

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

No. 006 of 2021

BETWEEN: CHIEF REGISTRAR

APPLICANT

AND: TERESIA RIGSBY

RESPONDENT

Counsel: Mr. Shamil Ali for the Applicant
Ms. Teresia Rigsby, In-person.

Date of Hearing : 9th January 2023 and 3rd February 2023
Date of pleading guilty: 30th March 2023
Written submissions: 20th and 28th April 2023
Date of Ruling : 9th May 2023

SANCTION RULING

Introduction

1. On the 01st April 2021 the Chief Register ("CR") filed this application against the Respondent ("the Practitioner") in this Commission with 7 counts of professional misconduct contrary to Section 82 (1) (a) of the Legal Practitioners Act 2009, against Ms. Teresia Rigsby.
2. On the 12th of May 2022 when the charges were explained, the Practitioner pleaded not guilty and did not accept liability to counts 1-6. However, the Practitioner pleaded guilty and accepted liability to count No. 7 in respect of the failure to respond for which Sanction Ruling was pronounced on the 13th September, 2022. As for the other counts, the matter was set for hearing and as the Practitioner failed to appear thereafter the inquiry proceeded in her absence by virtue of section 112 (4) of the Legal Practitioner's

Act. Hearing was on 9th January, 2023 and the Applicant led in evidence three witnesses and concluded their evidence. The matter was set for the submissions however the Respondent was notified by email and all other means of the progress.

3. The Respondent failed to appear on the 20th January, 2022 and 3rd February, 2023 but when this was mentioned on 09th March, 2023 the Respondent appeared in person. She was granted time to consider her position and on the 23rd of March, 2023 the Respondent informed that she wishes to cross-examine the witnesses and also to give evidence, and moved for time. The matter was re-fixed for the 24th March, 2023 on which day the Respondent was absent but was represented by Counsel Ms. L. Goundar who informed that Ms. Rigsby intends to retain different counsel and moved for further time.
4. On the 30th March, 2023 the Respondent appeared and was represented by Ms. L. Goundar and informed that she wishes to plead guilty and accept liability for counts 1 to 6. Accordingly, as she read and understood counts 1 to 6, she admitted liability for the same and the Commission found her liable for the said allegations of professional misconduct contrary to section 82 (1)(a) read with 52 (1) (b) of the Legal Practitioners Act, on her own admissions.
5. Time was granted for submissions on sanction and mitigation. The Respondent tendered her written submission on the 20th April, 2023 and the Applicant on 28th April, 2023. Having considered the mitigation of the Respondent and the submission of Applicant I will now proceed to consider and pronounce the appropriate sanction.
6. Counts 1 to 6 are all allegations of professional misconduct of engaging in practice without holding a valid Practising Certificate contrary to section 82 (1)(a) read with 52 (1) (b) of the Legal Practitioners Act as follows.
 - i. *Count No. 1- around June 2019 accepting \$200 from the complainant Lawrence Dinesh Ram to appear and represent the complainant in the Civil Appeal No. 10 of 2019 (Nausori Magistrates Court).*
 - ii. *Count No. 2- on or around 18th June 2019 accepting \$200 from the complainant Lawrence Dinesh Ram to appear and represent the complainant in the Civil Appeal No. 10 of 2019 (Nausori Magistrates Court).*

- iii. *Count No. 3- around June 2019 received instructions from the complainant Lawrence Dinesh Ram in relation to the Civil Appeal No. 10 of 2019 (Nausori Magistrates Court).*
- iv. *Count No. 4- around June 2019 accepting \$200 from the complainant Lawrence Dinesh Ram to appear and/or represent the complainant in the Domestic Violence Case No. 227 of 2019 (Nausori Magistrates Court).*
- v. *Count No. 5- on or around 24th June 2019 accepting \$200 from the complainant Lawrence Dinesh Ram to appear and/or represent the complainant in the Domestic Violence Case No. 227 of 2019 (Nausori Magistrates Court).*
- vi. *Count No. 6- around June 2019 received instructions from the complainant Lawrence Dinesh Ram in relation to the Domestic Violence Case No. 227 of 2019 (Nausori Magistrates Court).*

Facts

7. Ms. Rigsby no doubt pleaded guilty and accepted liability. However, by that time the evidence of 3 witnesses including that of Mr. Lawrence Dinesh Ram were led and the Applicant's case was closed. According to the evidence, Mr. Ram know Ms. Rigsby as she used to patronize the night club of which he was the manager. In June 2019, he had met her at a coffee shop and discussed and Ms. Rigsby had agreed to appear for him in the Civil Appeal case bearing No. 10 of 2019 that was the appeal from the Small Claims Case No. 1159 of 2018. He has then made an initial payment of \$200 and then made a further payment of \$200 (Vide- **AE 3**-Receipt dated 8.6.2019 and **AE 4**- dated 18.6.2019).
8. Then Ms. Rigsby had also volunteered to appear and represent Mr. Ram in a Domestic Violence matter in the Magistrates Court Nausori (case No. 227 of 2019) and charged \$200 on 24.6.2019 (Vide-**AE 5**-Receipt No. 798 dated 24.6.2019) and a further \$200 was paid in June 2019 (Vide-**AE 6**-Receipt No. 799 dated6.2019). Mr. Ram had made all these payments at Ms. Risby's house at Davuilevu, Nausori and obtained receipts from Ms. Rigby's aunt as instructed by Ms. Rigsby.
9. Though fees were paid, Ms. Rigsby failed and did not appear in court for both these matters. The Magistrate who presided appears to have ascertained from the complainant as to the details in both cases and decided the same. In the Small Claims Appeal matter, the judgment was in Mr. Ram's favour but the in the DVRO matter the order was against him.

10. The complainant's wife, Ms. Mereia Ravasiga confirmed retaining the services of Ms. Rigsby for the said cases and said that Ms. Rigsby visited her house during the Ramazan period for the Eid celebration on which day she had shown certain documents and papers which she lodged in the Small Claims appeal matter. Ms. Rigsby has also agreed to appear in the DVRO matter for which she wanted \$200. Despite the fees being paid, Ms. Rigsby has not appeared in court, she confirmed. The witness from LPU confirmed that Ms. Rigsby did not have a practising certificate since 1st March 2018.
11. According to the allegations 1-6 (the charges), the two case numbers Ms. Rigsby was retained and instructed are referred to as No. 227 of 2019 and Civil Appeal No. 10 of 2019. However, the four receipts refer to case number 227 of 2019 (receipts AE 5 and AE6) and case number 1159/18 (receipts AE4 and AE5). There is no reference to the Civil Appeal case No.10 of 2017.
12. Based on this, Ms. Rigsby in her submission in mitigation (paragraph 2.5) submits, *"that None [sic.] of the fees received from the complainant was for Case No: 10 of 2019 as per his allegation, for the instructions received by the Respondent Practitioner was for Case No: 1159/18 and Case No.: 227/19 only, as clearly outlined in the receipts."*
13. On the perusal of the evidence and also the statement of Mr. Ram (AE7) it is apparent that case No. 1159/18 is that of the Small Claims Court case. In Counts 1 and 2, it is alleged that the payments were for the Magistrates Court's Civil Appeal No. 10 of 2019. Further it is clear and apparent that the said Appeal 10 of 2019 arises from the said Small Claims Court Case No. 1159/18. Therefore, the evidence clearly proved that \$200 paid and referred to in receipts AE4 and AE3 are in fact payments made in respect of Civil Appeal Case No. 10 of 2017. Ms. Rigsby pleaded guilty and admitted liability for the said two counts. In that backdrop I am surprised as to why such a submission was advanced by her when in fact, she necessarily would have known that the payment of fees referred to in receipts AE3 and AE4 are in respect of the said appeal 10 of 2019.

The purpose of disciplinary proceedings and sanctions

14. The purpose of disciplinary proceedings is to protect the public interest. This

Commission acts in the public interest. [Wentworth v New South Wales Bar Association (1992) 176 CLR239,250-251]. When acting in the public interest the Court acts to protect the public rather than punish the Practitioner. [The Law Society of South Australia v Murphy (1999) 201 LSJS 456, 461]. Nonetheless, protecting the public includes both deterring the Practitioner before the Court as well as deterring other Practitioners from similar misconduct in the future. [Law Society of New South Wales v Foreman (No 2) (1994) 34 NSWLR 408, 471]. By deterring similar misconduct, the Court seeks to maintain professional standards and, thereby, assure the public that it may have confidence in the legal profession. [Legal Practitioners Conduct Board v Clisby [2012] SASCF 43].

Current Sanction Practice

15. "Practising without a valid practising certificate" is a serious form of professional misconduct. Commissioner Connors said in **CR v Siteri Cevalawa** [ISLC 0020 of 2011] said that;

"There can be no doubt that for a Practitioner to practice without a practicing certificate flies in the face of the whole principle of the Legal Practitioners legislation and accordingly impacts on the community."

and that,

"The process of licensing Practitioners is to maintain control over them. If there were no such system there would be chaos and no protection whatsoever of the consumer public. For this reason alone, any breach of the licensing system be it intentional or not, must be visited with stern penalties if only to keep Practitioners vigilant in the need to fulfill requirements of the licensing process."

16. This Commission in the following decisions in which the Sanction in similar matters had been from public reprimand, fine to suspension they are; **CR v Laisa Lagilevu** ILSC Application No. 1 of 2012, **CR v Niko Nawaikula & Savenaca Komaisavai** ILSC Application No. 9 of 2012, **CR v Kini Marawai & Marawai Law** ILSC Application No. 6 of 2012 and **CR v Vilimone Vosarago** ILSC Application No. 5 of 2013.

17. I also observe that Commissioner Dr. T.V. Hickie in **Chief Registrar v Vakaloloma - Judgment on Sanctions** [2017] FJLSC 10 (14 June 2017), considered the comparative sanction and made the following observation at paragraph 71(4).

(4) I have reviewed the 12 cases recorded in the Commission's Discipline Register where sanctions have been imposed in matters involving appearing, operating as a legal firm and/or undertaking legal work without a valid practicing certificate or instructing a person who does not hold such a certificate and have noted that in seven of those matters a public reprimand was issued and in six of those seven a fine was also imposed ranging from \$300.00 to \$2,500.00. I have further noted that in the other five matters, suspensions were imposed ranging from three months to 8 ½ months and in two of them (which also involved trust account matters) the suspensions imposed were of two and three years respectively;

Mitigation

18. In mitigation, it is submitted that she is 61 years of age and was in practice since 2009 and that she established her own law firm in 2011. She had also functioned as the official receiver in respect of several law firms.
19. She regrets her intermittent non-appearance at these proceedings and also submits that she had not been employed since 2018 and also she had certain health issues.
20. Whilst admitting the acceptance of fees for Case 227/19 she had referred this to MIQ Lawyers who then has filed the necessary papers in that case.
21. In mitigation, the Practitioner seeks that her reputation and contribution made to her family be considered in her favour.
22. As for comparable cases, the Respondent submits the cases of Chief Registrar v Adi Kolora Naliva (ILSC) [2011] FJLSC 7(5th December 2011) and Chief Registrar v Siteri Adidreu Cevalawa [2011] FJLSC 15 (5th December 2011).

Applicant's submission

23. The Applicant submits that the following factors aggravate the offending in the particular circumstances of this case that there is a serious breach of trust by accepting fees from an innocent clients concealing the fact that she was not entitled to practice. Further, there is a consistent failure as it was not a one-off situation but spread over a

month and that Ms. Rigsby did not demonstrate any remorse and her conduct of not appearing on the hearing dates further buttressed this position. Pleading of guilty was a belated act on her part. The Applicant also submitted that Ms. Rigsby is no longer a young Practitioner and she had not applied for the renewal of her certificate.

24. Applicant seeks the following orders of public reprimand and for the refund of \$800 to the Complainant and Compensation of \$500 for the inconvenience caused; \$100 for the travelling cost of the complainant and his wife; for costs and expenses as per section 124 (3) of the Legal Practitioner's Act.

Approach to determine the appropriate sanction

25. The approach to determine the appropriate disciplinary sanction is an individualized process that requires to weigh the relevant factors in the context of the particular circumstances of the Practitioner and the conduct that has led to disciplinary proceedings. The factors are:

- (a) the nature, gravity and consequences of conduct;
- (b) the character and professional conduct record of the respondent;
- (c) acknowledgement of the misconduct and remedial action; and
- (d) public confidence in the legal profession, including public confidence in the disciplinary process.

(a) Nature, Gravity and Consequences of Conduct

26. Ms. Rigsby has not been issued with a practicing certificate since 1st March, 2018. The alleged misconduct takes place in June 2019 by which date Ms. Rigsby was certainly aware that she was not in possession of a valid practising certificate. It is not a situation in which the Practitioner due to an oversight or in expectation of the renewal has engaged in the legal practice upon submitting the application for renewal. Ms. Rigsby knowing that she does not possess a practising certificate has obtained instructions and fees and engaged in the practice of law. She had even issued receipts upon accepting fees she had in Application No. 227/19 caused the filing of necessary papers through MIQ Lawyers. However, she had failed to appear in the Magistrates Court on the hearing dates. This clearly proves that Ms. Rigsby deliberately avoided appearing in court as she was conscious of not having the practicing certificate. She had caused

serious prejudice to the complainant Mr. Ram who was left high and dry in court without any legal representation. Ms. Rigsby's conduct is quite serious and will attract serious sanction as it was not a one-off incident but several similar acts within a period of one month.

(b) The character and professional conduct record of the respondent;

27. She claims to be 60 years of age and had been in practice since 2009. He claims to have been going through some difficulty to relocate which appears to be reason for the lapse. It is in evidence, and accepted by the Practitioner, that she did engage in practice without a valid practicing certificate. The Practitioner pleads for leniency given her remorse, she accepts liability. This is not the first time that this Practitioner has been before the Commission. She was found guilty of professional misconduct in the matter of *Chief Registrar v Teresa Rigsby*, Case No.006 of 015 (dated 29 November 2015). According to the applicant's submission the Practitioner had been charged and pleaded to the said offence and was suspended from practice for a period of one month and ordered to pay \$500.00 to the commission. Then on 13th September 2022 for count 7 of this matter Ms. Rigsby was fined \$ 1000 and ordered to pay costs of \$500 and the Chief Registrar was directed that the Practicing Certificate not be issued or renewed until the 1st March 2024.

(c) Acknowledgement of the misconduct and remedial action;

28. The Practitioner pleaded guilty and admitted liability to counts 1-6 not at the outset but at the end. Thus it could not be said that there was a spontaneous and frank admissions at an early stage in this matter. Neither has there been any appreciable cooperation with the Chief Registrar and the LPU at the investigation stage. However she admits engaging in practice as alleged in counts 1-6 and submits that she had certain papers filed in respect of the complainant's said matter through another Law Firm. The respondent does not explain as to why she did not obtain or renew the certificate nor does she provide a reasonable explanation for deliberately and blatantly acting in violation of section 51 of the Legal Practitioners Act.

(d) Public confidence in the legal profession, including public confidence in the disciplinary process

29. I find that the nature and gravity of the Respondent's misconduct viewed objectively calls for a severe sanction. The end result is that she has brought great disrepute to the legal profession which will affect the public confidence in the legal profession. The Practitioner in the first instance has engaged in practice illegally and then failed to appear for Mr. Ram upon accepting money. This conduct causes a serious erosion of the public confidence in the legal profession. When any person be it an enrolled Practitioner or any other engages in practice without a practicing certificate it is an affront and a challenge to the very foundation of the regulatory regime and norms of the Legal Practitioners Act which directly impacts on the community and the public confidence in the legal profession.
30. The conduct of the Practitioner clearly involves a substantial failure to comply with the regulatory norms and also maintain a reasonable standard of competence and diligence. The purpose of sanction is deterrence, both personal and general.
31. Thus it is incumbent upon this Commission to impose a sanction that sends a clear message to the legal profession that the failure to maintain integrity of the regulatory mechanisms and high standards of integrity and reputation will be dealt with stiff and serious sanctions. This was so stated in **CR v Singh** [2013] FJILSC3 as follows:
“Any sanction that is imposed must send a clear message to the legal Practitioners that should they fail to maintain the highest standards of integrity and reputation, they will be dealt with condign sanction. Soft sanctions will only encourage the legal Practitioners to take a cavalier attitude to their responsibility to maintain a high standard of professionalism expected to them.”

Conclusion

32. The conduct of the Practitioner clearly involves a substantial failure to comply with the requirements of competence, due diligence and maintain integrity. The purpose of sanction is deterrence, both personal and general. I observe that the Respondent Practitioner has not held a valid certificate since 1st March, 2018. In assessing the sanction in this instance, the Commission will be conscious that the Practitioner has

freely admitted her error even late. I will impose a sufficient and adequate sanction for all 6 allegations in an aggregate form and within the accepted tariff as follows.

33. Orders of the Commission are:

1. The Practitioner is publicly reprimanded.
2. The Practitioner is fined \$500.00 to be paid to this Commission.
3. The Practitioner is to pay costs to the Chief Registrar, which I summarily assess in the sum of \$500.00.
4. The Practitioner is directed to reimburse a sum of \$800.00 to the complainant, Mr. Lawrence Dinesh Ram.
5. The fine and costs must be paid and the re-imbursement made within 3 months of this ruling.
6. As the Practitioner has not held a valid certificate since 1st March, 2018, the Chief Registrar is directed that the Practising Certificate not be issued or renewed until the 31st May 2024.
7. If the Practitioner fails to pay in full the fine and costs and make the re-imbursement within 3 months as ordered, the practising certificate should not be issued or renewed for a further period of 12 months from 31st May 2024. It is further directed that the Chief Registrar should not issue the Practitioner's practising certificate even after the lapse of such period until the fine, costs and the re-imbursement are paid in full.

Dated the 9th day of May, 2023.


Gihan Kulatunga
Commissioner