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27<sup>th</sup> September 2012

MS AFRANA NISHA  
Secretary  
Independent Legal Services Commission  
Civic Tower - Level 5  
Victoria Parade  
SUVA

(URGENT CORRESPONDENCE)

Dear Madam

1. False and misleading submissions by Applicant: Chief Registrar v K Marawai & R Chaudhry (ILSC 2 of 2012)
2. Request for hearing on sentence before sentencing

I write on the above matter, enclosing submissions in reply to that of the Applicant. These only became necessary after perusing the Applicant's submissions served on the writer this morning. We note that the Commission had said after filing of submissions sentencing would be on notice and we seek to be heard orally on the submissions before sentencing is passed. The reason for this is to address issues raised in the Applicant's submissions and which the Respondents were not given an opportunity to address and which needs to be addressed in the interests of fairness. The writer would like to be heard orally by the Commission on sentencing before sentence and this is a right that he has as an affected person in the current proceedings. The writer notes that in all prior sentencing, the Respondent/s were heard and seek to have the same rule apply in the current instance.

It is noted that the submissions by Applicant was filed after the time ordered by Commissioner Mr Justice Paul Madigan on 12<sup>th</sup> September 2012. This is a breach of

the order of the Commission but the writer will not labour this point as he is more concerned with the substantive issue before the Commission.

More importantly, the submissions by the Applicant on the writer being previously disciplined (at paragraph 17 of its submissions) and as such is not a first offender, are clearly false and malicious and designed to mislead the Commission. If accepted as such, by the Commission, it would prejudice the writer in so far as his sentencing is concerned as it would appear to the Commission that the 2<sup>nd</sup> Respondent was not a first offender to proceedings of this nature. In the reply, this issue is addressed at length given its ramification/s on sentence, if not corrected.

Further, we submit that the Applicant has also misapplied the authorities it has relied on, in its submissions, and as a measure of fairness the writer has taken up this issue in his reply as again it would affect his sentencing.

The writer believes and anticipates that the Commission, in the interests of fairness, would give due consideration to the contents of the submissions in reply, if only for the primary reason of ensuring that it has been properly apprised of the facts as it relates to the Respondents. To this end, the Respondents seek to be heard by the Commission before sentence is passed. This is a right to persons who have appeared before the Commission in the past and we, as affected persons, seek to exercise this right.

Kindly place this communication before Commissioner Mr Justice Paul Madigan at the earliest for his directions.

Yours faithfully



RAJENDRA CHAUDHRY