

Disciplinary Committee Hearing Date: 16 October 2024

Law Council Disciplinary Committee: V.M. Trief, Chairman

C. Mangawai, Member

C. Tavoia, Member

S. Shah, Member

Date of Decision: 25 November 2024

**APPLICATION FOR RE-STATEMENT TO THE REGISTER OF LEGAL
PRACTITIONERS BY MR GEORGE BOAR**

A. Introduction

1. By decision dated 25 November 2019, the Disciplinary Committee (the 'Committee') determined unanimously that Mr George Boar be struck off the Register of Legal Practitioners (the 'Register') forthwith: Boar, Re [2019] VULCDC 7.
2. By his letters dated 5 June 2020 and 18 February 2021 to the Law Council, Mr Boar applied to be re-instated to the Register. This was declined by decision of the Committee dated 17 September 2021: Boar, Re [2021] VULCDC 1.
3. By application dated 7 June 2024, supported by his sworn statement of the same date, Mr Boar applied to be reinstated to the Register. The grounds for the application are his education, employment and church-related activities since his name was struck off the Register, with character references r supplied.
4. Mr Boar followed up his application by letter dated 8 January 2024. By his letters dated 10 April 2024 and 27 August 2024, Mr Boar gave notice of intention to commence proceedings for the Committee's failure to convene and consider his application.

B. Discussion

5. The present Disciplinary Committee was formally appointed on 5 June 2024 and gazetted on 7 June 2024.
6. On 11 September 2024, the Committee held its first meeting. Mr Boar's application was the first matter that the Committee set down for hearing. The earliest the Committee could hear the matter was 16 October 2024. The delay is regrettable.
7. The *Legal Practitioners Act* [CAP. 119] (the 'Act') gives the Disciplinary Committee the jurisdiction to deal with this application, pursuant to subs. 11(1), which provides as follows:

11. (1) *A person against whom an order has been made under section 9(3)(a) may apply to the Disciplinary Committee at any time or times after 6 months have elapsed after the making of the order to have his name restored to the Register of Legal Practitioners.*

8. The reference to section 9(3)(a) of the Act refers to the Disciplinary Committee's power to order that a legal practitioner be struck off the Register.
9. Notice of hearing of Mr Boar's application was published twice in the *Official Gazette* in accordance with rule 35 of the *Legal Practitioners (Disciplinary Procedure) Rules* Order No. 52 of 1985. The Committee did not receive any objections to Mr Boar's application in response to the notice of hearing. Mr Boar mentioned that since no one had objected to his application, his name should be restored to the Register. However, the Committee has the absolute discretion to decide on the matter pursuant to subs. 11(3) of the Act which provides as follows:

11. ...

(3) *The Disciplinary Committee shall have absolute discretion to restore the name of the applicant to the Register of Legal Practitioners, cancel the order, shorten the period of suspension or refuse the application.*

10. No guidance is given by the statute as to what considerations might inform the decision to restore.
11. Mr Boar asserted as a consideration that he had suffered double jeopardy through the proceedings before the Committee. The Committee considered that relevant

considerations included the cause for the striking of, and the steps taken by the legal practitioner post-striking off to rehabilitate, where relevant.

12. As to the first aspect of our consideration, we adopt the Committee's observation in its 17 September 2021 decision as to the 2020-2021 application for restoration Boar, Re [2021] VULCDC 1 at [10].

10. *In this instance, Mr Boar was struck off the Register by reason of blatant dishonesty. He had received slightly over VT 5.4 million in 2009. He failed to account to his client for that sum. As late as May 2019, Mr Boar was arranging for payments in the future to be made to resolve his outstanding financial obligations to his clients. The Committee considered this to be extremely serious conduct.*

(our emphasis)

13. Secondly, was there double jeopardy as asserted by Mr Boar?

14. Mr Boar stated that the proceedings before the Committee could amount to double jeopardy since he was already prosecuted for misappropriation in Criminal Case No. 3533 of 2017 which resulted in a consent order following which he paid VT1.3 million, which he had accepted in order to to move on with his life. He reiterated that he had paid back VT1.3 million to this clients then the Prosecution had agreed to *nolle prosequi* the charges against him. He stated that he did not have any criminal convictions to disqualify him from legal practice and urged the Committee to restore him to the Register.

15. The Committee refers to the following observations in its 25 November 2019 decision at [1]-[2]:

1. *The Law Council became aware of the fact there was a criminal prosecution against Mr Boar, for the offence of misappropriation contrary to section 125(b) of the Penal Code, and referred the case to the Disciplinary Committee.*
2. *The criminal prosecution and this Disciplinary hearing are not duplication, as it is understood that the Public Prosecutor has agreed to nolle prosequi the criminal charges, effectively a complete acquittal. The Committee has no knowledge or understanding as to this outcome, agreed to by the Public Prosecutor. There is in any event no risk of double jeopardy to Mr Boar.*

16. The Committee also notes the observations of the Court of Appeal in Boar v Public Prosecutor [2018] VUCA 27 at [39] as follows:

39. *The fact that there is a complaint against Mr Boar under the Legal Practitioners Act made to the Law Council in relation to his conduct, (full particulars of which were not included in the appeal book) does not expose Mr Boar to "double jeopardy" in a way which entitles him to prevent the present prosecution (if it were otherwise in proper form) from proceeding. They are separate procedures, directed to different ends. There is no inconsistency in them being conducted together. It may be that, in fairness to Mr Boar, the present inquiry by the Law Council might have to be deferred pending the hearing and determination of any proper criminal prosecution but that is a matter for him, and for the Law Council if he applied to defer its inquiry on proper grounds.*

(our emphasis)

17. Despite the observations of the Court of Appeal in its judgment dated 20 July 2018 that a complaint against Mr Boar under the Act to the Law Council in relation to his conduct at the same time as a criminal prosecution proceeding against him does not expose him to double jeopardy, Mr Boar still raised this as a consideration before the Committee.
18. However, there is no double jeopardy to Mr Boar as a criminal prosecution against him is a separate matter from disciplinary proceedings against him in relation to his conduct as a legal practitioner. In the Court of Appeal's words, "*They are separate procedures, directed to different ends. There is no inconsistency in them being conducted together.*" It would be double jeopardy if Mr Boar was prosecuted twice in relation to the same allegations of criminal offending. However, disciplinary proceedings against him in relation to his conduct as a legal practitioner are not criminal proceedings and therefore there is no double jeopardy to Mr Boar.
19. The Committee's answer is, "No, there was no double jeopardy."
20. The Committee also understood Mr Boar's position at the hearing of his present reinstatement application to be that he had paid VT1.3 million to his clients, which ended the prosecution against him, therefore there was no cause for him to answer disciplinary proceedings before the Committee.
21. Mr Boar's position assumes that criminal proceedings and disciplinary proceedings are the same, whereas the former is brought on allegations of breaking the criminal law of the Republic and the latter concerns allegations of misconduct by a legal practitioner. However, they are separate procedures, directed to different ends.
22. Mr Boar's position also assumes that his paying VT1.3 million to his clients was sufficient to end the prosecution against him. This treated the criminal prosecution akin

to a civil case, in that the parties could agree a payment of money to end the case. However, the prosecution against Mr Boar was a criminal case, not a civil case. Criminal Case No. 3353 of 2017 had been brought against Mr Boar on a charge that he had broken the criminal law of the country as to misappropriation. His clients were not party to the criminal case – the only parties to the criminal case were him and the Public Prosecutor.

23. The Public Prosecutor is not subject to the control or interference of any person in his discharge of his functions. The Committee makes no comment as to what may have been his reasons for entering *nolle prosequi* as to the charges against Mr Boar.
24. However, the Committee considers that Mr Boar's position is in effect that a person charged with criminal offending may buy their way out of the criminal case brought against them. That is corrupt behaviour. Further, it is concerning in that it involved a legal practitioner as Mr Boar then was, and more so from an applicant now seeking to be restored to the Register. The Committee therefore observed that Mr Boar had not shown remorse in relation to his conduct as a legal practitioner which resulted in him being struck off from the Register.
25. The third aspect of our consideration are the steps taken by the legal practitioner post-striking off to rehabilitate, where relevant. The Committee noted that Mr Boar had enrolled in several university programs, but had not graduated with any resultant qualification. The Committee also noted that Mr Boar had enrolled in a Master of Laws program however was asking to be restored to the Register so that he can make money as a lawyer to pay for his course fees. He stated that he had withdrawn from the university programs as he could not afford the fees.
26. Mr Boar asserted that reinstatement is necessary to improve his financial standing and to help finance his courses. However, the Committee notes that since Mr Boar's striking off from the Register, he has engaged in various forms of legal work. He has provided consultancy services, conducted legal research, and drafted submissions for a number of legal practitioners including Yawha and Associates, Tee Jay Bee and Associates, Lent Tevi Lawyers, Cornerstone Lawyers, Edward Nalyal and Partners, and Jonah Mesao Lawyers. Additionally, he operates a private consultancy business, 'Melwe Consultancy', and has served as a political appointee to a government Minister. This ongoing professional activity indicates Mr Boar's continued ability to earn an income through various legal and consultancy roles, thereby undermining his argument that

reinstatement is essential for financial reasons. In any event, the Committee does not accept that loss of income is a relevant consideration for an application for reinstatement to the Register.

27. In addition, Mr Boar's educational endeavours post-striking off reveal a pattern of non-completion. He has enrolled in several university programs, including a Master of Laws, but has not attained any qualifications, citing financial constraints as the reason for withdrawal. The lack of completion of these courses could indicate a broader issue of dedication and forward planning, which are pertinent given his previous conduct issues.
28. Mr Boar's involvement in church activities and ministry work, including visiting detainees at the correctional centres and giving out Bibles, along with character references from pastors, are positive contributions to society. However, these activities do not address professional and ethical requirements for reinstatement to the Register.
29. In summary, while Mr Boar's community service efforts and continued professional activity are acknowledged, they do not justify his reinstatement to the Register. His employment history post-striking off and his non-completion of educational courses raise concerns about his suitability for reinstatement.
30. For the reasons given, the application is declined.


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V.M. Trief
Chairman, Disciplinary Committee