haroon Ali Shah*, ILSC No. 007 of 2011).

Legal Principles

- [3] Section 81 defines Unsatisfactory Professional Conduct as conduct in connection with legal practice that falls short of the competence and diligence expected of a reasonably competent practitioner.

[4] Section 82 defines Professional Misconduct as:

- (a) Unsatisfactory Professional Conduct involving substantial or consistent failure to meet reasonable standards of competence and diligence; or
- (b) Conduct that would, if established, justify a finding that the practitioner or law firm is not fit and proper to engage in legal practice.

[5] Section 83 further specifies conduct constituting Unsatisfactory Professional Conduct or Professional Misconduct, including contravention of the Act, charging excessive fees, failure to comply with orders, and more. These definitions are inclusive rather than exhaustive, allowing for common law definitions and other forms of misconduct to be considered, such as conduct that substantially departs from the expected standards of the legal profession.

Rules of Evidence

[6] Section 114 of the Legal Practitioners Act states that the Commission is not bound by formal rules of evidence except those relating to witnesses. The Commission must offer the practitioner an opportunity to make written submissions, to be heard, and must act fairly in all proceedings.

Evidence of Jay Dayal

[7] Jay Dayal, Managing Director of Dayal's Mills Limited, retained Natasha Khan & Associates from 2010 to 2013 to defend Dayal's Fiji Artesian Water Limited in litigation against Flour Mills Fiji Limited. Dayal alleges Khan failed to represent his interests, failed to communicate effectively, and engaged in professional misconduct.

[8] Key evidence from Dayal includes:

- Khan & Associates failed to appear for DFAL in court, leading to the defence being struck out.
- Despite repeated follow-ups, Dayal was not informed by the legal practitioner of key court orders or adverse judgments.
- Dayal only learned of adverse outcomes through other counsel.
- Documented correspondence shows that requests for updates and proposed settlements often went unanswered.
- Court orders required affidavits and documents; and non-compliance led to the striking out of defences and judgment for the Plaintiff.
- Upon learning of the orders on his own, Dayal engaged new counsel but was unsuccessful in reinstating the Defence and Counterclaim and ultimately entered a consent judgment for \$200,000.

[9] Under cross-examination, Dayal acknowledged that there were questions about whether the legal practitioner's firm was properly served with court orders but maintained that it was the lawyer's responsibility to notify him. He confirmed he withdrew files and hired another lawyer due to her non-communication, arguing that his company's losses were a result of her neglect.

Legal Practitioner's Evidence

[10] The legal practitioner testified that she has 23 years' experience, with a history of providing updates by phone to her clients. She contested that many critical orders were not served on her firm or properly notified. She argued that, without formal service, she could not be found in breach nor expected to respond or comply. Khan asserted that she acted on client instructions, often communicating verbally, and that the client had at times told her to "let the matter be." She maintained

that she was not required to actively seek updates from the court registry if not properly notified and repeatedly stated her client was verbally kept updated.

Determination

[11] Having reviewed the evidence, I accept that Mr. Dayal was not informed by Ms Khan of the High Court orders or the striking out of Defence and Counterclaim. Documented correspondence supports the claim that requests for updates went unanswered, and that the loss of defence caused prejudice and financial harm to Dayal's company.

[12] I do not accept that the legal practitioner did not have knowledge of the High Court orders that led to the defence being struck out and judgment entered for the Plaintiff due to her non-compliance of those orders. Court orders contradict the practitioner's claims of lack of knowledge of those orders. The practitioner had both knowledge of the orders and an ongoing duty to act on them because two different legal practitioners appeared in Court on her instructions when the orders were made. Correctness of the court orders does not matter in this disciplinary proceeding. Having knowledge of the court orders, compliance by the legal practitioner is what matters.

Count 1 – Professional Misconduct

[13] The legal practitioner's failure to comply with court orders for which her firm was on record constitutes a substantial and consistent breach of her professional duties. The striking out of the Defence and Counterclaim, default judgment, and failure to inform the client or take remedial steps amount to a grave lapse in competence and diligence. There is no compelling evidence supporting the legal practitioner's claim of non-service. This behaviour clearly constitutes professional misconduct under section 82(1)(a).

Count 2 – Unsatisfactory Professional Conduct

[14] The legal practitioner failed to provide regular, timely updates on material case developments, including the loss of the Defence and other crucial matters. Reliance on verbal updates does not excuse the failure to communicate fundamental outcomes in writing. This conduct falls short of the minimum standard of care and constitutes unsatisfactory professional conduct under section 81.

[15] Conclusion

- (i) The legal practitioner is guilty of Professional Misconduct pursuant to section 82(1)(a) of the Legal Practitioners Act 2009 and Rule 3.7 of the Rules of Professional Conduct and Practice, as detailed in Count 1.
- (ii) The legal practitioner is guilty of Unsatisfactory Professional Conduct pursuant to section 81 of the Legal Practitioners Act 2009 and Rule 8.1(1)(b) of the Rules of Professional Conduct and Practice, as detailed in Count 2.
- (iii) Written mitigation to be filed by the legal practitioner by 30 September 2025.



Justice Daniel Goundar
COMMISSIONER

Solicitors:

Legal Practitioners Unit for the Applicant

Messrs Patel & Sharma for the Respondent