

IN THE LEGAL PRACTITIONERS DISCIPLINARY TRIBUNAL

ACTION NO. 23 OF 2013

IN THE MATTER OF THE LEGAL PRACTITIONERS ACT, 1981

AND

FADI SEMAAN

1. By complaint dated 17 October 2013, the Legal Practitioners Conduct Board (the Board), now the Legal Profession Conduct Commissioner (the Commissioner), charged the practitioner with one count of unprofessional conduct.
2. From 2006 to 2010, the practitioner was a law student at Flinders University. He completed his Bachelor of Laws and Legal Practice on 15 December 2010. From January 2011 to January 2012, he was employed as an Associate in the High Court of Australia. The practitioner was admitted as a legal practitioner in the Supreme Court of South Australia on 6 February 2012.
3. The Commissioner alleged that on 10 February 2012 the practitioner, in support of an application for employment, proffered to a law firm a falsified academic record, which document he knew was false. The practitioner admitted the facts which formed the basis of this charge and also admitted that his conduct satisfied the definition of unprofessional conduct.
4. As he was completing his employment as an Associate, the practitioner applied for a job at the law firm, Lipman Karas. He was interviewed and provided his resume to that firm on 17 January 2012.
5. On 10 February 2012, to further his application for employment, the practitioner sent an email to Lipman Karas to which he attached his academic transcript, being a document entitled "Transcript of Academic Record" dated 2 February 2012. The practitioner had earlier received his official transcript in an electronic PDF format from Flinders University. Sometime after receiving it (which at the earliest was 2 February 2012) and prior to emailing it to Lipman Karas on 10 February 2012, the practitioner altered it. The most significant alterations included changing his academic results by falsifying his grades for 21 of the subjects said to have been

studied at Flinders University by increasing them generally to distinctions and high distinctions and by representing that he had completed a Bachelor of Commerce when he had not in fact done so.

6. The practitioner gained employment at Lipman Karas and practised as a legal practitioner there for approximately three months. He resigned from his employment and did not renew his practising certificate which expired on 30 June 2012.
7. We have no hesitation in finding that the practitioner's conduct in proffering the false academic transcript to a prospective employer for a position as a legal practitioner was unprofessional conduct. It matters not whether he falsified it shortly before or shortly after he was admitted as a legal practitioner. The gravamen lies in his dishonest use of that falsified transcript to gain employment as a legal practitioner, which occurred only four days after his admission. The practitioner deliberately and knowingly proffered the false transcript to Lipman Karas in his endeavour to gain employment. It was conduct which involved a substantial failure to meet the standard of conduct observed by competent legal practitioners of good repute¹.
8. The act of dishonesty the subject of this charge occurred against the background of a number of other dishonest acts of a similar nature. Those other acts occurred before the practitioner was admitted and therefore could not have been the basis of a charge. The one in 2010 was included in the particulars of the charge as background. The other on 17 January 2012 was acknowledged by the practitioner during the course of his evidence.
9. In 2010, the practitioner made application to the same law firm, Lipman Karas, for a clerkship. At that time, he provided a document which purported to be his academic record, entitled "Unofficial Transcript" dated 18 March 2010. He falsified that document prior to proffering it to the law firm to advance his chances of gaining a clerkship. He increased some of his grades to credits, distinctions and high

¹ This is consistent with the findings concerning conduct of a similar nature (albeit involving a course of conduct) in other jurisdictions eg *Legal Services Commission v PGM (Legal Practice)* [2013] VCAT 827; *Legal Services Commissioner v Spicehandler (Legal Practice)* [2012] VCAT 630; *Legal Ombudsman v Skrekas* [2004] VLPT 18; *Legal Profession of Tasmania v Haque* [2015] TASSC 5

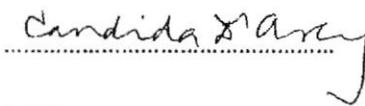
distinctions. He also represented that he had completed subjects when he had not in fact done so. He was not offered a clerkship.

10. On 17 January 2012, following his interview in the morning, the practitioner provided his resume via email to Lipman Karas. The resume was false in regard to his employment history. It stated he had been a Law Clerk at Finlaysons from November 2009 to October 2010, when in fact he had worked a summer clerkship for four to six weeks only from December 2008 to January 2009. Similarly, it stated he had been a Corporate Tax Consultant (part time) with Ernst & Young from February 2008 to November 2009 when in fact he had worked there for four to six weeks only from December 2007 to January 2008. The practitioner gave evidence that he deliberately increased the time span to make it look like he had more work experience.
11. Although much lesser in terms of seriousness but nevertheless consistent with the practitioner dishonestly inflating his academic achievement or work experience, the practitioner gave a false reason to his employer for leaving that employment in about June 2012. He said he was going to the United States to commence a Masters Degree. The practitioner gave evidence that was not true. He went overseas for a holiday for about three weeks.
12. Dr Raeside (for the Commissioner) and Dr Potts (for the practitioner) gave evidence. At the commencement of the hearing, Ms O'Connor SC for the practitioner suggested an adjournment of the matter may be appropriate in order for the practitioner to receive appropriate treatment but indicated it would first be necessary to hear the evidence. Following the evidence, that submission was quite properly abandoned and Ms O'Connor SC on behalf of her client concurred with the Commissioner that this matter should be referred to the Supreme Court.
13. Both Dr Raeside and Dr Potts gave evidence that the practitioner had suffered three episodes of major depression in 2008, 2010 and 2012. The onset of the latter was during the course of employment with Lipman Karas due to stress. In Dr Raeside's opinion, the practitioner was not likely to have been suffering from to any degree from his major depression, if at all, at the time of this conduct. We do not consider there was any causal connection between the practitioner's conduct and his depression. His conduct was deliberate. He knew what he was doing was wrong. It was directed at advancing his career.

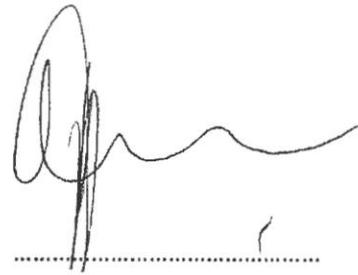
14. A recent disclosure by the practitioner to his legal practitioner was the basis for an application by the practitioner for the hearing to be in private during his evidence and the evidence of Dr Potts. That was not opposed by the Commissioner. We made an order pursuant to section 84A of the Legal Practitioners Act, 1981 for that evidence to be heard in private. We also made an order restricting access to the transcript subject to any application by any member of the public or further order. These reasons are to be considered as a summary of the proceedings for the purpose of s84A(3). The nature of the practitioner's recent disclosure does not appear in this summary because it is considered not to be in the interests of justice for it to so appear. It is a private matter, unrelated to his conduct as a legal practitioner. Neither psychiatrist was yet able to diagnose a personality disorder, although both were of the view that further exploration of the matter recently disclosed may reveal such a condition.
15. The evidence demonstrated that the practitioner is someone who has significant unresolved mental health issues and would benefit from psychotherapy. Despite numerous consultations with Dr Potts, the practitioner has not yet received any therapeutic intervention including medication for his depressive illness.
16. Pursuant to section 82(6)(a)(v) of the Act, we recommend that disciplinary proceedings be commenced against the legal practitioner in the Supreme Court. The practitioner is to pay the Commissioner's costs of the action to be agreed or taxed.



L Chapman SC



C D'Arcy



R Kennett

8 July 2015