

IN THE INDEPENDENT LEGAL SERVICES COMMISSION

AT SUVA

ILSC CASE NO. 001 of 2023

BETWEEN: CHIEF REGISTRAR

APPLICANT

AND: EPELI VULA

RESPONDENT

Counsel: Mr. R. Lal for the Applicant
The Respondent In Person

Date of Admitting Liability: 09th of March, 2023

Written submissions: 30th March, 2023

Date of Ruling: 24th of April 2023

SANCTION RULING

Introduction

1. The Respondent Epeli Vula is charged before this Commission with six allegations of Professional Misconduct contrary to Section 82 (1) (a) of the Legal Practitioner's Act of 2009 for the contravention of section 52 (1) (a) of the Act. All six allegations are acts committed between 12th September, 2022, and 11th November, 2022. Allegations 1 to 3 are for appearing in the Suva High Court for Civil Case No. HPP 99 of 2021 on 3 days without a valid practising certificate. Counts 4 to 6 are in respect of civil case no. HBC 307 of 2022 and HBC 53 of 2022 both pending in the High Court of Lautoka in which cases the Respondent has given instructions to another Legal Practitioner to appear when the Respondent did not possess a valid practising certificate.

2. This application was filed on the 01st February, 2023 and Mr. Vula appeared on the first call on 15th February, 2023. On which day Mr. Vula did inform that he was not accepting liability and the matter was set for mention for 9th March, 2023. When it was so mentioned, Mr. Vula informed that he wishes to vacate his earlier position (plea) and is now willing to admit and accept liability for all six counts. Accordingly, he did formally accept liability for all six counts. I am satisfied that the said six allegations have been proved on his own admission and the Respondent practitioner is accordingly found liable for the said six allegations on his own admission.

Brief Facts

3. Mr. Vula have been a practitioner with a valid practising certificate which was valid until the 31st August, 2022. He was required to obtain two CLE points on or before the 31st August, 2022 for the renewal. However, his practising certificate was not renewed upto 15th December, 2022. It is during this period that the alleged appearances and instructions have been given as stated above.
4. In mitigation, it is submitted that he had paid his fee of \$600 to the LPU on the 20th April, 2022 for the renewal of practising certificate. He has on the 9th July, 2022 attended the ODPP Training and completed his two CLE Points. Accordingly, he has satisfied the requirement of 10 points to obtain his practising certificate by the said date as such he had proceeded on the basis his certificate will be thus renewed. However, it was on 11th November, 2022 when he appeared in HPP 99 of 2021 that he was informed of the absence or non-renewal of the practicing certificate. Mr. Vula made enquiries immediately with the LPU and was informed that he is required to write a letter upon the completion of his 10 points as such his certificate have not been renewed. He also submits that the requirement of the letter was a new practise adopted by the LPU.
5. These facts are not disputed or challenged by the Applicant. There is no doubt this is not an instance of the practitioner deliberately engaging in the practise as a solicitor knowing that his practising certificate was not renewed. He had completed and complied with all requirements and satisfied the conditions for the renewal of his practising certificate. It is just that he had not followed the new procedure of submitting a letter to the LPU. There is no doubt he did not possessed a valid certificate as alleged. A practitioner should ensure that he obtains and has personally seen or received confirmation of the renewal of the

practising certificate on the due date of renewal. He cannot assume that the certificate will be renewed in due course as he believed in his mind to have satisfied all requirements. To that extent the practitioner has technically fallen short of the standard expected of a legal practitioner.

6. That being so, considering the circumstances, the past clean record since his admission on the 29th October, 1999 and his admission of liability at the earliest should be considered in deciding if sanction should be imposed or as to what sanction should be imposed if any.

Appropriate Sanction

7. This is not a deliberate or obstinate non-compliance, but an inadvertent oversight due to assuming that the certificate would have been issued and is no more than a technical breach so to say.
8. However, the conduct of the legal practitioner does amount to a substantial failure to maintain a reasonable standard of diligence. The purpose of sanction is deterrence, both personal and general. The Applicant submits that the sanction in comparable matters on similar allegations had varied from public reprimand to suspension depending on the circumstances of the violation. It was submitted that this misconduct is a serious failure to comply with the LPA and this would be a disregard of the position and the authority which will affect the public confidence in the legal profession. In support, the Respondent relies on the cases of *Chief Registrar v Buatoka* [2013], where the Practitioner was publicly reprimanded and a fine of \$600 was imposed and in the matter of *Chief Registrar v Naliva* [2011] the practitioner was only publicly reprimanded.
9. In the case of *Chief Registrar v Vosarago* [2013], Practitioner was publicly reprimanded and fined \$2500 also practising certificate was suspended for 3 months. Then in the case of *Chief v Registrar v Aseri Vakaloloma ILSC 01 of 2017*, practising certificate have been suspended and a fine and cost in sum of \$1,000 had been imposed.
10. However, as to my mind, it is a nominal sanction that is just and appropriate in the present circumstances. The legal practitioner does not deny any lack of means to comply with a monetary sanction.

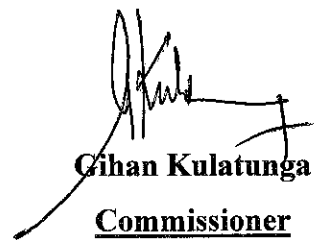
11. In assessing the sanction in this instance, the Commission will be conscious that the practitioner has freely admitted his error as alleged. The transgression concerned in the present matter in my view is the kind of thing that has resulted due to the change of practice in the LPU and does not attract public alarm. I am not in any way condoning or promoting laxity. Strict compliance is the usual rule. In the ordinary course, where it is discovered to be minor infraction that fall short of suggesting the practitioner is a danger to the public and the practitioner has immediately rectified and corrected thus leniency is justified.
12. The good character, reputation and absence of prior transgressions during his 23 years of practice count in his favour. It seems that he has run a generally tidy practice. Similarly, his immediate acknowledgment of error, wrongdoing and expressions of remorse and regret and consistent response to the Commission at this inquiry, are substantial mitigating matters and justify a lenient sanction.
13. Accordingly, the following Sanction is imposed and ordered on the Respondent;

Orders of the Commission are:

- (i) The Respondent Practitioner is publicly reprimanded
- (ii) In the Application filed in ILSC Case No. 001 of 2023, *Chief Registrar vs Epeli Vula*, I find the counts of professional misconduct have been proven by the Applicant's admissions of liability (pleas of guilt).
- (iii) As the level of seriousness of the misconduct is low, no sanction is to be imposed. Accordingly, the Respondent's name will not be entered in the Discipline Register.
- (iv) Pursuant to section 124 of the Legal Practitioners Act 2009, the costs payable by the Respondent towards the reasonable costs incurred by the Applicant are summarily assessed in the sum of \$500.00.

- (v) Pursuant to section 124 of the Legal Practitioners Act 2009, the costs payable by the Respondent towards the reasonable costs incurred by the Commission are summarily assessed in the sum of \$200.00.
- (vi) Both of the above sums set out in Orders and above are to be paid within one month of today, that is, by 12 noon on 25th of May 2023, \$500.00 is to be paid to the Chief Registrar and \$200.00 is to be paid to the Commission.

Dated the 24^h day of April, 2022.



Gihan Kulatunga
Commissioner