

IN THE INDEPENDENT LEGAL SERVICE COMMISSION

AT SUVA

ILSC CASE NO. 010 OF 2019

BETWEEN : CHIEF REGISTRAR
APPLICANT

AND : LEENA GOUNDAR
RESPONDENT

Counsel : Mr A Prasad for the Applicant
No Appearance for the Respondent

Date of Hearing: 8 March 2021

Date of Judgment: 16 March 2021

JUDGMENT

- [1] The legal practitioner is a sole practitioner. She is operating a law firm, Leena Goundar Lawyers from Level 2, Suite 2, Savilla House, Valelevu.
- [2] On 5 July 2019, the Chief Registrar charged the practitioner with professional misconduct. The charge alleged that the practitioner failed to provide with a sufficient and satisfactory explanation in writing to a complaint against her by one of her clients despite a reminder sent to her to respond by the Chief Registrar.
- [3] This matter was first called before the Commission on 30 August 2019. Thereafter, the hearing was vacated on two occasions.

- [4] The first hearing on 2 April 2020 was vacated because the practitioner informed the Commission that she could not have her witnesses available for the hearing.
- [5] The second hearing on 6 August 2020 was vacated after the practitioner applied for an adjournment on medical grounds.
- [6] On 23 November 2020, the matter was fixed for hearing on 8 March 2021. The practitioner was notified of the hearing.
- [7] Instead of appearing for the hearing the practitioner informed the Legal Practitioners Unit through her sister that she was unable to attend the hearing on medical grounds.
- [8] The practitioner did not see fit to directly advise the Commission of her intention to seek an adjournment. Instead she chose to inform the Applicant who does not have power to vacate the hearing. I am skeptical whether the practitioner wish to be present at her hearing. The practitioner could have engaged counsel to represent her but she chose not to do so.
- [9] Section 112 (4) of the Legal Practitioners Act gives the Commission power to determine the allegation in absentia provided the practitioner was notified of the hearing and had failed to attend.
- [10] For these reasons, I decided to determine the allegation against the practitioner in absentia.
- [11] The Chief Registrar called two witnesses to prove the allegation.
- [12] The first witness was Ms Tulia Adidreu. She is employed as an Assistant Court Officer at the Legal Practitioners Unit. She said that on 8 April 2019, the LPU received a complaint in writing against the practitioner by one of her clients (exhibit 1).

- [13] On 14 May 2019, she drew two notices for the practitioner. The first was Section 104 Notice (exhibit 2) to inform the practitioner of the complaint against her. The second was Section 105 Notice (exhibit 3) to require the practitioner to respond to the complaint within 21 days.
- [14] On 15 May 2019, she emailed (exhibit 4) both notices to the practitioner on an email address provided by the practitioner on her 2019 application for renewal of her practising certificate (exhibit 7).
- [15] When the practitioner did not respond to the complaint within 21 days, Ms Adidreu issued Section 108 Notice (exhibit 5) to the practitioner on 11 June 2019. She personally served this notice together with the earlier notices on the practitioner when the practitioner came to the LPU Registry on 11 June 2019 and got an acknowledgment of receipt from the practitioner (exhibit 6).
- [16] Section 108 Notice reminded the practitioner of the earlier notices and granted a further 14 days to respond to the complaint. Ms Adidreu said the practitioner did not respond to Section 108 Notice.
- [17] The second witness was Mr Tevita Cagina, a messenger at the Legal Practitioners Unit. His evidence was that on 16 May 2019, he served Section 104 Notice and Section 105 Notice on the practitioner at her office in Valelevu and got an acknowledgement of receipt from her (exhibit 8).
- [18] The practitioner is charged with professional misconduct contrary to section 82 (1) (a) of the Legal Practitioners Act. Section 82 (1) (a) states:

82.—(1) For the purposes of this Act, 'professional misconduct' includes –
(a) unsatisfactory professional conduct of a legal practitioner, a law firm or an employee or agent of a legal practitioner or law firm, if the conduct involves a substantial or consistent failure to reach or maintain a reasonable standard of competence and diligence

- [19] Further, section 108 of the Legal Practitioners Act provides:

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

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

- [20] To prove the charge, the Chief Registrar must prove on the balance of probabilities that the practitioner had not responded to Section 108 Notice within 14 days from the date of receipt of such notice.
- [21] I believe and accept the evidence of Ms Adidreu that Section 108 Notice was served on the practitioner on 11 June 2019. The provisions of section 108 was brought to the attention of the practitioner in that Notice.
- [22] I believe and accept the evidence of Ms Adidreu that the practitioner did not respond to Section 108 Notice within 14 days from the date of service. The practitioner has not furnished any reasonable explanation for not responding to Section 108 Notice within the statutory period to respond. That failure to respond to Section 108 Notice is deemed to be a professional misconduct.
- [23] I find the allegation of professional misconduct against the legal practitioner established.


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Justice Daniel Goundar
COMMISSIONER



The seal is circular with a purple border. The text 'INDEPENDENT LEGAL SERVICES COMMISSION' is written around the inner edge. In the center, the word 'SEAL' is written in bold, capital letters. A small star is located at the bottom center of the seal.