

IN THE INDEPENDENT LEGAL SERVICES COMMISSION

AT SUVA

ILSC CASE NO. 004 OF 2023

BETWEEN : **CHIEF REGISTRAR**

APPLICANT

AND : **PETER LOWING**

RESPONDENT

Counsel : **Mr T Lagekoro and Ms R Wati for the Applicant**
The Respondent in Person, assisted by Mr S Koya

Date of Hearing : **8 July 2025**

Date of Decision : **30 September 2025**

DECISION

[1] Allegation Against the Legal Practitioner: Peter Lowing

Charge: Professional Misconduct – Contrary to section 82(1)(a) of the Legal Practitioners Act 2009

Particulars: Peter Lowing, a legal practitioner and former principal of Lowing & Associates, between January 2015 and June 2015, exchanged email correspondence and engaged in telephone conversations with his client, Barry Atkinson, that were rude, aggressive, and demeaning. This conduct constitutes a breach of

section 82(1)(a) of the Legal Practitioners Act 2009 and amounts to professional misconduct.

[2] **Standard of Proof**

The proceedings apply the civil standard of proof—balance of probabilities. More serious allegations require stronger evidence (Chief Registrar v Adish Kumar Narayan, ILS No. 009 of 2013; Haroon Ali Shah, ILSC No. 007 of 2011).

[3] **Legal Principles**

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, if established, would justify a finding that the practitioner or law firm is not fit and proper to engage in legal practice.

[5] Section 83 outlines conduct that may constitute Unsatisfactory Professional Conduct or Professional Misconduct, including contraventions of the Act, excessive fees, failure to comply with orders, and more. These definitions are inclusive, allowing for common law interpretations and other forms of misconduct that substantially depart from expected professional standards.

[6] **Rules of Evidence**

Under Section 114 of the Legal Practitioners Act, the Commission is not bound by formal rules of evidence except those relating to witnesses. The practitioner must be given an opportunity to make written submissions, be heard, and the Commission must act fairly throughout the proceedings.

[7] **Evidence**

Barry Atkinson, an Australian and British citizen, testified that he engaged Peter Lowing around March–April 2008 to represent him in an employment contract dispute against Namale West Resort. The matter took nearly seven years to reach trial, during which Atkinson paid over FJD 90,000 in fees. He stated that no retainer agreement was signed, trial preparations were inadequate, and Lowing was absent and practicing in Papua New Guinea prior to trial.

[8] Initially respectful, the relationship deteriorated near the trial date due to Lowing's absence and pressure to settle. Communication was primarily via email, with key exhibits showing settlement negotiations and fee disputes. Atkinson frequently sought clarification on legal processes and costs, expressing confusion and dissatisfaction with Lowing's aggressive responses.

[9] Emails from Lowing to Atkinson included vulgar and offensive language such as:

- "You have behaved like a fucking asshole... you can now wear the consequences."
- "You are nothing but a lowlife scumbag."

[10] Atkinson described these communications as unprofessional and distressing, amounting to bullying and intimidation. He stated he was "traumatized" and "upset," and clarified that he never responded in kind or used vulgar language.

[11] Atkinson testified that he was pressured to settle on the first day of trial, despite preferring to litigate. Disputes arose over travel and trial costs, with Atkinson asserting that verbal agreements were amended and honored. The settlement deed reflected a release of US\$30,000 to Lowing's firm and US\$50,000 to Atkinson.

[12] Cross-examination focused on the timing of Atkinson's complaints, his emotional state, and documentation of cost arrangements and settlement authority.

[13] Atkinson explained his frequent apologies in correspondence stemmed from trust in his lawyer and lack of awareness of wrongdoing. He recounted a deeply offensive phone call where Lowing allegedly called him a "cunt" and hung up. Atkinson confirmed all abusive communications occurred during Lowing's representation and that he remained a client throughout.

[14] **Respondent's Submission**

Peter Lowing denies breaching section 82(1)(a) and asserts no professional misconduct occurred. He submits:

- The complainant did not raise concerns about language until the current complaint.
- The correspondence reflected Australian cultural norms and was not offensive.
- The proceedings are legally incompetent and should be dismissed for lack of a prima facie case.

[15] The respondent cites “justice delayed is justice denied,” referencing sections 15(3) and 16(1)(a) of the Constitution. He argues that a few profanities from over eleven years ago do not meet the threshold for professional misconduct. He claims the applicant misapplied the law, charging under professional misconduct instead of unsatisfactory professional conduct. He asserts the Commission cannot amend the charge and that double jeopardy principles prevent a new charge based on the same facts.

[16] **Determination**

The respondent’s submissions are rejected. The evidence clearly shows repeated and severe use of vulgar, demeaning, and offensive language by Mr Lowing toward his client, in breach of the standards required under the Legal Practitioners Act 2009.

[17] The claim that such conduct aligns with Australian cultural norms is irrelevant to the standards expected of legal practitioners in Fiji. The charge is properly framed under section 82(1)(a), which includes substantial or consistent failures to meet professional standards. The abusive communications meet this threshold.

[18] Arguments regarding delay and constitutional issues do not affect the core findings. The facts show a single, continuous pattern of misconduct—not multiple prosecutions. The procedural and substantive objections are without merit.

[19] The evidence confirms that Mr. Lowing repeatedly used vulgar, offensive, and demeaning language toward his client, Barry Atkinson, during legal representation. This conduct constitutes a substantial failure to uphold the standards of competence and propriety expected of a legal practitioner in Fiji. It

undermines public confidence in the profession and demonstrates that Mr. Lowing is not fit and proper to engage in legal practice under the Act.

[20] **Conclusion**

The allegation of professional misconduct is upheld. Mr. Peter Lowing is found guilty of professional misconduct under section 82(1)(a) of the Legal Practitioners Act 2009.

[21] Written mitigation must be filed by the legal practitioner by 9 October 2025.



A handwritten signature in blue ink, appearing to read "D. Goundar", written over a dotted line.

Justice Daniel Goundar
COMMISSIONER

Solicitors:

Legal Practitioners Unit for the Applicant

Howards Lawyers for the Respondent