[2011] WASAT 95 (S)

JURISDICTION	**:**	STATE ADMINISTRATIVE TRIBUNAL
STREAM	**:**	VOCATIONAL REGULATION
ACT	**:**	LEGAL PROFESSION ACT 2008 (WA)
CITATION	**:**	LEGAL PROFESSION COMPLAINTS COMMITTEE and O'HALLORAN [2011] WASAT 95 (S)
MEMBER	**:**	JUSTICE J A CHANEY (PRESIDENT) MR C RAYMOND (SENIOR MEMBER) MS K KEMP (SESSIONAL MEMBER)
HEARD	**:**	28, 29, 30 AND 31 MARCH 2011 1 APRIL 2011 AND 4 APRIL 2011 SUPPLEMENTARY DECISION DETERMINED ON THE DOCUMENTS
DELIVERED	**:**	28 JUNE 2011
SUPPLEMENTARY DECISION	**:**	20 FEBRUARY 2012
FILE NO/S	**:**	VR 35 of 2009 VR 36 of 2009 VR 37 of 2009 VR 38 of 2009 VR 39 of 2009
BETWEEN	**:**	LEGAL PROFESSION COMPLAINTS COMMITTEE Applicant AND PAUL JOHN O'HALLORAN Respondent

Catchwords:

Legal practitioners - Disciplinary findings - Penalty - Overcharging - Failure to meet obligations to pay employee superannuation

Legislation:

Corruption and Crime Commission Act 2003 (WA)
Legal Practitioners Act 1893 (WA), s 34A(b)
Legal Profession Act 1898 (NSW)
Legal Profession Act 2008 (WA), s 439(a), s 439(d), s 441(a), s 441(c), s 448
State Administrative Tribunal Act 2004 (WA), s 11(7)

Result:

Penalties imposed

Category: B

Representation:

Counsel:

Applicant	:	Ms PE Cahill SC and Mr JM Healy
Respondent	:	Mr GMG McIntyre SC

Solicitors:

Applicant	:	Law Complaints Officer
Respondent	:	Philip Lafferty

Case(s) referred to in decision(s):

Craig v Medical Board of South Australia (2001) 79 SASR 545
Law Society of Australian Capital Territory and Roche [2002] ACTSC 104
Law Society of New South Wales v Bouzanis [2006] NSWADT 55
Law Society of New South Wales v Gillroy [2010] NSWADT 232
Law Society of New South Wales v Vosnakis [2007] NSWADT 42
Legal Professional Complaints Committee and O'Halloran [2011] WASAT 95
New South Wales Bar Association v Amor-Smith [2003] NSWADT 239
NSW Bar Association v Evatt [1968] 117 CLR 177

NSW Bar Association v Meakes [2006] NSWCA 340

Re A Legal Practitioner of the Supreme Court of Western Australia (Unreported, WASC, Library No 970032, 12 February 1997) (BC 9700434)

Re Maraj (a legal practitioner) (1995) 15 WAR 12

Re Veron; Ex parte Law Society (NSW) [1966] 84 WN (Pt 1) (NSW) 136

The Council of the Law Society of New South Wales v Adams [2011] NSWADT 177

The Council of the Law Society of New South Wales v Dalla [2011] NSWADT 130

The Council of the Law Society of New South Wales v Somerfield [2008] NSWADT 235

Thomas and The Medical Board of Western Australia [2005] WASC 244

Veghelyi v The Law Society of New South Wales (Unreported, Supreme Court of New South Wales Court of Appeal, 6 October 1995)

REASONS FOR DECISION OF THE TRIBUNAL:

Summary of Tribunal's decision

1 Having found the legal practitioner, Mr Paul O'Halloran guilty of a number of incidents of professional misconduct and unsatisfactory professional conduct, the Tribunal received submissions as to the appropriate penalty to be applied.

2 In relation to the most serious findings, which concerned charging of fees that were grossly excessive, the Tribunal imposed a suspension from practice for a period of six months. In relation to the practitioner's failure to comply with employee superannuation payments, he was reprimanded and ordered to pay a fine of $2,500. On the findings of unsatisfactory professional conduct, the practitioner was publicly reprimanded. He was also ordered to pay compensation to one of the clients overcharged, and to pay to the Complaints Committee costs of the proceedings.

Introduction

3 In reasons for decision published as ***Legal Professional Complaints Committee and O'Halloran*** [2011] WASAT 95 (the Tribunal's reasons) the Tribunal, as then constituted, made findings of professional misconduct and unsatisfactory professional conduct by the respondent in a number of respects. The question of penalty was the subject of directions which ultimately led to the question of penalty and costs being dealt with on the documents. These reasons deal with those questions.

Constitution of the Tribunal

4 The matter was determined by a Tribunal which included Judge R Macknay QC in his then capacity as a Supplementary Deputy President. Since the delivery of the Tribunal's reasons, Judge Macknay resigned his commission as a Supplementary Deputy President in order to take up his appointment as Corruption and Crime Commissioner pursuant to the *Corruption and Crime Commission Act 2003* (WA). It was therefore necessary for the President to reconstitute the Tribunal pursuant to s 11(7) of the *State Administrative Tribunal Act 2004* (WA) so as to include a senior, legally qualified member, Mr Clive Raymond, in place of Judge Macknay.

Penalty in VR 35 of 2009

5 The submissions of the parties have proceeded on the basis that the penalty in matter VR 35 of 2009, which concerns a failure by

Mr O'Halloran to meet his obligations in relation to the payment of employee superannuation, should be dealt with separately from the other matters which all involve overcharging. We agree that that is the appropriate way to approach the question of penalty in relation to VR 35 of 2009.

6 The findings made by the Tribunal relevant to question of penalty on the superannuation matter were:

i) The practitioner's conduct was not deliberate in the sense that he did not deliberately set out to avoid his obligations to pay superannuation contribution: Tribunal's reasons at [29], [34] and [36];

ii) However, the practitioner failed to adequately address compliance with his superannuation obligations and to put in place an adequate system to ensure compliance: Tribunal's reasons at [29], [34] and [46];

iii) That failure occurred in the context where the practitioner had been alerted to non-compliance by his bookkeeper on two or three occasions up until June 2006. His response, which was to make it clear that superannuation should be paid promptly, was inadequate: Tribunal's reasons at [34] and [46];

iv) There was also an extended period of substantial non-compliance from mid 2005 until September 2007: Tribunal's reasons at [46];

v) There is no suggestion that the conduct was caused or contributed to by the practitioner's inability to meet his financial obligations: Tribunal's reasons at [30];

vi) The practitioner initiated the involvement of the Australian Taxation Office (ATO) through his bookkeeper in January 2008: Tribunal's reasons at [32] - [34]; and

vii) Ultimately, the practitioner paid the full amount of his superannuation obligations by arrangement with the ATO for payment over a period of some months.

7 The Legal Profession Complaints Committee (Complaints Committee) submits that the penalty which should be imposed is:

i) an order pursuant to s 439(d) of the *Legal Profession Act 2008* (WA) (LP Act) publically reprimanding the practitioner; and

ii) an order pursuant to s 441(a) of the LP Act that the practitioner pay a fine to the Legal Practice Board of $8,000.

8 The practitioner does not contest the making of an order publically reprimanding him pursuant to s 439(d) of the LP Act, but contests that there is sufficient justification for the imposition of a fine.

The principles to be applied

9 The principles to be applied in relation to the imposition of disciplinary penalties are well established. The object of disciplinary proceedings is the protection of the public and the maintenance of proper standards in the legal profession, rather than punishment - ***Re Maraj (a legal practitioner)*** (1995) 15 WAR 12 at 24 - 25.

10 Disciplinary proceedings fulfil an important function of conveying to other members of the profession, and reassuring the public, that professional misconduct is unacceptable and is dealt with seriously - ***Thomas and The Medical Board of Western Australia*** [2005] WASC 244 at [82] per Hasluck J; ***Craig v Medical Board of South Australia*** (2001) 79 SASR 545 at 554 [47].

Comparative cases

11 Our attention was drawn to a number of decisions of the Administrative Decisions Tribunal of New South Wales in relation to legal practitioners who had failed to comply with superannuation obligations. Some of those were discussed in the Tribunal's reasons in the context of whether Mr O'Halloran's conduct amounted to professional misconduct - see Tribunal's reasons at [37] -[45].

12 In some of those cases (for example ***Law Society of New South Wales v Vosnakis*** [2007] NSWADT 42 (***Vosnakis***) and ***The Council of the Law Society of New South Wales v Adams*** [2011] NSWADT 177 (***Adams***)) the practitioners concerned were struck off from the roll of practitioners. In others (for example ***Law Society of New South Wales v Bouzanis*** [2006] NSWADT 55 (***Bouzanis***) and ***The Council of the Law***

Society of New South Wales v Somerfield [2008] NSWADT 235 (***Somerfield***)) the practitioners concerned were reprimanded and fined $10,000 and $5,000 respectively. In others, for example ***Law Society of New South Wales v Gillroy*** [2010] NSWADT 232 (***Gillroy***) and ***The Council of the Law Society of New South Wales v Dalla*** [2011] NSWADT 130, the practitioners were publically reprimanded, and in ***Gillroy***, one practitioner was obliged to undertake practice management and ethics courses and submit to a mentoring programme in respect of his practice.

13 The different circumstances in each case explain the differences in outcome. The appropriate penalty in any given case will always depend upon its particular circumstances.

14 We accept, as does the Complaints Committee, that the relevant findings in relation to the superannuation matter, which are set out above, do not put this case into the category of cases such as ***Vosnakis*** and ***Adams***, and accordingly do not support a report being made to the Supreme Court with a recommendation that the practitioner's name be removed from the roll. Nor do we consider that the circumstances of this case are such as to warrant an order for suspension from practice.

15 ***Bouzanis***, which appears to have been the first case considered by the New South Wales Administrative Decisions Tribunal, involved a finding that the practitioner had intentionally failed to pay superannuation in relation to a single employee because he had required the funds for other purposes. It therefore involved a finding of a level of intent not present in Mr O'Halloran's case.

16 ***Somerfield*** did not involve any dishonesty. The failure by the practitioner was brought about by a lack of financial resources and he intended ultimately to pay the superannuation contributions. The failure to pay superannuation had occurred over a four year period and involved multiple employees. In that sense, it is similar to the present case. The fine of $5,000 was imposed not only for the breach of the superannuation contributions, but also in relation to several other findings of professional misconduct.

Penalty on superannuation matter

17 At [49] of the Tribunal's reasons, the Tribunal expressed the conclusion that Mr O'Halloran's failures to meet his superannuation obligations over an extended period of time demonstrated an indifference to his taxation and superannuation obligations. His failures assumed

substantial proportions. In our view, a public reprimand, without more, would not adequately reflect the seriousness of the findings in relation to the superannuation matter. It is appropriate that a fine be imposed in addition to a public reprimand.

18 We are mindful of the very substantial costs which the practitioner will be ordered to pay in relation to these proceedings and of the overall effect of the penalties to be imposed in relation to the other matters, the subject of the Tribunal's reasons. Having regard to those matters, and to the comparative penalties in the New South Wales cases referred to, we consider that, in addition to a public reprimand, Mr O'Halloran should pay a fine of $2,500 to the Legal Practice Board in relation to the superannuation matter.

The costs matters

19 The parties were agreed that, save for the compensation order sought in respect of VR 37 of 2009 (the Pizzata matter), it is appropriate to deal with the question of penalty for each of VR 36 of 2009 (the Lovett matter), VR 38 of 2009 (the D'Agui matter), VR 39 of 2009 (the Challen matter) and the Pizzata matter (which together we will refer to as the costs matters) on a global basis so far as penalty is concerned.

20 In relation to the costs matters, the Complaints Committee seeks an order pursuant to s 439(a) of the LP Act that the practitioner's local practising certificate be suspended for a period of 18 months to commence 30 days from the date of the Tribunal's order. In relation to the Pizzata matter, the Complaints Committee seeks a compensation order pursuant to s 441(c) and s 448 of the LP Act requiring a practitioner to pay Ms Pizzata the sum of $15,000.

21 The practitioner does not contest the making of a compensation order in the sum sought by the Complaints Committee in relation to the Pizzata matter. We agree that a compensation order is appropriate to reimburse Ms Pizzata for the excessive costs that she was called upon to pay. In respect of each of the other matters, the costs actually paid by the clients (as distinct from the amounts charged) were either determined after taxation or were not pursued by the practitioner.

22 The practitioner contends that Complaints A and B in each of the Pizzata, Challen and D'Agui matters should be treated as one complaint for the purposes of imposing a single fine in each case not exceeding the statutory maximum. In relation to the finding, in the Pizzata matter, of unsatisfactory professional conduct by reason of a failure to comply with

s 34A(b) of the *Legal Practitioners Act 1893* (WA), the practitioner submits that the appropriate order is a reprimand. He makes the same submission in relation to the finding in the D'Agui matter of unsatisfactory professional conduct by failing to comply with a Registrar's direction. Mr O'Halloran also submits that the appropriate order is for a reprimand in relation to all of the findings in the Lovett matter.

Consideration as to suspension

23 The principal issue between the parties in relation to penalty in relation to the costs matters is whether or not a period of suspension from practice should be ordered.

24 The parties have drawn our attention to a number of decisions concerning penalties imposed on legal practitioners in relation to findings of overcharging.

25 In ***Re Veron; Ex parte Law Society (NSW)*** [1966] 84 WN (Pt 1) (NSW) 136, the practitioner was struck off following findings of some 65 instances of overcharging clients in respect of personal injury actions. The overcharging was found to be deliberate and there were related charges proved against the practitioner involving dishonesty or fraud in respect to the practitioner's dealings with his clients and their money.

26 The court noted that the charges were not only grossly excessive, but were also arbitrary when compared with the work actually done.

27 Practitioners were also struck off in the decisions in ***Veghelyi v The Law Society of New South Wales*** (Unreported, Supreme Court of New South Wales Court of Appeal, 6 October 1995) (***Veghelyi***) and ***New South Wales Bar Association v Amor-Smith*** [2003] NSWADT 239 (***Amor-Smith***). In ***Veghelyi***, the practitioner was found guilty of grossly overcharging in 11 matters. He was also found guilty of wilful breaches of the *Legal Profession Act 1898* (NSW) concerning the handling of client monies, including the payment of costs from trusts without authority. In ***Amor-Smith***, the overcharging related to a single retainer, but involved charges which the Tribunal found to have been nearly five times a reasonable and fair amount for the services provided. The practitioner had aggressively pursued recovery of his fees notwithstanding his appreciation of the excessive nature of the charges.

28 In ***Re A Legal Practitioner of the Supreme Court of Western Australia*** (Unreported, WASC, Library No 970032, 12 February 1997) (BC 9700434), the Full Court suspended a Practitioner for five years

following findings of six separate instances of overcharging in respect of personal injuries matters. The disciplinary Tribunal, which had transmitted a report to the Full Bench, had concluded that the overcharging had arisen from the system of practice adopted by the practitioner over a long period of time and that the practitioner had been substantially motivated by self-interest. The Full Court noted a history of prior complaints about the practitioner.

29 In ***NSW Bar Association v Evatt*** [1968] 117 CLR 177, a barrister was found to have knowingly assisted and facilitated a systemic course of action by two solicitors (including Mr Veron, the subject of proceedings referred to above). Mr Evatt was found to have knowingly shared in the proceeds of the extortionate charges by charging and being paid excessive fees, and the High Court concluded that the findings demonstrated the practitioner was unfit to be a barrister and ordered that he be disbarred.

30 In **Law Society of Australian Capital Territory and Roche** [2002] ACTSC 104, the practitioners were found guilty of systemic overcharging of personal injuries clients through the use of a standard form costs agreement that imposed a standard hourly rate for all fee earners, regardless of whether or not they were legally qualified, standard charges for disbursements, and entitled the practitioners to charge an uplift of up to 30% of their professional fees for 'care, skill and consideration'. The solicitors' conduct was described as 'extortionate' [67] and as 'an exercise in calculated greed' [89]. A period of 18 months suspension from practice was imposed. The Court regarded as a significant mitigatory factor that the practitioners offered to (and were subsequently ordered) to make substantial payment to establish a compensation for the benefit of their clients who had entered into the standard costs agreement.

31 Those decisions demonstrate the very serious view taken by the courts or other disciplinary authorities in relation to significant overcharging by legal practitioners.

32 A decision in which suspension was not ordered is ***NSW Bar Association v Meakes*** [2006] NSWCA 340. The disciplinary Tribunal in that matter had imposed a public reprimand, having concluded that the practitioner was guilty of gross overcharging by charging a client in excess of 66% more than a reasonable fee and had characterised that conduct as unsatisfactory professional conduct. The Court of Appeal disagreed with that characterisation, and concluded that the gross overcharging amounted to professional misconduct. Tobias JA said at [85] that 'At its highest, the respondent's conduct was dishonest; at its

lowest, it was highly irresponsible'. The Court of Appeal declined, however, to alter the penalty imposed by the Tribunal given that six and a half years had passed since the conduct occurred, the finding of professional misconduct would seriously reflect on the practitioner's reputation, a refund had been made to the client, and the practitioner would pay the costs of the appeal.

33 There are a number of features of the findings of overcharging made against Mr O'Halloran which raise serious concerns.

34 The first is that the overcharging arose by what appears to have been a systemic practice of entering costs agreement which the Tribunal concluded would inevitably result in charges being made in a way which overstated time spent on a matter and exceeded statutory limitations.

35 The second concern is the extent of the overcharging. In the Pizzata matter, the charges were in the vicinity of three times what the Tribunal concluded were reasonable charges. In the D'Agui matter, the Tribunal did not precisely identify the amount of the reasonable charges, but it can be confidently said that Mr O'Halloran's charges were somewhere around 200% of reasonable charges. In the Challen matter, the charges were in excess of 200% of a reasonable charge. In the Lovett matter, the Tribunal concluded that the charges made represented a charge of slightly in excess of 130% of a reasonable charge.

36 The third concern is that the costs agreements entered into by the practitioner were found by the Tribunal to be contrary to law in a context where the practitioner was experienced in the field and well aware of the statutory limitations on costs which applied to his practice.

37 Fourthly, the practice was sustained over a period of approximately five years from 1999 until 2004. This is not, therefore, a case of a single occasion of overcharging.

38 The practitioner relies on a number of submissions by way of mitigation.

39 Firstly it is submitted that the practitioner has changed his costing methods to address the deficiencies in his practice which were revealed in these proceedings. He ceased using the form of costs agreement used in the Pizzata, Challlen and D'Agui matters some time prior to 2006. This, it is suggested, demonstrates insight into the nature of his conduct.

40 Secondly, it is submitted that Mr O'Halloran's personal circumstances at the time of the conduct contributed to the offending conduct, but those circumstances no longer pertain. The circumstances identified are that he was working only part time between 2002 and 2006 because he was engaged in a political campaign to protect the rights of workers compensation claimants, was providing support to an injured persons action group, was spending more time with his terminally ill father in England (from September 2003) and assisting his wife with the care of their four children. The death of both of his parents within a short time in 2005 caused him distress and distracted him from his practice, and attention to detail within it.

41 Thirdly, it is submitted that the passage of time since the offending conduct diminishes the public interest in suspending the practitioner.

42 Fourthly, it is not in issue that Mr O'Halloran has not been the subject of any previous findings of unprofessional conduct.

43 Fifthly, it is said that Mr O'Halloran has been the subject of publicity in relation to the findings against him both in the West Australian newspaper and within the profession at a Law Society seminar.

44 Sixthly, the Tribunal is urged to have regard to certain statements contained in witness statements filed in the proceedings attesting to Mr O'Halloran's character, and in particular as to his honesty and integrity.

45 Finally, it is submitted that the imposition of a period of suspension would have a devastating effect on Mr O'Halloran's financial position and that of his family.

Penalty on the findings of overcharging

46 As already observed, there are several considerations that lead to the conclusion that the findings against Mr O'Halloran are of serious misconduct.

47 We do not accept the practitioner's submission that the fact he has changed his practice in relation to charges demonstrates insight into the nature of his conduct. The hearing of these matters took place in 2011. The practitioner gave lengthy evidence during which he strived to justify his unjustifiable approach to charging. He demonstrated no insight whatsoever. The fact that he has made changes to his method of costing following a series of complaints against him is hardly surprising.

48 The conduct spanned a much longer period than the period in which the personal stresses in his life are said to have influenced his practice. We do not consider that those factors should significantly affect the disposition of this case.

49 The mitigating effect of the passage of time might be greater in the presence of insight into the unacceptable nature of the practitioner's conduct. Resolution of these proceedings has, at least in part, been delayed by the practitioner's refusal to accept any significant wrongdoing.

50 We accept that the question of penalty should be approached on the basis that the practitioner has been in practice for approximately 30 years without any adverse findings against him.

51 It is no doubt damaging to Mr O'Halloran's professional reputation, and a source of considerable embarrassment to him, that the outcome of these proceedings has been the subject of publicity. That is an inevitable result of disciplinary proceedings which, as observed above, fulfil a function of warning to the profession and notice to the public. Publicity in the ordinary course does not significantly affect the appropriate penalty to be imposed.

52 The comments in witness statements as to Mr O'Halloran's general good character lose much of their force as a result of the evidence from the makers of those statements that the original draft statements were prepared by Mr O'Halloran himself. Those aspects of the statements were deleted at the hearing. We place little weight on them for the purposes of penalty.

53 We are mindful that suspension from practice is likely to have a very serious impact on the practitioner's financial position. We are also mindful that fulfilment of the public interest in the imposition of disciplinary penalties is the principal objective.

54 In our view, the seriousness of the findings of overcharging warrants the imposition of a period of suspension from practice. Overcharging of clients who are, despite all the safeguards designed to inform them of rights in relation to costs, vulnerable by reason of their unequal bargaining position, seriously damages the reputation and standing of the legal profession. It demonstrates a disregard for the important and privileged role that an independent legal profession plays in our society. It needs to be dealt with seriously.

55 We consider that, in relation to the findings of overcharging in relation to the costs matters, there should be an order that the practitioner be suspended from practice for a period of six months, to commence 30 days from publication of these orders. We do not consider that a period of 18 months, as suggested by the Complaints Committee, is necessary in the circumstances of this case. Given that the practitioner has been practising for 30 years, that he has no other convictions and that six months suspension will deprive him of substantial income, we consider that six months suspension adequately meets the objectives of disciplinary penalties.

Pizzata - non-compliance with s 34A of the Legal Practitioners Act 1983 (WA)

56 As was found in the Tribunal's reasons, the failure resulted from a failure to understand the requirements of the section. There was no question of misuse of funds. A reprimand is the appropriate outcome.

D'Agui - failure to comply with Registrar's direction

57 A failure of this kind might ordinarily attract, at least, a substantial fine. In the context of the other matters we have considered in these proceedings, especially having regard to our conclusion that the findings in relation to the costs matters should attract a suspension and having regard to the costs to be paid, we consider that this finding against the practitioner also calls for a reprimand, rather than a fine. The Complaints Committee did not seek any greater penalty in relation to this finding.

Lovett - delay and failure to provide an itemised account

58 The same observations can be made in relation to these findings as we have made in relation to the failure to comply with the Registrar's direction in the D'Agui matter, save that, depending on the particular circumstances, the latter might generally be thought to be more serious. For the same reasons, therefore, the practitioner should be reprimanded in relation to these findings.

Costs

59 The practitioner did not oppose the making of an order that he pay the Complaints Committee's costs fixed at $133,998. That sum is made up of disbursements, principally counsel fees (which have been discounted). We are satisfied that the costs claimed are reasonable, and the order sought by the Complaints Committee should be made.

Orders

1. In relation to VR 35 of 2009, the respondent must pay to the Legal Practice Board of Western Australia a fine in the sum of $2,500 and the practitioner is publically reprimanded.

2. In relation to the findings, in matters VR 37 of 2009, VR 38 of 2009 and VR 39 of 2009 of professional misconduct by entering into the respective costs agreements and charging fees which were grossly excessive, and in relation to the finding in matter VR 36 of 2009 of professional misconduct by charging fees which were grossly excessive, the practitioner is suspended from practice for a period of six months to commence 30 days from the date of these orders.

3. In relation to the finding in matter VR 36 of 2009 of unsatisfactory professional conduct by failing to progress his client's claim, the practitioner is publicly reprimanded.

4. In relation to the finding in matter VR 36 of 2009 of unsatisfactory professional conduct by failing to provide an itemisation of his invoice, the practitioner is publicly reprimanded.

5. In relation to the finding in matter VR 37 of 2009 for failure to comply with s 34A(b) of the *Legal Practitioners Act 1893* (WA) the practitioner is publicly reprimanded.

6. In relation to matter VR 37 of 2009, the practitioner is ordered, pursuant to s 441(c) and s 448 of the *Legal Profession Act 2008* (WA), to pay compensation to Ms Elizabeth Pizzata in the sum of $15,000.

7. In relation to the finding in matter VR 38 of 2009 of unsatisfactory professional conduct by failing to comply with the direction of a Registrar of the Supreme Court, the practitioner is publicly reprimanded.

8. The practitioner is to pay the applicant's costs fixed at $133,998.

I certify that this and the preceding [59] paragraphs comprise the reasons for decision of the State Administrative Tribunal.

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JUSTICE J A CHANEY, PRESIDENT