

Present: **GA Andrée Wiltens**
 Mr FJ Gilu
 Ms S Shah
 Mr D Russet and
 Ms VM Trief (Secretary)

Decision: 23 August 2018

Complaint by Chief Emile Bule against Mr F Laumae

1. The complaint was made on 18 August 2016. Effectively, Chief Bule complains that Mr Laumae has not properly accounted for funds held in trust – Vt 619, 551. He alleges that Mr Laumae has stolen funds that are rightfully his.

2. The funds in question are commissions derived from the sale of Pentecost kava. In May 2002, Mr Bule and the Native Development Foundation ("NDF") sued Mr Melsul and Mr Watas seeking a declaration that commission funds held in a South Pentecost account in their names actually belonged to NDF. The Magistrate hearing the case dismissed that claim.

3. Mr Bule and NDF appealed, successfully to the Supreme Court, in September 2002.

4. Mr Melsul and Mr Watas then took the case to the Court of Appeal, where in May 2005, the Magistrate's earlier decision was re-instated. As part of that litigation, a sum of Vt 619, 551 was paid into Court, pending the outcome of the appeal.

5. Throughout that litigation Mr Laumae acted for Mr Melsul and Mr Watas.

6. It remains unexplained why, after 2005, nothing further transpired until 2015.

7. Mr Laumae advised the Committee that on the oral instructions of his clients, he applied in October 2015 for the funds held in trust to be released to him for disbursement to the parties ~~namely his clients.~~ Justice Saksak acceded to that request; and the funds were released on 21 October 2015.

8. Mr Laumae further advised the Committee that, as a result of almost daily tirades of abuse and threats from Mr Bule, he sought further oral instructions from his client(s) [it is unclear exactly when, but at some stage, Mr Watas died] to the effect that Mr Laumae pay Vt 50,000 each to Mr Bule and Mr Bakon (Mr Bule's "debt collector" according to Mr Laumae). This is difficult to accept – as the funds were only released on 21 October 2015 and yet Mr Bule and Mr Bakon were paid on 23 October 2015!

9. A document (the "authority letter") was prepared by Mr Laumae on 23 October 2015, which was signed by Mr Bule and addressed to Mr Laumae, in these terms:-

"Dear Sir,

Re: AUTHORISATION FOR RELEASE OF PAYMENT IN TRUST

I hereby authorised you to release the following payments from funds release by the Supreme Court to your trust account to the following persons:

(a) **Emile Bule - Vt 50,000**

(b) **Jonathan Bakon - Vt 50,000**

You are to liaise with Eduwar Muelsul in regards balance of the funds.

.....
Emile Bule"

10. As a result, and as recorded in hand-writing by each of them on the document, Mr Bule and Mr Bakon were each paid Vt 50,000 out of the funds released to Mr Laumae's trust account that same day. Incredibly, the balance of the funds are still in Mr Laumae's Trust Account - in August 2018.

11. Mr Bule believes the remainder of the funds are rightfully his. The Committee had to disabuse him of that. The Court of Appeal's decision of 3 May 2005 is final – the funds belong to Mr Melsul and Mr Watas (or his estate).

12. It follows that Mr Bule actually got more than he was entitled to. His complaint of misconduct in the form of theft by Mr Laumae must accordingly be dismissed as unfounded.

13. However the Committee expresses real concerns regarding the following (in no particular order of seriousness):-

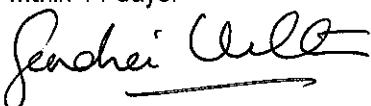
- (i) - Mr Laumae producing the "authority letter" for someone not his client to sign [we note that Mr Laumae admitted that the wording of the letter left a lot to be desired; and also that a non-client cannot authorise him to disburse another's funds].
- (ii) - Mr Laumae not obtaining instructions in writing from his clients in relation to significant matters.
- (iii) - Mr Laumae apparently doing nothing in relation to his client's claim for over 10 years – from 2005 to 2015.
- (iv) - Mr Laumae still not having finalised his client's case - since 2002 until now.
- (v) - Mr Laumae keeping in his trust account significant funds belonging to his client(s) without any reporting to his clients.

14. The Committee has dismissed the complaint, but severely **reprimands** Mr Laumae for the misconduct referred to above in paragraph 13. All of those matters represent extremely poor legal practise.

15. The Committee considers there is unfinished business which needs to be addressed. Accordingly, the Committee further directs that:-

- (i) - Mr Laumae is to report to his client(s), within 14 days, in writing, and with accompanying full financial information explaining exactly to the client what has occurred over the life of this file and enclosing a copy of the relevant trust account history.
- (ii) - Mr Laumae is to copy those reports to the Committee.
- (iii) Mr Laumae is to also request his clients to write to the Committee (care of the Secretary) indicating their satisfaction or otherwise regarding (i) his handling of this matter and (ii) the final outcome of the case, within a further 14 days.

16. Finally, the Committee is of the view that Mr Laumae has brought this complaint upon himself. In those circumstances, he is to pay the costs of the hearing, which we set at Vt 25,000. That is to be paid to Mr Bule within 14 days.



G. A. Andrée Wiltens

Chair, Disciplinary Committee