
JURISDICTION : STATE ADMINISTRATIVE TRIBUNAL

ACT : LEGAL PROFESSION ACT 2008 (WA)

CITATION : LEGAL SERVICES AND COMPLAINTS
COMMITTEE and ABOU HAIDAR [2023] WASAT
23

MEMBER : JUDGE K GLANCY, DEPUTY PRESIDENT
DR S WILLEY, SENIOR MEMBER
MR R POVEY, MEMBER

HEARD : DETERMINED ON THE DOCUMENTS

DELIVERED : 29 MARCH 2023

PUBLISHED : 29 MARCH 2023

FILE NO/S : VR 28 of 2022

BETWEEN : LEGAL SERVICES AND COMPLAINTS
COMMITTEE
Applicant

AND

JOHN ABOU HAIDAR
Respondent

Catchwords:

Vocational regulation – Lawyer – Professional misconduct – Consent orders – Factors relevant to sanction imposed – Conduct the result of psychiatric condition in combination with alcohol and cannabis use

Legislation:

Legal Profession Act 2008 (WA), s 4(a), s 403(1)(b), s 406(1), s 438, s 439
State Administrative Tribunal Act 2004 (WA), s 56(1), s 60(2), s 87(2)

Result:

Lawyer found to have engaged in professional misconduct
Lawyer reprimanded
Lawyer is not to be granted a practising certificate for nine months from the date of the orders
Lawyer to pay the applicant's costs fixed at \$5,000

Representation:

Counsel:

Applicant : Not Applicable
Respondent : Not Applicable

Solicitors:

Applicant : Legal Services and Complaints Committee
Respondent : In Person

Cases referred to in decision:

Kyle v Legal Practitioners' Complaints Committee [1999] WASCA 115
PLP v McGarvie [2014] VSCA 253
Re Piatt (1999) 724 A.2d 1210
Victorian Lawyers RPA v Constantinou, Legal Profession Tribunal Proceeding
No T0368 and T0410 of 1998

REASONS FOR DECISION OF THE TRIBUNAL:

Introduction

- 1 The parties have proposed that the Tribunal make certain orders in relation to the disciplinary action commenced by the applicant against Mr Haidar (**the Lawyer**) on 26 April 2022.
- 2 The application is being determined on the documents pursuant to s 60(2) of the *State Administrative Tribunal Act 2004* (WA) (**SAT Act**).
- 3 Given the unusual conduct involved, and the orders which we have agreed to make as a consequence of that conduct, we consider that it is necessary to provide some brief reasons by way of explanation for the orders. Those reasons are set out below.
- 4 The Lawyer was admitted to practice in April 2018 but has never held a practising certificate. At all relevant times he was, nevertheless, an Australian lawyer within the meaning of s 4(a) of the *Legal Profession Act 2008* (WA) (**LP Act**) and comes to be disciplined under Part 13 of the LP Act by operation of s 406(1) of the LP Act.
- 5 The parties have agreed that between 20 September 2019 and 16 October 2019, the Lawyer engaged in professional misconduct, under the common law and within the meaning of s 403(1)(b), s 406(1) and s 438 of the LP Act, in that his conduct would be reasonably regarded as disgraceful and dishonourable by practitioners of good repute and competence and/or demonstrates that he is not a fit and proper person to engage in legal practice.
- 6 The conduct involved is set out in Schedule A – Statement of Agreed Facts, which is annexed both to these reasons and to our orders. The conduct engaged in by the Lawyer can only be described as both bizarre and disgusting. Having considered the facts, we are satisfied that the Lawyer's conduct amounts to professional misconduct. Disgraceful and dishonourable are adjectives that well describe his behaviour in this case. His conduct was undoubtedly disrespectful, highly offensive and embarrassing to those about whom he was speaking and to others who received his communications. His repetition of the offensive comments and the trivialising of his conduct in his response to the Committee's communications with him and his failure to meaningfully respond to their communication was also extremely inappropriate.

7 As the Lawyer's communications would be terribly embarrassing to the individuals concerned should they become generally known, we have anonymised the names of those third parties in Schedule A – Statement of Agreed Facts beyond that way in which they were anonymised by the parties in the minute of consent orders filed in the Tribunal. We have taken that course because we formed the view that with the abbreviations which had been used until now, the identities of the persons referred to in Schedule A – Statement of Agreed Facts, would be readily ascertainable by members of the profession.

8 The parties have agreed that appropriate orders to be made in this case are:

1. an order that the Lawyer be reprimanded;
2. an order that the Lawyer not be granted a practising certificate for a period of nine months from the date of the order; and
3. an order that the Lawyer pay the Committee's costs fixed in the sum of \$5,000, which is to be paid to the Board within 30 days of the order unless other terms are agreed between the Board and the Lawyer.

9 In support of the proposed disciplinary sanction, the parties point to the following matters:

- (a) that the Lawyer accepted at an early stage of the proceedings that he had engaged in professional misconduct by his conduct and thus avoided the need for a hearing in the Tribunal;
- (b) that the Lawyer's admission as to the nature of the conduct shows insight;
- (c) that the Lawyer is remorseful;
- (d) that in a psychiatric report provided to the applicant, the psychiatrist opines that at the time the Lawyer engaged in the conduct, his judgment was notably impaired as a result of a combination of his depressed mood and his use of illicit substances as a form of self-medication and his daily consumption of excessive amounts of alcohol;
- (e) that the psychiatrist reports that the Lawyer has been actively compliant with psychiatric treatment and that the results of his regular, supervised urine screening confirms that the Lawyer

has now been abstinent from alcohol and other illicit drugs for a prolonged period; and

- (f) that the psychiatrist expresses the opinion that a repetition of conduct of the relevant kind by the Lawyer is 'highly unlikely'.

10 We accept that those matters are relevant to the sanction to be imposed in relation to the conduct.

11 The purpose of a disciplinary proceeding is the protection of the public by the maintenance of proper standards within the profession rather than punishment. The imposition of a sanction for the protection of the public includes both personal deterrence and general deterrence of others who may be tempted to engage in similar conduct: ***Kyle v Legal Practitioners' Complaints Committee*** [1999] WASCA 115.

12 The Tribunal is to determine the appropriate penalty, including fitness to practise, at the time of the hearing rather than at the time of the conduct.

13 The parties have referred the Tribunal to three cases, which they submit are of 'potential relevance' to the determination of the appropriate sanction in this case. They are:

- (a) ***Victorian Lawyers RPA v Constantinou***, Legal Profession Tribunal Proceeding No T0368 and T0410 of 1998;
- (b) ***PLP v McGarvie*** [2014] VSCA 253; and
- (c) ***Re Piatt*** (1999) 724 A.2d 1210 (referred to in Dal Ponte, *Lawyers Professional Responsibility* (6th ed, 2017)).

14 The facts of those cases have some similarities with the present case. There are, however, significant differences between them. In any event, two or three cases cannot be said to establish a pattern or an appropriate sanction to be applied in cases like this one. Each case will need to be determined on its merits, having regard to the particular circumstances underpinning the conduct and the purpose of disciplinary proceedings. That said, in our view, the cases to which we have been referred do show that where conduct amounting to professional misconduct has been contributed to by an underlying psychiatric condition, it has been accepted that the practitioner was not necessarily permanently unfit to practise and that re-entry to the profession might occur where the practitioner can establish, on medical evidence, that the

psychiatric condition has been, or is being, addressed in a way that makes repetition of the conduct unlikely.

15 The conduct occurred in September 2019. The Committee raised it with the Lawyer in October 2019 and commenced this proceeding in April 2022.

16 Because of the insight and remorse that the Lawyer has displayed, the fact that his conduct, which occurred three and a half years ago, is said to have been the result of a psychiatric condition in combination with alcohol and cannabis use and because that psychiatric condition is now being professionally treated and the Lawyer is abstaining from alcohol and cannabis, we conclude that a reprimand and an order precluding the Lawyer from being granted an Australian practising certificate for a period of nine months from the date of our orders will meet the objectives of disciplinary proceedings.

17 Consideration of the Lawyer's fitness to practise and any conditions upon which he will be permitted to do so (such as a requirement that he be supervised) will fall to be determined if and when the Lawyer applies for a practising certificate.

18 As a consequence of those findings, we will make the following orders which were sought by the parties.

Orders

The Tribunal orders:

Being satisfied by reason of the respondent's admission that proper cause exists for disciplinary action against the respondent, and in order to give effect to the agreed terms of settlement of the proceedings, it is on 29 March 2023 ordered pursuant to s 56(1) of the SAT Act:

1. That the lawyer, JOHN ABOU HAIDAR (**Lawyer**), between 20 September 2019 and 16 October 2019 engaged in professional misconduct under the common law and within the meaning of sections 403(1)(b), 406(1), and 438 of the LP Act, in that his conduct would be reasonably regarded as disgraceful and dishonourable by practitioners of good repute and competence and/or demonstrates that he is not a fit and proper person to engage in legal practice by:

- 1.1 sending an unsolicited email on 20 September 2019 **(20 September 2019 email)** to Ms C and Mr A, legal practitioners, which:
 - (a) made sexually explicit comments about the client of Ms B, another legal practitioner;
 - (b) included a postscript which contained grossly explicit and sexually demeaning comments about Ms C;
 - (c) attached a screenshot of the results of an internet search about Ms B which contained reference to Ms B's historical criminal conviction;
 - (d) attached a screenshot of Ms B's LinkedIn profile;
 - (e) attached an image which, in the context of the 20 September 2019 email, could be taken to be a pictorial representation of the grossly explicit and sexually demeaning comments the Lawyer made about Ms C; and
 - (f) was sent to members of the legal profession and contained inappropriate comments about other members of the legal profession.
- 1.2 sending unsolicited emails on 27 September 2019 **(27 September 2019 emails)** to Ms B and Mr A which:
 - (a) contained inappropriate comments about the client of Ms B; and
 - (b) did not acknowledge or apologise for the inappropriateness of the 20 September 2019 email;
- 1.3 responding on 15 October 2019 to a letter dated 27 September 2019 of the Legal Profession Complaints Committee **(Committee)** in a manner which:

- (a) failed to meaningfully address the conduct issues raised in relation to the 20 September 2019 email;
- (b) reiterated inappropriate sexual matters;
- (c) trivialised the conduct; and
- (c) was discourteous;

1.4 sending an unsolicited email on 16 October 2019 **(16 October 2019 email)** to Ms E, Mr D, Ms C and Dr H, legal practitioners, which was sexually explicit, demeaning and humiliating towards Ms E, grossly unprofessional, disrespectful, offensive, embarrassing and discourteous, in that the 16 October 2019 email:

- (a) disclosed the Lawyer's sexual fantasies towards Ms E;
- (b) contained obscene language; and
- (c) was targeted at Ms E and was sent to three other legal practitioners,

in circumstances where the conduct was of a similar nature as the 20 September 2019 email and where the Committee, by its letter dated 27 September 2021, had already raised concerns with the Lawyer; and

1.5 sending on 16 October 2019, a further email to Mr D and Ms E requesting that the 16 October 2019 email be kept confidential.

- 2. The Lawyer is reprimanded pursuant to section 439(d) of the LP Act.
- 3. An Australian practising certificate is not to be granted to the Lawyer for a period of nine months from the date of this order pursuant to section 439(b) of the LP Act.
- 4. The Lawyer is to pay the Committee's costs fixed in the sum of \$5,000 pursuant to section 87(2) of the SAT Act.

5. The amount specified in order 4 is to be paid by the Lawyer to the Legal Practice Board of Western Australia **(Board)** within 30 days of the date of these orders, unless other terms are agreed by the practitioner with the Board.

I certify that the preceding paragraph(s) comprise the reasons for decision of the State Administrative Tribunal.

MA

Associate to Deputy President Judge Glancy

29 MARCH 2023

SCHEDULE A – STATEMENT OF AGREED FACTS

The Lawyer

- 19 The respondent (**Lawyer**) was admitted to legal practice in Western Australia on 6 April 2018.
- 20 At all material times, the Lawyer:
- (a) had never held a practicing certificate;
 - (b) was not an Australian legal practitioner within the meaning of s 5(a) of the Legal Profession Act 2008 (WA) (**LP Act**);
 - (c) was an Australian lawyer within the meaning of s 4(a) of the LP Act; and
 - (d) was subject to the disciplinary provisions of Part 13 of the LP Act by operation of s 406(1) of the LP Act.

The background circumstances

- 21 On 20 September 2019, the Lawyer sent an email to Ms C at her work email address and to Mr A at his chambers' email address (**20 September 2019 email**) asking if they knew Ms B and if they could help him in obtaining work with Ms B. The 20 September 2019 email also stated:
- (a) "[Ms B's client's grandmother] *has turned sour on me, because I wont [sic] stick my dick in her old saggy ... sorry.*"
 - (b) "*Have you ever had an orgasm – from a male – licking the bottom of your feet (softly to make you laugh, firmly to make you feel empowered) – sucking your toes – licking the gap in between your toes – try find a guy that has given more girls organisms [sic] by being under their feet then [sic] me. ☺ Bit of a weird flex/brag ...*"
 - (c) "*I remember all the shoes I saw [Ms C] wear in my time at [firm]. Bit weird? ☺ I wank about [Ms C]'s feet way more than is healthy. The way you would dangle your heels, change your shoes, take your shoes of ... Oh my days [Ms T] [the Lawyer's emphasis] haha*".

- 22 The Lawyer attached to the 20 September 2019 email:
- (a) a screenshot of an internet search of Ms B, including reference to a 2012 online article about Ms B pleading guilty to drug and drink-driving charges;
 - (b) a screenshot of Ms B's LinkedIn profile; and
 - (c) a picture of a Hindu deity which could be taken as a depiction of the Lawyer's sexual fetishes.
- 23 Some time between 20 September 2019 and 23 September 2019:
- (a) Ms B was provided with a copy of the 20 September 2019 email;
 - (b) Ms B contacted the Lawyer and told him that the 20 September 2019 email was inappropriate and not conducive to the advancement of his legal career; and
 - (c) the Lawyer sent Ms B a copy of his *curriculum vitae*.
- 24 On 27 September 2019, the Lawyer sent, at 00:14 am and 01:51 am, two emails to Ms B and Mr A, stating:
- (a) in relation to the grandmother of Ms B's client:
 - (i) *"I kissed her when she came over, out of respect ..."*;
 - (ii) *"When she dropped me home, she wanted another kiss and something more ..."*;
 - (iii) *"I feel sick, I am a male prostitute at this point, who cant [sic] even scrape money for my rent"*;
 - (iv) *"I am not a male prostitute, I will not sell my body to a woman in her 60s that is married with children 10 years older than me"*;
 - (v) she *"has a funeral plan in Kattaning [sic] where she is going to be buried with the bones of her dead husband"*; and
 - (vi) she had confided in him six weeks prior that Ms B's client's father and another family member had '*raped*' Ms B's client's mother;

- (b) *"I am only sharing this with you, to show you how much trauma and confusion I am suffering right now";*
- (c) *"If you think I am a dog, rat or untrustworthy then I apologise for sharing it"; and*
- (d) *"If you don't want to help me [Ms B], please help [Ms B's client]".*
- 25 On 27 September 2019, the Committee sent a letter to the Lawyer raising concerns about the 20 September 2019 email and invited the Lawyer to respond.
- 26 On 15 October 2019, the Lawyer, by way of a response to the Committee's letter dated 27 September 2019, sent an email stating, amongst other things:
- (a) *"Firstly, I have a foot fetish and a very submissive sexual nature. I do not hide from this, nor do I hide from the fact that I like to masturbate over pretty feet and shoes, in the privacy of my bedroom";*
- (b) *"I promise that I masturbate over other girls [sic] feet and shoes, not just [Ms C's] ... She is a very competent and articulate lawyer, who happens to have a pretty face and cute feet";*
- (c) *"I again unreservedly apologise if I caused any 'humiliation' or 'discomfort' to [Ms B], [Ms C] or my father figure [Mr A]"; and*
- (d) *"I hope to not hear back about my email and rather focus my energy on sending out my cv and covering letter to prospective employers. **I have learnt the importance of keeping my inner monologue private, and not sharing my fantasies with other people** [Lawyer's emphasis]."*
- 27 On 16 October 2019 at 2:20pm, the Lawyer sent an email to Mr D, Ms E, Ms F and Dr G stating relevantly the following:
- "It is only fair since [Mr A] and the legal board have reprimanded me for wanking in my room about female lawyers feet and shoes, that I make full disclosure of all my wanking memories.*
- [Ms E] I wanked over you many times!*
- I imagined you dominating me and using my mouth as an ash tray.*

I liked to perve at your heels and fantasised many times that you would trample me under them.

Once I saw you in open style shoes and I wanked for a good week over that memory.

Yours truly

WA's Biggest Wanker submissive cuckold slut

John masturbator haidar"

- 28 On 16 October 2019, at 2:34 pm, the Lawyer sent a further email to Mr D and Ms E, stating the following:

"Do not share it with anyone please ...

Kind regards

Continually heart broken loser [sic] ☹"

- 29 On 17 October 2019, Ms E sent a letter to the Committee raising her concerns about the Lawyer's emails to her.

- 30 On 6 November 2020, the Committee sent the Lawyer two letters raising its concerns with respect to the concerns raised by Ms B and Ms C, and the concerns raised by Ms E.

- 31 On 14 December 2020, the Lawyer, by way of response to the Committee's letter dated 6 November 2020 as it related to the concerns raised by Ms B and Ms C and stated, amongst other things, that:

- (a) *"It is material to the complaints that I was in a close relationship with the complainants [Ms B and Ms C], I was under severe stress in my personal life and circumstances, and I would have reason to believe that the complainants [Ms B and Ms C] were aware of my personal problems and stressful situation";*
- (b) *"I was in effect seeking assistance from two people who I believed would understand the situation. I was apparently wrong in that, but without this background the facts of the complaints give the impression on [sic] contumelious conduct when in fact I was intimating matters of concern to myself";*
- (c) *"I am of course extremely embarrassed; one by raising the matter with the two persons concerned, two by revealing*

matters which I would never have mentioned to people that I respected and trust but for the fact I believed we were in a semi confidential situation, because I would normally not have expected third parties to be involved";

- (d) *"... it is best that I make an apology and invite the complainants to treat the matter as not having happened. I certainly had no intention of damaging them, and rather than damaging them I looked to them for assistance and help";*
- (e) *that the postscript to the 20 September 2019 email was "obviously the product of mental agitation and I would submit that it was not intended to bring the profession into dispute [sic] at all, given the subject title of my email 'private and confidential'";*
- (f) *"I would have to ask for the Board to engage the perspective that the proposed target was myself rather than the complainants and that I suffered the proposed harm and great shame/embarrassment as well as the complainants, perhaps the shame was even greater for myself"; and*
- (g) *"... the episodes concerned where [sic] clearly not directed with insulting and humiliating the complainants but rather an attempt misguided though as it may have been to explain my situation to the complainant".*

32 On 14 December 2020, the Lawyer, by way of response to the Committee's letter dated 6 November 2020 as it related to the concerns raised by Ms E, stated, amongst other things, that:

- (a) *"I would like to express my embarrassment and remorse...";*
- (b) *"... I must make the point that the complainant [Ms E] and I were in a situation of trust and confidence. I followed my first communication with an email that invited her to disregard the previous communication. I had reason to believe that she appreciated that I was in a depressed state of mind and would respond accordingly to the second communication, in which [sic] I emailed on the same day apologising and asking for the complainant to ignore my email which forms the basis of complaint [sic]";*

- (c) in response to the Committee's view that the 16 October 2019 email was offensive, intimidating, humiliating, demeaning, sexually explicit and embarrassing in respect of Ms E, and had the potential to bring the profession into disrepute:

"... I do not think that either the communication itself not [sic] the fact that I was in an obviously upset state of mind bore the implication of the item. I clearly was expressing my own upset and anxiety rather than expressing any intent of embarrassing the complainant: as our communication was entirely personal I certainly had no intent to affect the public standing of the legal profession, as indicated by my swift apology, request to disregard the offending email and invitation to ignore the communication, with no further emails sent post the apology";

- (d) *"... the inclusion of the other parties was a mistake which I new [sic] deeply regret and owed more to my depression and loneliness at the time, than any feelings towards those individuals";*

- (e) in response to the Committee's view that the 16 October 2019 email contained extremely inappropriate sexual references and language to the highest degree which were discourteous, offensive and likely to bring the profession into disrepute:

"... again these sentiments were expressed against the background of depression, which was the fons et origo of the language rather than a serious intent to communicate these sentiments, and I would submit that the actual language employed justifies this view"; and

- (f) *"I regret that I embarrassed people whom I respect and to a limited extend [sic] published inappropriate language. I am still living with the consequences which continue to fuel my regret. I realise that I cannot withdraw my conduct as I have wished to do, but the fact that it was the product of depression itself has a mitigating effect."*

33 On 25 February 2021, the Committee wrote to Ms B, Ms C and Ms E seeking clarification as to the relationships they each had with the Lawyer.

34 On 25 February 2021, Ms B wrote to the Committee confirming that she has never met the Lawyer and that she has nothing further to add.

35 On 11 March 2021, Ms E wrote to the Committee:

- (a) denying the Lawyer and Ms E were ever in a situation of trust and confidence;
- (b) explaining that Ms E had very limited dealings with the Lawyer professionally and none personally; and
- (c) explaining that Ms E had never engaged with the Lawyer in a way that would suggest a friendship.

36 On 8 April 2021, Ms C wrote to the Committee:

- (a) denying a level of friendship with the Lawyer, noting there was no relationship beyond limited time working together as law clerks; and
- (b) confirming the Lawyer had attended events with Ms C and Mr A when Ms C and the Lawyer were law clerks for Mr A, however, these were limited and some years before the Lawyer's email of 20 September 2019.

37 The Lawyer accepts that although he subjectively considered that, at the relevant times, he had a relationship of friendship with Ms E and Ms C, a relationship of friendship did not objectively exist.

Professional misconduct

38 Section 403(1)(b) of the Act provides that 'professional misconduct' includes conduct of an Australian 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.

39 Rule 6(2)(a) of the *Legal Profession Conduct Rules 2010* (WA) provides that a practitioner must not engage in conduct, in the course of providing legal services or otherwise, which demonstrates that the practitioner is not a fit and proper person to practice law.

40 The common law definition of professional misconduct includes '*conduct that would be reasonably regarded as disgraceful or dishonourable by practitioners of good repute and competence*' (see: *Kyle v Legal Practitioners' Complaints Committee* [1999] WASCA 115 [61]).

41 By sending the 20 September 2019 email, the 27 September 2019 email, the email to the Committee on 15 October 2019, and the 16 October 2019 emails, the Lawyer engaged in professional misconduct in that:

- (a) his conduct would be reasonably regarded as disgraceful and dishonourable by practitioners of good repute and competence; and/or
- (b) his conduct demonstrated that, at that time, he was not a fit and proper person to engage in legal practice.

Factors relevant to penalty

42 The parties agree that the following factors are relevant to the penalty to be imposed in these proceedings, namely that:

- (a) the Lawyer, at an early stage of these proceedings, has accepted that he engaged in professional misconduct, which agreement has avoided the need for a hearing in the Tribunal;
- (b) the Lawyer's admission that his conduct in order 1 constituted professional misconduct demonstrates his insight into that conduct;
- (c) the Lawyer is remorseful;
- (d) a psychiatric report from Psychiatrist, Dr L, dated 12 October 2022 (**Report**) relevantly shows:
 - (i) at page 5 of the Report, that the relevant misconduct occurred in the context of psychiatric illness and abuse of alcohol and cannabis:

"...it is my opinion that his judgement at the time of sending the emails was notably impaired via a combination of his depressed mood and his use of cannabis as a form of self-medication as well as his use of excessive amounts of alcohol on a daily basis";

- (ii) at page 5 of the Report, that the Lawyer demonstrates appropriate insight as to the gravity of the relevant misconduct:

"He expresses definite remorse, embarrassment and shame in regards to what he has done. He seems to fully understand the inappropriateness of the context of these emails. He understands why it has caused concern and complaint against him and impacted on his professional progression";

- (iii) at page 6 of the Report, that the Lawyer has been 'actively compliant' with psychiatric treatment and regular supervised urine screening confirms that he has been abstinent with respect to alcohol and other illicit substances over a prolonged period; and
- (iv) at pages 6 – 7 of the Report, that any repetition of the relevant misconduct by the Lawyer is 'highly unlikely'.

43 The Tribunal's attention is brought to three cases of potential relevance:

- (a) In ***PLP v Michael McGarvie*** [2014] VSCA 253 and ***Legal Services Commissioner v PLP*** [2014] VCAT 793, the practitioner, amongst other things, made 78 uninvited sexual advances towards a legal trainee. Amongst other things, the practitioner referred to going home and fantasising about the trainee, showed her a pornographic video of a prostitute performing sexual acts on him, made sexual comments, ogled her breasts, and sent a naked photograph of himself to the trainee. The Tribunal originally ordered strike off, but that result was overturned on appeal as manifestly excessive, given, amongst other things, \$100,000 in compensation paid by the practitioner already in other proceedings, an 'impeccable' prior record, and the hardship which would be caused to the practitioner as a sole practitioner. A penalty was imposed of two months suspension, along with a condition that the practitioner not supervise any female trainee for a further year.
- (b) In ***Victorian Lawyers RPA v Constantinou***, Legal Profession Tribunal Proceeding No T0368 and T0410 of 1998, a practitioner sexually propositioned three clients on three separate occasions, detaining them in his locked office and on two occasions masturbating in front of them. The Tribunal found he was not at risk of reoffending. By the time of penalty the practitioner had been not practising for 5 months. The Tribunal imposed an order that he not apply for a practising

certificate for a further 15.5 months and until he demonstrated fitness to practice.

- (c) In ***Re Piatt*** (1999) 724 A.2d 1210, a United States case referred to in Dal Ponte, *Lawyers Professional Responsibility* (6th ed, 2017) [21.170], a practitioner who sexually harassed and made unwanted sexual advances and lewd comments to two female clients was publicly censured and placed on one year of unsupervised probation with a requirement to file quarterly statements with the bar counsel and court.