



KENYA INSTITUTE OF SUPPLIES MANAGEMENT
BEFORE THE DISCIPLINARY COMMITTEE ESTABLISHED UNDER THE
SUPPLIES PRACTITIONERS MANAGEMENT ACT NO. 17 OF 2007
DISCIPLINARY COMMITTEE CAUSE NO. 001 OF 2021
IN THE MATTER OF THE COMPLAINT BY LUSENO LIYAI AGAINST
GODFREY MONG'ARE OYARO: PRACTISING WITHOUT BEING
PROPERLY LICENSED CONTRARY TO SECTION 20 OF THE SUPPLIES
PRACTITIONERS MANAGEMENT ACT, CAP 537

JUDGMENT

1. This judgment is the decision of the Disciplinary Committee and is issued pursuant to Regulation 43 of the Supplies Practitioners Management (Discipline) Regulations (2015) of the Supplies Practitioners Management Act, Act No. 17 of 2007.
2. The following summary of the facts does not purport to include every single contention put forth by the actors at these proceedings. However, the Committee has thoroughly considered any and all evidence and arguments submitted, even if no specific or detailed reference has been made to those arguments in the following outline of its position and in the ensuing discussion on the merits.

BACKGROUND

3. This Judgment is the decision of the Disciplinary Committee (the DC) and is issued pursuant to Regulation 43 of the Supplies Practitioners Management (Disciplinary) Regulations, 2015 (**Disciplinary Regulations, 2015**).

4. The following summary of the facts does not purport to include every single contention put forth by the actors in these proceedings. However, the Committee has thoroughly considered any and all evidence and arguments submitted, even if no specific or detailed reference has been made to those arguments in the following outline of its position and in the ensuing discussion on the merits.

Factual Background

5. The genesis of the present case is a complaint letter dated 13th April 2021 and addressed to the Chairperson of Kenya Institute of Supplies Management (hereinafter “KISM” or “the Institute”) by one Mr. Luseno Liyai.
6. Mr. Liyai contends that he is a resident of Vihiga County who had become alarmed at the uncovering of what he describes as follows:-
“a lot of wastage and total disregard of the law, especially in the area of procurement department in my beloved County of Vihiga”
7. On that premise, Mr. Liyai sought to establish from the Institute whether the Director of Procurement in Vihiga County, Mr. Godfrey Oyaro was licensed as a Supplies Management Practitioner.
8. The letter was transmitted to the DC in line with its mandate under Section 22 and 23 of the Supplies Practitioners Management Act, 2007 and pursuant to Regulation 3 of the Disciplinary Regulations, 2015 Mr. Liyai was directed to lodge a formal complaint which he did *vide* the Statement of Complaint dated 3rd May, 2021.
9. The Complaint is as set out below:-

Illegal Supplies practice contrary to Section 20 (1) and (6) of Supplies Practitioners Management Act No. 17 of 2007, PPADA Act 2015 Section 47 (1) and Regulation 33 (2) of 2020.

10. In line with Rules of Procedure the Complaint was served upon Mr. Oyaro, the Respondent herein, and after notably a long and inordinate delay, the Respondent, by his letter dated 4th July, 2022 responded and stated that he was a licensed member no. K2256/2021.
11. It is on this account that the DC directed further investigations on the matter.
12. Preliminary Investigations by the Institute would reveal that while the Respondent had indeed applied for a licence in or about March, 2021, it was not approved. The same did not constitute the list of approved licences vide the Registration Committee's Minutes of 5th May, 2021.
13. The findings of the inquiry would also assert that the Respondent had been using the licence Number K2256/2021 falsely as that licence number belonged to another member, a Mr. George Maina Mbuthia.
14. In the circumstances, a hearing was fixed on the 23rd of August, 2022 to avail the parties an opportunity to ventilate and canvass their respective positions.
15. By a letter dated 22nd August, 2022 from a Firm of Advocates, Ndemo Mokaya & Co Advocates, Mr. Mokaya Advocate, confirms receipt of the Complaint by his Client and as strange as it was surprising, asked the DC to stop writing intimidating letters to his Client. **We term that strange as no evidence of intimidation was availed and in any event, the DC does not exercise its powers vested on it by law through intimidation of any like means.**
16. He further requested for rescheduling of the hearing set for the 23rd of August, 2022 to gather more information with a view to filing a substantive response and possibly moving a Court of law for remedy for an unnamed cause.

17. The advocate in the said letter adds that the Respondent was since working with the office of the President implying that he had left the employment of the County Government of Vihiga and was licensee No. No. K2256/2021. It was further asserted that the Respondent had since applied for renewal of the licence vide Mpesa transaction dated 4th July, 2022 but had not been issued with the licence.
18. On the date set for hearing, 23rd August, 2022 the said Advocate for the Respondent, in the absence of the Complainant, who was unable to attend for what he gave as reasons of financial constraints, reiterated the contents of his letter above-said and produced the copy of the licence No. K2256/2021 purportedly issued to the Respondent.
19. The hearing was accordingly stood over and the matter held in abeyance.
20. In view of the issues of public interest in nature arising thereof, the DC considered it prudent to order for further detailed and comprehensive investigations into the matter pursuant and in exercise of powers to carry out special investigations under Section 22 of the SPMA Act and Regulations 10 (4) and 12 of the Disciplinary Regulations, 2015.
21. The DC directed that further investigations be carried out and a preliminary report of the Investigation was produced before the DC in its sitting of 29th November, 2022. The DC admitted the same as part of the record but considered it fitting that further inquiry be carried out on specific heads.
22. Accordingly, the DC took the liberty to frame the specific issues as per the letter dated 6th December, 2022 addressed by the Institute to the Registrar of the Institute by which he was required to provide a detailed report on the following items, *videlicet*:

- a. On the background of how Godfrey Oyaro became a member of the Institute upto the point at which his licence was cancelled and that the same be supported by evidence;
- b. With Proof of written communication to Mr. Oyaro on the status of his licence noting that he had further paid for his 2022 licence;
- c. A detailed background highlighting the provisions of the Registration and Licensing Regulations on cancellation and dating of licences; and
- d. A detailed report on the measures taken towards verification of the licence presented by Godfrey Oyaro since the case was filed at the Committee.

23. A Report on the same has not been forthcoming and in the circumstances, the DC directed that a fresh hearing date be fixed to conclude the matter.

Complainant's Case

24. The Complainant's case is grounded upon the Complaint of Mr. Liyai dated 3rd May, 2021 and the findings of the inquiries directed by the DC.

Respondent's Case

25. As set out above, on the date set for hearing, on 16th July 2024, the Respondent was represented by an advocate, Mr. Mokaya who submitted that the Defence would be relying on the statement of Defence previously filed in the matter. However, it would be established that there was no such response on record as none had been filed.

26. In the circumstances, the Respondent's Counsel prayed for leave to file a Replying Affidavit and supporting documentation in Defence of his client. The Committee deliberated on the matter and directed as follows:

- a. **THAT leave be and is hereby granted to the Respondent to file a Replying Affidavit or Defence as he may deem fit in response**

to the complaint within 14 days of the Order, and the same be filed, on or before 30th July 2024;

- b. THAT the Response do include a detailed response to the Complaint accompanied by all relevant documents including a certified copy of the practising licence held by Mr. Oyaro at the time of the complaint; status of employment to confirm current employer and any documentation to show any transfer(s) or secondment in the time period relevant to this matter;**
- c. THAT the hearing of the case shall proceed on 7 August 2024 before the Committee.**

27. On 7 August 2024, the matter was called out for hearing and there was no appearance by or on behalf of the Respondent. The DC directed that the Respondent be contacted and on being called, he indicated that he had instructed his counsel to appear on his behalf. However, no appearance was made by or on behalf of the Respondent. Further, no document has been filed with the DC to date to respond to the complaint.

28. The only record of any material from the Respondent is the Respondent's letter dated 4th of July, 2022, the Advocates letter of 22nd August, 2022 mentioned heretofore.

29. Accordingly and by powers vested on the DC by Section 23 of the SPMA Act and Rules 18, 29 and 43 of the Disciplinary Regulations, 2015 the DC has elected to consider the matter and issue its determination in order to serve the ends of justice and in fulfilment of its obligations under law.

30. Accordingly, gleaning from the case, the primary issue for determination is the question as to whether the Respondent is a validly licenced member of the Institute and incidental thereto, the DC shall consider the suitable remedy in the circumstances of the case.

A. Determination

31. From the outset, the DC must call out all certain actors for the undue levity exhibited and in particular the Respondent and the office of the Registrar of the Institute whose trifling conduct has been a huge impediment to an expeditious determination of the matter.
32. The DC is a creature of Statute with the force of law and its process carries the full weight of the law. The insouciant attitude and frivolous and casual attitude to the directions of the DC is therefore strongly admonished and cautioned.
33. Be that as it may, the DC has a duty under law and it must dispense with the same in accordance with its mandate and therefore a determination is constrained nonetheless. We find as follows: -
34. The Complaint alleged that Mr. Oyaro was practicing without a valid Licence.
35. Mr. Oyaro responded by his letter of 4th of July 2022 and claimed that he was duly licenced under No. K2256/2021 and his Advocate reiterated these assertions in his letter of 22nd August, 2022 set out hereinabove.
36. As noted heretofore, the investigations into the issue of the Respondent's compliance status and history would return a number of findings constituting the position of the Registration Committee and the Registrar of the Institute.
- a. **The Membership Office/Registrar's office in investigations maintained that Oyaro had never been issued with a licence as he had not complied with application requirements.**
 - b. **Mr. Oyaro had not availed requisite academic certificates and accordingly his application of 31st March, 2021 was pended owing to this shortcoming.**
 - c. **The licence copy availed by Mr. Oyaro was dated 1st January, 2021 while his application for licence is dated 31st March, 2021,**

a copy of which could not be found in his file. The Respondent's file contained an original copy of licence which had been cancelled and further was dated 5th May, 2021 and not 1st January, 2021.

- d. Upon examining the approved licences by the Registration Committee on 5th May, 2021, it was noted the list included cancelled licences however the one for the Respondent was missing.
- e. The authentic and bonafide licence number 2256/2021 belongs to Mr. George Maina Mbutia and not Mr. Oyaró.
- f. The Registration and Licensing Committee of the Institute would insist that Mr. Oyaró's licence had never been approved in its meetings of 14th October, 2021 and 1st December, 2021.

37. On his part, the Respondent through his Counsel, stated that he would be responding to the complaint through a formal response by way of a Replying Affidavit to be filed on or before 30th July 2024. It's therefore on record that the Respondent wished to proceed by way of a formal response and documentary evidence. Neither the Response nor the evidence was tendered and without any reasonable explanation as to the failure or a request for extension of time within which to file his documents, we are compelled to invoke **Rule 29 Subrule 1(A)** and determine this matter in the absence of the Respondent.

38. Rule 29 of the Disciplinary Regulations, 2015 grants the Committee powers and discretion to proceed and make a determination in the absence of a party. It states thus:-

"29. Failure of Parties

(1) Where a party fails to attend or be represented at a hearing of which he has been duly notified, the Committee may—

(a). unless it is satisfied that there is sufficient reason for the absence of the party, hear and determine the application in the absence of that party; or

(b). adjourn the hearing, and may make such orders as to costs as it considers fit.

(2). Before determining an application under paragraph (a)(i) of this regulation, the Committee shall consider any representations made in writing submitted by that party in response to the notice of application and for the purpose of this regulation, the application and any reply shall be treated as representations in writing.

39. We shall accordingly exercise discretion in accordance with Rule 29 of the Disciplinary Regulations, 2015 and take into consideration the Respondent's representations as contained in his letter dated 4th July, 2022 and his Advocates letter dated 22nd August, 2023. We note that these accounts were reiterated by Counsel on 23rd August, 2022 when he appeared before the Committee.

40. Evidence and documentation show that it is common ground that Mr. Oyaro is a registered member of the Institute membership No. 69719. It is further common ground that Mr. Oyaro did make an Application for Licence on or about 31st March, 2021 as per procedure provided. It is the events following this application that are murky, contested, hazy, abstruse and obscure, especially, the license status of the Respondent, Mr. Oyaro.

41. The parties' respective accounts on the contested issue of whether Mr. Oyaro held a valid licence is, on both sides, at best, unproven. At worst, the accounts are falsified as per our due consideration. The parties did not particularly aid their cases and respective positions as information from the Institute's concerned office was sketchy while Mr. Oyaro chose to serve tit bits of evidence and abscond.

42. The Committee must nonetheless labour to separate wheat from chaff and pronounce itself accordingly.
43. Upon Application for licence the Institute's Membership Office contends that the Registration Committee considered the same and declined to issue a License for lack of requisite academic Certificates on the part of the Applicant. The Committee has powers to issue or decline to issue a licence and it cannot be faulted for take one position or the other. In any event, that decision is not subject of review in these proceedings.
44. It is however curious that in different accounts of the Investigations findings, is alleged by the same Institute that Mr. Oyaro's file at the Institute contained an original copy of a Licence which however had been cancelled. That Certificate is however dated 5th May, 2021 and not 1st January, 2021.
45. In this we find grave dearth in truth and lack of candour in light of this prevarication on a matter that ought to have been outright and as clear as day. It is either that the Registration Committee completely declined to issue a Licence or it approved but cancelled at whatever stage either before issuing or after issuing.
46. In either instance, whether complete declinature of issuance of licence or the cancellation, an obligation vests in law upon the relevant administrative body, in this case, the Institute through its said Committee to communicate this position to a party.
47. It was not established in evidence whether the Respondent, Mr. Oyaro, was ever notified of either of these alleged positions by the Institute and in this case, reference to the Institute implies the Registration Committee or persons acting on its authority.

48. This therefore brings us to the first legal issue which we must render ourselves on before we proceed to the rest of matters. **What does the law state on administrative decisions?**

49. We refer to Article 47(1) & (2) of the constitution which provides thus:-

(1) Every person has the right to administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair.

(2) If a right or fundamental freedom of a person has been or is likely to be adversely affected by administrative action, the person has the right to be given written reasons for the action.

50. The Constitutional imperative espoused by this provision is the imposition of a mandatory requirement on administrative bodies to communicate the outcome of their processes to applicants or persons of interest to such decisions.

51. This is the basis of the constitutional principle for fair administrative action. It follows that the same has no exception.

52. The Registrar's responses to inquires issued at the Orders of this Committee did not provide a report or evidence of any such communication of the Registration Committee's decision to Mr. Oyaro. We cannot therefore countenance such decision as they fall short of the Constitutional standards of fair administrative action.

53. The Committee is bound by a duty of fidelity to the rule of law and the principles of natural justice. The Committee therefore must dispense with that duty and in so doing we pay heed to the hackneyed maxim ***fiat Justitia ruat caelum - Let justice be done though the heavens fall.***

54. This Committee cannot countenance the Institute's failure and has a duty to sanction the same. Accordingly, the failure by the Institute to issue

reasons and notice to the respondent for the failure to issue him a licence or reasons for the cancellation constitutes a grave violation of Article 47 and the Respondent's rights under the Fair Administrative Actions Act.

55. Secondly Section 23 of the SPMA Act prescribes the rights to a fair trial for parties appearing before it. It provides in part thus:

“(3) A person whose conduct is the subject of inquiry or disciplinary proceedings shall be afforded a fair opportunity of being heard either in person or by an advocate.

(4) In the discharge of its functions under this Act, the Disciplinary Committee may administer oaths and, subject to any regulations made under this Act, enforce the attendance of persons as witnesses or production of books and documents.

(5) The Disciplinary Committee shall discharge its functions in accordance with principles of fairness without undue regard to technicalities and rules of evidence”.

56. Fair opportunity and the fair trial envisaged under this Section and Article 50 of the Constitution of Kenya entail furnishing of all relevant information that a party is to rely on to the adverse party to enable them prepare their defence of case as is applicable.

57. The above provisions ensure that the conduct of any proceedings before this committee must be done so in accordance with the principle of natural justice, the constitutional standards of fair trial and must be conducted with undue regard to the technicalities and rules of evidence.

58. Article 35 of the Constitution further guarantees the right of access to information.

59. We note with grave concern that the Registration Committee failed to file the report regarding the respondent's compliance status as previously

ordered. We admonish this lapse and seize this opportunity to reiterate the centrality of adherence to the principles of fair administrative action. A party is entitled to access information relevant to their case and to a fair hearing. We emphasize that these rights are fundamental to ensuring just and equitable outcomes in administrative proceedings.

60. The DC discharged its duty under Section 23 (4) of the SPMA Act by ordering and directing the Institute, in this case the Registrar and the Registration Committee to provide a detailed and full account of the issue relating to the licence status of Mr. Oyaro and we find the information supplied to have been inadequate and riddled with inconsistencies.
61. We conclude that the Registration Committee ought to have provided clearer reasons and additional information to support its findings as and when the same was requested and that such failures are deserving of censure and cannot escape the reprimand of this Committee.
62. We must however return to the real issue in controversy, which is whether the Respondent held a valid licence for the year in question.
63. Notwithstanding the conflicting accounts given by the Registration body of the Institute, we also find the accounts of Mr. Oyaro on the issue to be less plausible if at all and his conduct to be preposterous.
64. It must be noted that Mr. Oyaro was equally a reluctant participant in these proceedings and in many instances, the DC had to issue reminders and even place calls to Mr. Oyaro including on hearing dates to remind him to attend either in person or through Counsel. This would be so despite receipt of Summons by the Respondent or his Advocates.
65. The law has always propounded the equitable maxim ***vigilantibus non dormientibus aequitas subvenit*** which translates to “Equity aids the vigilant not the indolent.”

66. It is further an established maxim of law that he who comes to equity must come with clean hands.
67. We have already noted that we are forced to make a determination in the absence of a substantive Response from the Respondent who despite leave, has to date failed to file such response and documents as directed by the Committee. We nevertheless have to make a finding on material available.
68. Mr. Oyaró produced a copy of a Licence dated 1st January, 2021 which he purports was issued by the Institute. The Registration Committee has in findings filed before the Institute disowned that licence and declared that the authentic and bonafide holder of the Licence under Nu K2256/2021 was another member.
69. Mr. Oyaró was however unable to provide an original licence of the copy he purports was issued by the Institute. This is despite directions and requirement by the DC to provide such a Licence.
70. Mr. Oyaró cannot confirm how he obtained the Licence dated 1st of January, 2021 while his Application was made on 31st of March, 2021. He cannot as well and most importantly confirm how he obtained the copy of the licence he claims to hold.
- a. How did he receive this licence.
 - b. Was it send to him via courier and if so, by whom?
 - c. Did he collect it from the Institute and if so. From whom and where is record to show who signed for the collection.
 - d. If by email, where and why could he not produce the email forwarding the Licence to him.
 - e. If he did collect, then he must have collected an original copy. Where is that original licence or a certified copy of the same?

f. What would possibly preclude an innocent person claiming he was issued with a licence he holds to be valid from adducing proof of how he was issued with the same?

71. It is curious Mr. Oyaro could not produce any other document other than a copy of the alleged Licence and an admonitory letter from his Advocates cautioning them and even threatening Court action.

72. This is not conduct consistent with a candid, truthful and honest witness or party. This conduct clearly casts aspersions on the credibility of the witness and the evidence he seeks to rely on.

73. We are constrained to conclude that Mr. Oyaro did not hold a valid, regular and legally issued Licence for the Year 2021. The Licence he holds could likely be a forgery. Whether Mr. Oyaro worked it out alone or with the aid of persons within or without the Institute is yet not clear to us. If so, then both parties must have bound themselves to secrecy and concealed their tracks accordingly.

74. Yet again, this could still be a genuine oversight or mistake in the processes by the concerned parties yet if this were the case, why wouldn't the concerned parties not have stated the same with candour and admit to the anomalies.

75. What is clear is that there is an undisclosed mischief in the entire process. However, a party who comes to Court faced with accusations and refuses to clear himself has nothing to hold onto and that must fall on his indolence and must be the fate of Mr. Oyaro.

76. The records of the Institute availed and in particular, the findings of review of the relevant Minutes of the Registration and Licensing Committee do not show evidence of approval of Mr. Oyaro's licence. Where else would a Licence originate from if not through an irregular means.

77. A more curious observation is that while the case arose on 3rd of May, 2021 and the Complaint was served upon the Respondent shortly thereafter and severally on email and later by a formal letter of 12th January, 2022 and while the Respondent was aware of the issue pending on the validity of his licence for 2021, he purports in his Advocates Letter of 22nd August, 2022 to have paid for a 2022 licence on the 4th of July, 2022.
78. The 4th of July, 2022 is the same date of his letter of Response to the Complaint, almost a year since he was served with the same Complaint.
79. It is clear the 2022 Application, if at all it was made, was deliberate, calculated and a contrived move to preempt the discussions on the 2021 licence. In so doing, he would be pleading his innocence and lack of knowledge or notice of an issue with his 2021 licence if at all.
80. In any event, we cannot speculate as to whether or not such payment was ever made as no evidence was tendered for the payment. In the absence of such evidence of payment the matter remains subject of conjecture and speculation and we cannot make a conclusive finding on the same.
81. Moreover, although the Respondent avers that he applied for a license for the 2022 practicing year and was awaiting processing by the Institute, he has failed to demonstrate that he took any further steps to ensure that his practice status was regular. The Respondent had a personal responsibility to ensure that his practice status was regularized and/or demonstrate that he took steps to do so.
82. Accordingly, we can only arrive at one conclusion that the Respondent has been practising without a licence for the Year 2021 and 2022 and possibly for the year 2023 and current year, 2024.

83. There is no evidence to the contrary and this Committee must reach such a conclusion as there was no evidence in rebuttal. The Advocate by his letter dated 22nd August, 2022 confirms that the Respondent had at the time shifted workplace from the County Government to the Office of the President where it is presumed he works to date.
84. The Respondent was availed an opportunity to present evidence of his employment status and rebut the presumed position that he is still in the practice of supplies chain management but he shunned the same. Accordingly, he has not come out clearly to controvert the Complaint or at all and is therefore presumed to have conceded to the position that he practiced and still practices as a Supplies chain practitioner and in this case, without a doubt, with non licence for the year 2022, 2023 and this current year.
85. This must be true also for the Year 2021 as no evidence was tendered to persuade the Committee that his licence was valid. The inconsistencies raised on the same and his failure to rebut the Complaint would lead to the conclusion of culpability.
86. Engaging in the practice of a Supplies practitioner without a valid license or failing to maintain membership constitutes professional misconduct. The Respondent's actions in practicing without a licence in the year 2021 and continuing to practice without a valid license for the subsequent period fall squarely within this breach of his professional obligations and duties. This is a contravention of Section 20 (1) and (6) of the SPMA Act.
87. However, this Committee's jurisdiction is limited to matters of professional misconduct and it must restrict itself to findings and pronouncements on such. Section 23 (d) (xiv) as read with Regulation 38 of the Supplies Practitioners Management (Registration and Licensing) Regulations, 2015 and Standard 3.6 of KISM Code of Ethics and Standards

of Professional Conduct No. 1 of 2020 prohibits practice without a valid registration Certificate and licence and contravention thereof constitutes professional misconduct.

88. Accordingly, the Respondent is found guilty of professional misconduct in particular for the following: -

- a. Practising without a valid licence for the year 2021.
- b. Practising without a valid license for the year 2022.
- c. Practising without a valid Licence and registration Certificate for the year 2023.
- d. Practising without a valid Licence and registration Certificate for the year 2024.

89. A fact not expressly denied is deemed to have been conceded and/or admitted in law and this Committee is bound by the rules of procedure and law. The Committee must remain within the said confines.

90. The DC's statutory mandate under Section 22 of the SPMA Act and Rules 9 (4), 10 (4) and 12 (3) of the Disciplinary Regulations 2015 permit the DC to cause an inquiry of a broad nature into allegations of violations and by dint of these powers the DC has authority to interrogate the Respondent's compliance for the period subsequent to the year under question.

91. We also, as already stated, find serious fault on the part of the Institute's Registration Committee for failing to furnish the Respondent or notify him of the reasons for their decision in respect of his Application for licence for the year 2021 in accordance with the principles of natural justice and fair administrative actions. Verily, this must have a bearing on the sanctions or final orders that the Committee will consider at the tail end of this Judgment.

92. We cannot however address ourselves to the purported Application for Licence of 2022 as that claim was not substantiated. No evidence was

provided that such an application was made and we cannot therefore censure the Institute on mere speculation.

93. Likewise, the DC did also call out the Respondent for failing to file a Response even after being granted extension of time to comply. We are alive to **Regulation 18 of the Disciplinary Regulations, 2015** which provide thus: -

Where the Respondent fails to respond to a Complaint as specified under Regulation 13:-

- a. **The hearing may proceed in his or her absence; and**
- b. **He or she commits professional misconduct.**

94. Unlike a question of fact over which parties are the true custodians, a Tribunal being a guardian of the law, could not turn a blind eye to a question of law necessarily emerging from the facts and evidence presented by the parties in case committed to the Tribunal for determination.

95. In the premises, we are inclined to find that the import of Regulation 18 above is that a Respondent who fails to file a Statement of Response opens themselves to liability of the nature of professional misconduct. Accordingly, we find the Respondent also guilty of professional misconduct under Regulation 18.

96. The DC must now in conclusion determine then what Orders are fair, just and proportionate in the circumstances of this case: -

97. Section 23 of the SPMA Act and Regulation 42 of the Disciplinary, Regulations prescribe the sanctions that the Committee may issue on a finding of guilty but without prejudice to any other Orders that the Committee may find just and fair to mete.

98. In exercise of its mandate under Sections 23 of the Supplies Practitioner's Management act, Act No. 17 of 2007 and Rule 42 & 43 of the Supplies practitioner's management rules this committee hereby orders as follows:

- a. **The Respondent is guilty of professional misconduct for practicing without valid licences for the Years 2021, 2022, 2023 and 2024.**
- b. **The DC fines the Respondent a sum of Kshs. 60,000/= being a fine of Kshs. 20,000/= for each year of default but excluding the Year 2021 for which the Committee determines must be excluded owing to the violations on the part of the Institute in failing to give notice and giving reasons for its decision.**
- c. **The Institute is directed to bring to the notice of the Respondent's employer this Judgment and cause a notice to issue in terms of Section 32 of the Supplies Practitioners Management Act.**
- d. **The Respondent is prohibited from supplies chain practice until as at when he shall have complied with the requirement for licensing and renewal of membership as appropriate.**
- e. **The Registration Committee is hereby directed to consider any pending Applications by the Respondent and notify the Respondent of the outcome thereof, whichever it may be, but in the event of declination, give reasons in writing for the same.**
- f. **Parties are at liberty to apply**


It is so ordered.

Pursuant to the authority granted under Rule 29(3) of the Supplies Practitioners Management Rules, 2007, the parties are hereby informed of their right to appeal this decision. Any party aggrieved by this decision may exercise this right within the statutory period prescribed by law.

DATED AND DELIVERED AT NAIROBI THIS 13TH DAY OF SEPTEMBER
2024.

.....
CM. MARYANNE KARANJA

CHAIRPERSON



.....
KENNEDY ARIEMBI
MEMBER



.....
JUDITH CHIMAU ADVOCATE
MEMBER

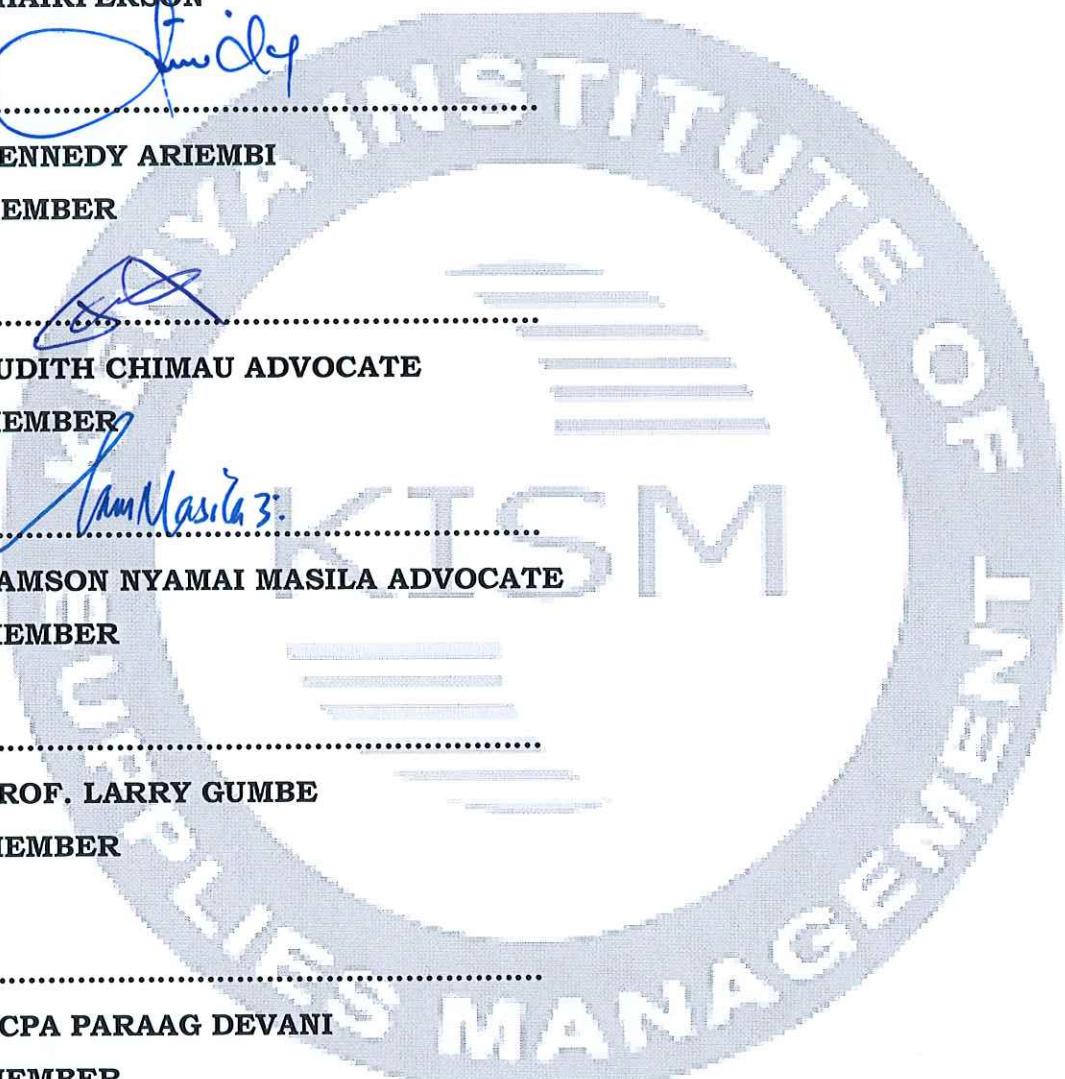


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SAMSON NYAMAI MASILA ADVOCATE
MEMBER

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PROF. LARRY GUMBE
MEMBER

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FCCA PARAAG DEVANI
MEMBER

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THOMAS OTIENO
MEMBER



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EVANCE ONGATI

MEMBER

