

Disciplinary Committee Hearing: 30 April 2025

Present: Ms V.M. Trief, Chairperson
Mr C. Mangawai, Member
Ms A. Samana, Member
Mr C. Tavoia, Member
Mrs F.W. Samuel, Secretary

Date of Decision: 15 July 2025

**DISCIPLINARY COMMITTEE DECISION AS TO COMPLAINT BY DENIS SAVOIE
AGAINST MR ANDREW E. BAL**

A. Introduction

1. On 12 May 2021, Mr Bal acting as lawyer for Mr Andre Savoie filed the Claim in *Savoie v Colmar*; Civil Case No. 1502 of 2021 in the Supreme Court ('CC 21/1502') against Christopher Colmar seeking damages of over VT8,700,000 for trespass, loss of income, general damages, special damages, interest and costs.
2. However, Mr Bal did not arrange service of the Claim.
3. Even after the Court gave Mr Bal notice by way of the Court's Minute dated 13 August 2021, 11 October 2021 and 28 January 2022 that failure to remedy the lack of service would result in the Claim being struck out, Mr Bal took no steps. Consequently, by Judgment dated 7 February 2021, Justice Andrée Wiltens struck out the Claim stating at [9]-[12] as follows:
 9. *The steps required to be taken to file a Claim and progress the matter to a hearing have been clearly set out in previous Minutes – despite the fact that there should be no need for the Court to set out such matters for senior and experienced counsel as what steps are prescribed in the CPRs.*
 10. *In particular, I refer to my previous Minute of 13 August 2021, setting out that an application to renew is required if service has not been effected within 3 months*

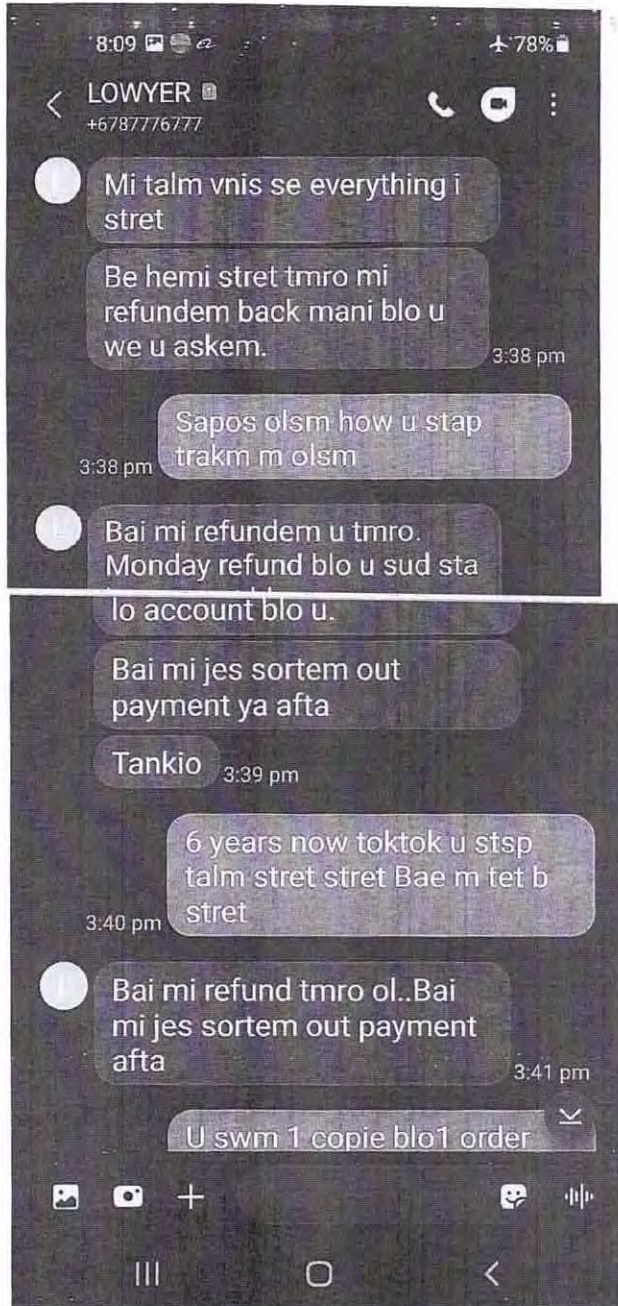
of filing. There is still no such application, despite a time limit of 14 days having been set.

D. Result

11. *In all the circumstances, I am striking out the Claim, pursuant to Rule 9.10(a) and (b).*
 12. *That is not necessarily the end of the matter. If the Claimant wishes, a new Claim may be filed to re-commence this litigation. In that scenario, a further filing fee would be required. I suggest that counsel acting be responsible for such filing fees given the shoddy conduct of the matter to date – no blame can be attached to the Claimant.*
4. On 22 February 2022, Mr Bal filed a new Claim in *Savoie v Colmar*, Civil Case No. 373 of 2022 in the Supreme Court ('CC 22/373') in identical terms to the Claim which was struck out in CC 21/1502. CC 22/373 is on foot and pending reserved judgment by Justice Goldsbrough.
 5. By complaint dated 31 October 2023, supported by Mr Denis Savoie's affidavit of the same date, Mr Savoie referred to the Judgment dated 7 February 2022 in CC 21/1502 in which Justice Andrée Wiltens referred to Mr Bal's "shoddy conduct of the matter to date" [copy attached as "**Annex AS4**"]. He also attached copies of Mr Bal's numerous phone text messages with Mr Andre Savoie up to 4 October 2023 [**"Annex AS1/a"**, "**AS1/b"**, "**AS2"** and "**AS3**"]. Mr Bal asserted in those phone text messages in September and October 2023 that Mr Andre Savoie had won the case in CC 21/1502 and that Mr Colmar had paid VT7,650,000 judgment sum into the trust account of the law firm that Mr Bal was employed in (Indigene Lawyers). Mr Savoie stated that they had suffered Mr Bal's lying and fraudulent feedback for over 6 years. Finally, Mr Savoie attached a copy of Justice Goldsbrough's Minute dated 21 April 2022 in CC 22/373, and the first page of the Claimant's Memorandum that Mr Bal filed on 1 July 2022 in CC 22/373 [unlabelled **Annexes**].
 6. The following are excerpts from Mr Bal and Mr Andre Savoie's phone text messages:

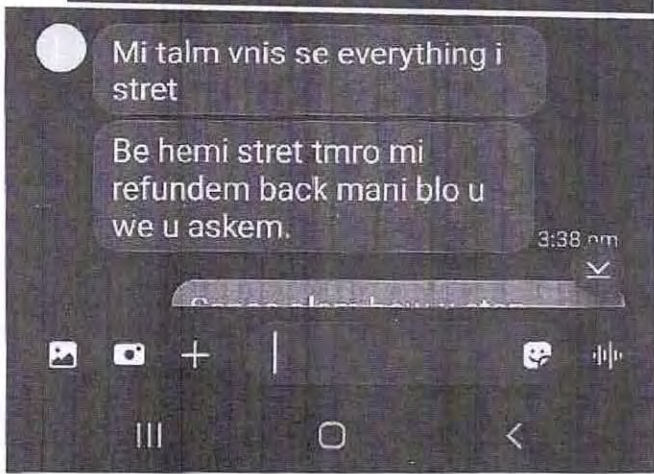
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AMEX AS 1/a

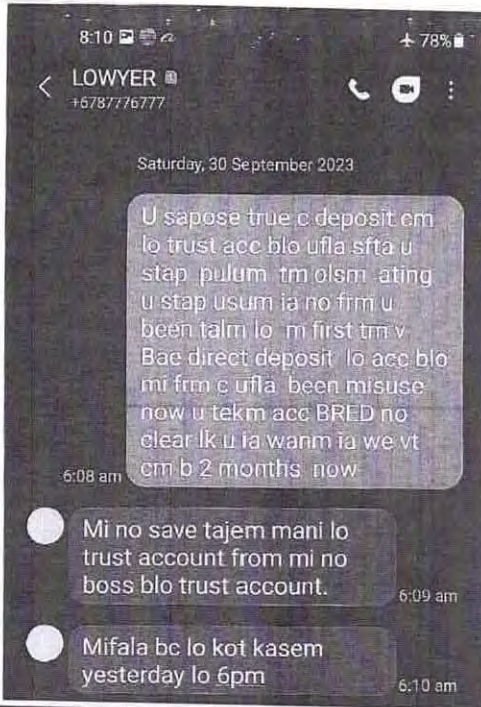


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ANNEX AS 1/b



ANNEX AS 2



ANNEX AS 3



B. Submissions

7. At the hearing, Mr Denis Savoie stated that he and his younger brother Mr Andre Savoie made numerous enquiries of Mr Bal as to the progress and outcome of CC 21/1502. He stated that Mr Bal repeatedly told them, including in the phone text messages of September and October 2023 in evidence, that Mr Andre Savoie won the case and the defendant Mr Colmar had paid VT7,650,000 judgment sum into Mr Bal's law firm trust account. However, Mr Bal has not remitted any funds to Mr Savoie till today.
8. Mr Denis Savoie stated that what Mr Bal said about Mr Andre Savoie winning the case in CC 21/1502 and that Mr Colmar paid VT7 million into his law firm trust account is not true because on 7 February 2022, Justice Andrée Wiltens struck out the Claim in CC 21/1502. He said that Mr Bal never told them that the Claim was struck out. They only found out as a result of Mr Denis Savoie's own enquiries at the Luganville Court House which resulted in him obtaining a copy of the Judgment dated 7 February 2022 in CC 21/1502. That is when Mr Denis Savoie lodged the complaint against Mr Bal.
9. Mr Denis Savoie stated that it would make sense for an amount of VT7 million to be in the law firm trust account if there had been a default judgment or a final judgment. However, Mr Bal has never provided a copy of any judgment to Mr Denis Savoie. In any event, the only Judgment in CC 21/1502 was striking out the Claim. He stated that Mr Andre Savoie had paid over VT700,000 legal fees to Mr Bal.
10. Mr Bal acknowledged that Mr Savoie had made a complaint against him but pointed out that he did not see any amount of VT7,650,000 mentioned in the phone text messages. He acknowledged the Judgment of 7 February 2022 and that following that, he filed Mr Andre Savoie's new Claim in CC 22/373. He said that he recalled Mr Andre Savoie paid him VT350,000 legal fees so he is willing to refund him VT350,000. Mr Bal stated that he was also willing to pay him VT150,000 compensation and that he is willing to pay back Mr Andre Savoie anytime, as of now.
11. In seeking to understand Mr Bal's position, the Committee asked Mr Bal that even though there is no reference to VT7,650,000 in the attached phone text messages, whether or not he accepted that he asserted in those messages that the judgment sum had been paid into the law firm trust account and that he would refund or make payment to Mr Andre Savoie. Mr Bal confirmed that that his phone number on the

messages hence he acknowledged the allegations, and would like to refund the legal fees paid by Mr Andre Savoie.

12. I asked Mr Bal another question. In acknowledging the allegations, did he accept that he told Mr Andre Savoie that the judgment sum had been paid to the law firm trust account but there was no such money in the trust account? Mr Bal replied, "Yes."
13. I put to Mr Bal that the complaint at heart alleges that he lied to Mr Andre Savoie in asserting matters that were not true, hence it is a complaint about more than the refund of legal fees. Mr Bal stated that he did not have anything further to say to that but wanted to apologise to Messrs Savoie and the Disciplinary Committee, and that he means to refund his legal fees to Mr Andre Savoie.
14. Mr Tavoia pointed to para. 12 of the Judgment dated 7 February 2022 in which Justice Andrée Wiltens stated that given Mr Bal's "shoddy conduct", that Mr Bal should be responsible for paying the filing fee if a new claim was filed. He asked Mr Bal if he paid the filing fee for CC 22/373? Mr Bal said that he did.
15. In reply, Mr Denis Savoie stated that Mr Bal in refunding Mr Andre Savoie's money should also compensate him for the suffering he has caused him by continuously lying to him and prolonging the matter. Mr Andre Savoie insisted that he paid Mr Bal VT740,000 legal fees therefore he wants all of that refunded. The parties accepted that there is no evidence before the Committee of the amount of legal fees paid to Mr Bal.
16. The Committee asked Mr Bal about the appropriate penalty. Mr Bal submitted that a rebuke and an order for compensation were sufficient punishment. Further, that he will take responsibility to refund his legal fees to Mr Andre Savoie.

C. Discussion

17. On the evidence and Mr Bal's admissions, the Committee accepts and finds that Mr Bal did not inform his client Mr Andre Savoie that on 7 February 2022, the Supreme Court struck out his Claim in CC 21/1502. The Committee finds that Mr Bal then filed a new Claim on Mr Savoie's behalf in CC 22/373.
18. The Committee also finds that Mr Bal, until as late as October 2023, asserted to Mr Andre Savoie that he (Mr Savoie) had won the case in CC 21/1502, that the judgment sum had been paid into his law firm trust account and that he would refund

or make payment to Mr Savoie. However, no judgment sum was ever ordered nor payment made into the law firm trust account because the Claim in CC 22/1502 was struck out on 7 February 2022.

19. The Committee finds, therefore, that Mr Bal lied to Mr Andre Savoie as to the outcome of CC 22/1502 and that he would refund or make payment to Mr Savoie, which lies he continued to make until 20 months after the strike-out in February 2022 (till October 2023).
20. The Committee finds that the only reason Messrs Savoie discovered that the case in CC 21/1502 had been struck out was because Mr Denis Savoie took the time and trouble to make his own enquiries with the Luganville Court House Registry.
21. The Committee is required to consider whether Mr Bal's conduct was: (i) professional misconduct, or (ii) unsatisfactory professional conduct; the latter being less serious than the former.
22. An Australian Law Reform Commission paper dealing with "*Disciplinary Structures and Court Imposed Sanctions*" dated 14 November 2010 sets out what each standard includes.
23. That paper suggested that: "*professional misconduct*" includes: "Unsatisfactory professional conduct of a... legal practitioner, where the conduct involves a substantial or consistent failure to reach or maintain a reasonable standard of competence and diligence; and conduct of a... legal practitioner whether occurring in connection with the practice of law or occurring otherwise than in connection with the practice of law that would, if established, justify a finding that the practitioner is not a fit and proper person to engage in legal practice."
24. The paper went on to suggest that: "*unsatisfactory professional conduct*" includes: "Conduct of a... legal practitioner occurring in connection with the practice of law that falls short of the standard of competence and diligence that a member of the public is entitled to expect of a reasonable competent ... legal practitioner."
25. The Committee is content to accept those definitions as applying to legal practitioners in Vanuatu, and to look at Mr Bal's conduct having those principles in mind.

26. The Committee took on board the test to be applied when deciding dishonesty in disciplinary proceedings as set out in the authority of *Bultitude v The Law Society* [2004] EWCA Civ 1853 as being a 2-step test involving:
- Did the solicitor act dishonestly by the ordinary standards of reasonable and honest people, and if so;
 - Was he aware that by those standards he was acting dishonestly?
27. The Committee considers and finds that Mr Bal acted dishonestly by the ordinary standards of reasonable and honest people. Given Mr Bal's unqualified acceptance of the allegations made in Mr Savoie's complaint against him, the Committee has no doubt that Mr Bal was aware that by those standards, he was acting dishonestly.
28. The Committee is also guided by the requirements set out in the *Legal Practitioners Act [CAP. 119] Rules of Etiquette and Conduct of Legal Practitioners* Order No. 106 of 2011 (the '*Rules of Etiquette*'). Several of the provisions therein prescribed are of relevance to this particular complaint, including the following:
- **Rule 2: Conduct for which lawyer may be disciplined**
The types of conduct, including criminal offences, for which a lawyer or former lawyer may be disciplined are as follows:
 - (a) *Misconduct; or*
 - (b) *Unsatisfactory conduct; or*
 - (c) *Negligence or incompetence in a lawyer's professional capacity of such a degree or so frequent as to reflect on the lawyer's fitness to practise, or as to bring the legal profession into disrepute; or*
 - (d) *...*
 - **Rule 3: Provision of information**
Any information that a lawyer is required to provide to a client under these rules must be provided in a manner that is clear and not misleading given the identity and capabilities of the client and the nature of the information.
 - **Rule 14: Respect and courtesy**
 - (2) *A lawyer must respond to inquiries from the client in a timely manner.*
 - (3) *A lawyer must inform the client if there are material and unexpected delays in a matter.*
 - **Rule 39: Claims against a lawyer**
 - (1) *When a lawyer becomes aware that a client has or may have a claim against him or her, the lawyer must immediately do the following:*
 - (a) *Advise the client to seek independent advice; and*

(b) *Inform the client that he or she may no longer act unless the client, after receiving independent advice, gives informed consent.*

- **Rule 43: *Disclosure and communication of information***
(2) *A lawyer must promptly answer requests for information or other inquiries from the client.*

- **Rule 59: *Professionalism***
A lawyer must promote and maintain proper standards of professionalism in the lawyer's dealings.

- **Rule 66: *Proper practice***
A lawyer's practice must be administered in a manner that ensures that the duties to the court and existing, prospective, and former clients are adhered to, and that the reputation of the legal profession is preserved.

- **Rule 67: *Misleading and deceptive conduct***
A lawyer must not engage in conduct that is misleading or deceptive or likely to mislead or deceive anyone on any aspect of the lawyer's practice.

- **Rule 69: *Supervision and management***
A lawyer in practice on his or her own account must ensure that the conduct of the practice (including separate places of business) and the conduct of employees is at all times competently supervised and managed by a lawyer who is qualified to practice on his or her own account.

29. The Committee considers and finds that Mr Bal has breached the provisions of rules 3, 14, 43, 59, 66 and 67 of the *Rules of Etiquette and Conduct of Legal Practitioners* in his conduct in relation to Mr Andre Savoie's cases.

30. The complaint is made out. The Committee is unanimous that Mr Bal's conduct was dishonest as well as breaching provisions of the *Rules of Etiquette and Conduct of Legal Practitioners*.

31. For the foregoing reasons, the Committee is unanimous that Mr Bal's conduct in this instance constituted professional misconduct.

D. Sanction

32. Mr Bal was given the opportunity to address the Committee as to the appropriate sanction if the complaint was found to be established. He responded that a reprimand and a fine would be sufficient. And that he is willing to pay back Mr Andre Savoie's legal fees of VT350,000.

33. Mr Bal has a previous Disciplinary Committee decision against him: Bal, Re [2019] VULCDC 2 (8 May 2019).
34. The Committee considered that the level of sanction required more than a reprimand and a fine, particularly given that it previously imposed penalties on Mr Bal in Bal, Re [2019] VULCDC 2 yet Mr Bal has gone on to engage in dishonest, misleading and deceptive conduct with respect to Mr Andre Savoie and Mr Denis Savoie.
35. The Committee felt a need to balance the all-important factor of protecting members of the public from dishonest practices with the personal consequences flowing to the practitioner. There is further an obvious need to maintain the reputation of the legal profession in Vanuatu.
36. The Committee therefore considered that a 3-month suspension is warranted as well as a fine, which fine needed to be set at a significant standard to achieve the goal of deterrence and to also be a punitive sanction. Accordingly, the Committee unanimously determined to fine Mr Bal VT150,000.
37. We also considered that Mr Bal should pay VT150,000 compensation to Mr Savoie. We so order.
38. We also order Mr Bal to pay VT150,000 for the costs of the hearing, which will go to Mr Denis Savoie and Mr Andre Savoie. Those costs include transportation costs for Messrs Savoie who are both residents on Santo.
39. The total sum of VT450,000 is to be paid to the Committee's Secretary – she will then ensure on-payment to Mr Savoie. Payment is to be made within 21 days, failing which Mr Bal will be suspended from practice for such period as until the full amount is paid.
40. Mr Bal has 15 days in which to appeal, if he so wishes, from the date of receipt of this decision. The 3-month suspension will commence on the day immediately following the expiry of the 15-day appeal period.



V.M. Trief
Chairperson, Disciplinary Committee

