

**BETWEEN:** JOSIAH KUATPEN  
First Appellant

**AND:** ATTORNEY GENERAL  
Second Appellant

**AND:** AUGUST LETLET  
First Respondent

**AND:** RESERVE BANK OF VANUATU  
Second Respondent

**Date of Hearing:** 2 February 2026

**Before:** Hon Chief Justice Vincent Lunabek  
Hon Justice Mark O'Regan  
Hon Justice Michael Wigney  
Hon Justice Oliver A. Saksak  
Hon Justice Dudley Aru  
Hon Justice Viran M. Trief  
Hon Justice Maree MacKenzie

**Counsel:** Mr S. Aron for the Appellants  
Mr G. M. Blake for the Respondents

**Date of Decision:** 13 February 2026

---

## JUDGMENT OF THE COURT

---

### Appeal and Cross-Appeal

1. This is an appeal against a decision of the Supreme Court delivered on 31 October 2025 dealing with an application by the first respondent, August Letlet of certain decisions made by the first appellant, Josiah Kuatpen (*Letlet v Kuatpen* [2025] VUSC 301). Mr Letlet's application succeeded and Mr Kuatpen's decisions were quashed. Mr Letlet sought indemnity costs but in a separate judgment the primary Judge refused to award indemnity costs (*Letlet v Kuatpen* [2025] VUSC 322). Mr Letlet cross-appeals against the decision refusing to award indemnity costs.



## **Background**

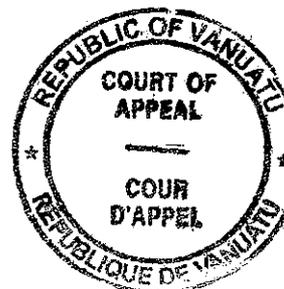
2. Mr Kuatpen, was, at the time of the events leading to this litigation, the Director of the Vanuatu Financial Intelligence Unit (VFIU), a unit established within the Office of the Attorney-General under s 4 of the Anti-Money Laundering and Counter-Terrorism Financing Act 2014 (AML Act). The VFIU is the agency responsible for the measures against money laundering and the financing of terrorism in the AML Act and the Anti-Money Laundering and Counter-Terrorism Financing Regulations 2014 (AML Regs). Section 5 of the AML Act sets out the functions and powers of the VFIU. 18 separate powers are listed, the 18<sup>th</sup> of which is: "to register reporting entities and screen officers and beneficial owners of reporting entities".
3. Mr Letlet was appointed to the office of Governor of the Reserve Bank of Vanuatu (RBV) by the then Prime Minister of Vanuatu on 15 September 2023. The RBV is a reporting entity under s 2(a) of the AML Act and a registered reporting entity under s 9 of the AML Act. Mr Letlet's appointment was made in accordance with s 8A of the Reserve Bank of Vanuatu Act [CAP 125]. There were attempts to stop Mr Letlet from taking up the position but a consent order made on 22 April 2024 in judicial review proceedings in which Mr Letlet had challenged those attempts declared the purported revocation of Mr Letlet's appointment unlawful and quashed the decision to revoke Mr Letlet's appointment.
4. On the same day, 22 April 2024, Mr Kuatpen wrote to Mr Letlet advising that Mr Kuatpen (effectively the VFIU) had found that Mr Letlet was not a "fit and proper person" in accordance with the AML Act. We will call this letter the 22 April letter. A letter in similar terms was sent to the RBV on the same day. The "finding" in the 22 April letter meant Mr Letlet's position was again in jeopardy because if an officer of a reporting entity is not a fit and proper person, he or she will be a disqualified person and subject to removal from office.
5. The 22 April letter coincided with the consent order mentioned above. So, Mr Letlet was faced with a new challenge to his position on the same day that the earlier challenge had ended.
6. The 22 April letter set out eight matters which the VFIU considered to support a decision that Mr Letlet was not a fit and proper person. In order to get the necessary context to understand those matters, it is necessary to interrupt this factual narrative and set out the relevant statutory provisions.

## **Relevant provisions of the AML Act**

7. Sections 50I and 50J of the AML Act provide as follows:

***50I Power to remove a director, manager, secretary or other officer of a reporting entity***

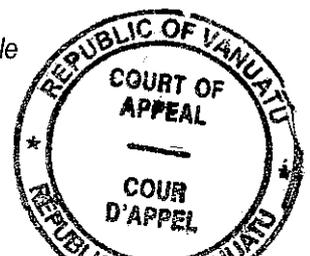
- (1) *The Director may in writing direct a reporting entity to remove a person who is a director, manager, secretary or other officer of the reporting entity if the Director is satisfied that the person is a disqualified person within the meaning of section 50J.*



- (2) *Before issuing a direction, the Director must give to the reporting entity a written notice requiring the reporting entity and the person proposed to be removed to make submissions to the Director on the matter within a reasonable period specified in the notice.*
- (3) *The Director must review any submission received and decide whether or not to issue the direction.*
- (4) *A direction takes effect on the day specified in the direction, which must be at least 7 days after it is made.*
- (5) *If the Director directs a reporting entity to remove a person, the Director must give a copy of the direction to the person removed.*
- (6) *If a reporting entity fails to comply with a direction, the reporting entity commits an offence punishable upon conviction by:*
  - (a) *in the case of an individual — a fine not exceeding VT 25 million or imprisonment for a term not exceeding 15 years, or both; or*
  - (b) *in the case of a body corporate — a fine not exceeding VT 125 million.*

**50J Disqualified person**

- (1) *A person is a disqualified person if, at any time, the person:*
  - (a) *has been convicted of an offence under this Act; or*
  - (b) *has been a director or directly concerned in the management of a reporting entity in Vanuatu or any other country which has had its licence revoked or has been wound up by the Court; or*
  - (c) *has been convicted by a court for an offence involving dishonesty; or*
  - (d) *is or becomes bankrupt; or*
  - (e) *has applied to take the benefit of a law for the relief of bankrupt or insolvent debtors; or*
  - (f) *has compounded with his or her creditors; or*
  - (g) *is listed on a United Nations financial sanctions list, a financial sanctions list under the United Nations Financial Sanctions Act No. 6 of 2017 or a financial sanctions list under the law of any jurisdiction; or*
  - (h) *does not meet any other fit and proper criteria prescribed by the Regulations.*
- (2) *A disqualified person must not act or continue to act as a director, manager, secretary or other officer of any reporting entity unless the Director gives his or her written approval for the person to do so.*
- (3) *If a person contravenes subsection (2), the person commits an offence punishable upon conviction by:*



- (a) *in the case of an individual — a fine not exceeding VT 15 million or imprisonment for a term not exceeding 5 years, or both; or*
- (b) *in the case of a body corporate — a fine not exceeding VT 75 million.*

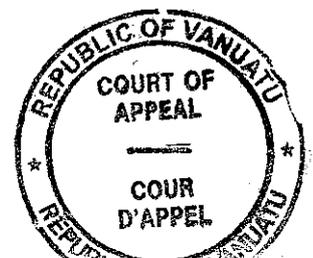
**Relevant provisions of the AML Regs**

8. The AML Regs are made under s 53 of the AML Act, which includes a power for the relevant Minister to make regulations not inconsistent with the AML Act for or with respect to any matter that is required or permitted by the AML Act to be prescribed. Regulation 15B of the AML Regs (as amended in 2015) provides as follows:

***15B Prescribed criteria for fitness and suitability***

*For the purposes of paragraphs 9(4)(c) and 9(5)(b) and paragraph 50J(1)(h), the following are the fit and proper criteria:*

- (a) *whether the person has been convicted of any criminal offence particularly dishonesty, fraud, financial crime or offence against legislation relating to banking, financial services, legal person, legal arrangement, insurance and high value property and fund management; and*
- (aa) *whether the person is listed on a United nations financial sanctions list, a financial sanctions list under the United Nations Financial Sanctions Act No. 6 of 2017 or a financial sanctions list under the law of any jurisdiction; and*
- (b) *whether the person is or has been the subject of any proceedings of a disciplinary or criminal nature, or has been notified of any potential proceedings or of any investigation which might lead to those proceedings; and*
- (c) *whether the person has been dismissed, or asked to resign and resigned, from employment or from a position trust, fiduciary appointment or similar; and*
- (d) *whether the person has ever been disqualified from acting as a director or disqualified from acting in any managerial position; and*
- (e) *whether, in the past 10 years, the person has been honest and truthful in all his dealings with any regulatory body and whether the person demonstrates a readiness and willingness to comply with the requirements and standards of the Vanuatu Financial Intelligence Unit and with other legal, regulatory and professional requirements and standards; and*
- (f) *whether the person has contravened any of the requirements and standards of the Vanuatu Financial Intelligence Unit or equivalent standards or requirements of other regulatory authorities, professional bodies, or government bodies or agencies; and*

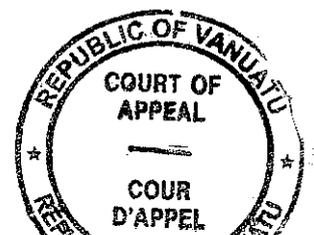


- (g) *whether the person has actual or potential conflicts of interest that are likely to influence their ability to carry out their role and functions with appropriate probity and competence; and*
- (h) *whether the person has adequate experience and demonstrated competence and integrity in the conduct of business duties; and*
- (i) *whether the person is of bad repute with the financial and business community.*

### **Points to note about the AML Act and AML Regs**

9. The references to "*paragraphs*" in the introductory words of reg 15B must be read as referring to sections of the AML Act.
10. Section 50J(2) and (3) of the AML Act potentially expose a person to criminal liability for having a status determined by extremely broad and open-textured language in s 50I and reg 15B. However, a conviction under s 50J(2) could not be entered unless the trial court were to find that the person concerned was a disqualified person. The fact the VFIU or its director thinks a person is a disqualified person would not be determinative; it would be for the Court itself to make up its own mind about whether the person concerned was, in fact, a disqualified person. There has been no prosecution in the present context so these provisions are not engaged in the present case.
11. The broad wording of s 50J and reg 15B is such that some care is required in the interpretation of these provisions to avoid regulatory overreach and unnecessary interference with the rights of the person under question. Section 8 of the Interpretation Act [CAP 132] provides that an Act shall be considered remedial and receive such interpretation as best ensures the attainment of the object of the Act. The AML Act long title says one of its objects is to give effect to anti-money laundering and counter-terrorism financing measures. As the body charged with the administration of the AML Act, the VFIU needs to ensure it has a clear focus on that purpose. The breadth of the eight matters raised in the 22 April letter (set out below) and the apparent irrelevance of a number of them to money laundering or terrorism financing indicates that the VFIU does not currently have that focus.
12. Section 50I(1) of the AML Act requires the VFIU or its director to undertake two exercises. The first is to determine whether he is satisfied that the person concerned is a disqualified person under s 50J. The second is to exercise a discretion as to whether to make a direction to the relevant reporting entity to remove the person from office. However, even if the director does not make such a direction, a finding that a person is a disqualified person may bring into play s 50J(2), potentially exposing the person to severe criminal sanction if he or she does not resign.
13. In *Kuatpen v Lal*, this Court said at [17]:

*"We comment as a general proposition that the power that the VFIU has under the Act to declare someone not a fit and proper person is an unusual and arguably draconian power."*



We reiterate that comment. In view of the number of cases in which the power has been found to have been exercised unlawfully, we suggest that some consideration should be given to tightening the wording of reg 15B to avoid the repeated mishaps that have arisen from the VFIU's overreach in the exercise of the power, which have had far-reaching consequences for the parties against whom the power has been unlawfully exercised.

### **Background continued**

14. We return now to the 22 April letter. After setting out the eight matters said to support the Mr Kuatpen's findings, the letter continued:

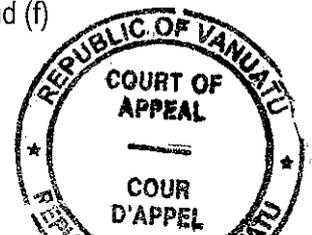
*"As such, I reiterate that I do not find you as being a Fit and Proper person in accordance with the Anti-Money Laundering and Counter-Terrorism Financing Fit and Proper criteria.*

*Pursuant to subsection 50I(2) [of the AML Act] you are given 7 days' notice to make submissions in relation to the above findings of the fit and proper review.*

*Should you fail to comply I will be required to direct RBV, via its designated authority, to remove you as the Governor."*

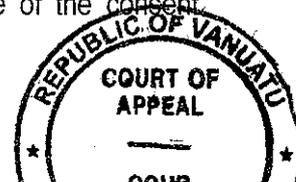
15. It should be noted that the use of the term "find" and "findings" record that Mr Kuatpen has made a decision. This is significant, given the natural justice requirements applying to decisions in relation to disqualified persons, as we will discuss below.
16. We set out below the eight matters raised in the 22 April letter. Some are not readily understandable without some background about the matters mentioned, but we set them out to illustrate their generality and vagueness and the absence of any indication of how the matters indicated any risk of money laundering. Mr Letlet's lawyer's response to the 22 April letter highlighted the difficulty in responding to such vague allegations and refuted them. The eight matters were:

- a) Mr Letlet had a criminal case registered with the Office of the Public Prosecutor (OPP) and 4 complainants registered with the Office of the Ombudsman (OMB) one of which, was an insider trading case bearing registration number "ref. 5353/OMB20/0036" in relation to potentially fraudulent dealings with the RBV. This was said to be contrary to reg 15B(b) of the AML Regs.
- b) Mr Letlet was implicated, as the then Director General of the Ministry of Finance, in the Final Report of the Commission of Inquiry to Ambae Road Projects Fund 1 Billion Vatu, pursuant to recommendation 4.6 (a), for neglecting his responsibilities as outlined under s 34B of the Public Finance and Economic Management Act [Cap 244]. This was said to be contrary to reg 15B(e) and (f) of the AML Regs.



- c) In answering the AML & CTF Fit and Proper Declaration of a Key Person form, Mr Letlet provided false and misleading information under question 6 denying the above proceedings and implication in the said Commission of Inquiry report. Mr Letlet also provided misleading responses to question 7 in terms of explaining his resignation from the role of chairman of the RBV Board. These occurrences were said to be contrary to reg 15B(e) and (f) of the AML Regs.
- d) Mr Letlet was removed as RBV Board Chairman and Director in 2020. The removal resulted from the fact that Mr Letlet was occupying Chairmanship of two boards at that time and was the representative of the Ministry of Finance and Economic Management on the RBV Board which greatly exposed the RBV as the Monetary Policy institution to political influence and potential conflict which has led to the insider trading case as stated in point b) above. This removal was said to bring into question Mr Letlet's competency and was contrary to reg 15B(c) and (d) of the AML Regs.
- e) Preliminary screening of the shortlisted candidates for the Governor position showed that Mr Letlet had past and current cases registered with the OPP and the OMB. The political influence in the recruitment process was apparent and would expose the RBV to potential conflict of interest in the exercise of regulatory duties. Mr Letlet failed to declare said potential conflicts of interest. This was said to be contrary to reg 15B(g) of the AML Regs.
- f) The Civil Appeal Case No. 23/1096 (*Mera v Vanuatu National Provident Fund* [2023] VUCA 48) confirmed that Mr Letlet did not demonstrate a readiness and willingness to comply with the requirements and standards of the VFIU and with other legal, regulatory and professional requirements and standards. This was said to be contrary to reg 15B(e) of the AML Regs.
- g) The appointment of Mr Paul Kaun as General Manager of VNPF made on 8 November 2023 (when Mr Letlet was chairman of the VNPF) was contrary to s 8(1) of the VNPF Act [Cap 189] which required the Minister's approval. In addition, the appointment was made regardless of RBV's findings that the said person is not fit and proper. Mr Letlet's actions, as Board Chairman were said to be in breach of regs 15B(e) and (f) of the AML Regs.
- h) Mr Letlet's appointment as the incoming Governor of the RBV was questioned by concerned relevant industry stakeholders within the business community. This was said to be contrary to reg 15B(i) of the AML Regs.

17. The 22 April letter was served on Mr Letlet contemporaneously with the service of the consent.

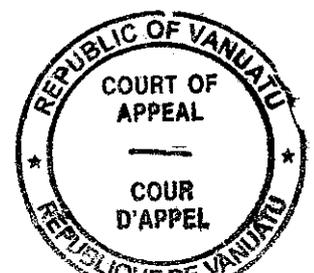


judgment referred to earlier. The trial Judge observed that the concurrence of the delivery of these two letters was unlikely to have been a coincidence.

18. Mr Letlet's lawyer wrote to Mr Kuatpen on 23 April 2024 seeking more details about the eight matters concerned and asking for more time to respond. On 30 April 2024, more information was provided, but there was still considerable doubt about the content of the eight matters raised in the 22 April letter. An extension was eventually granted and a detailed reply rebutting the eight matters was sent by Mr Letlet's lawyer to Mr Kuatpen on 9 May 2024.
19. However, this response did not lead to any change of view on the part of Mr Kuatpen. On 4 June 2024 Mr Kuatpen wrote to Mr Kensen Seri, the Compliance Officer of the RBV. We will call this the 4 June letter. In that letter he said he had considered Mr Letlet's responses to the allegations made in the 22 April letter, but was satisfied that Mr Letlet had failed to satisfy the criteria set out in reg 15B(b), (c), (d), (e), (f) and (g) and did not meet the prescribed fit and proper criteria. Accordingly, Mr Kuatpen then informed Mr Seri that Mr Letlet was a disqualified person within the meaning of s 50J of the AML Act and directed the RBV to remove Mr Letlet as Governor of the RBV under s 50I of the AML Act. The RBV was given eight days to give effect to this removal order.

### **Supreme Court Judgment**

20. Mr Letlet brought judicial review proceedings challenging the decision set out in the 4 June letter. The primary Judge upheld his challenge and quashed the decision.
21. The Judge was unimpressed with Mr Kuatpen as a witness. The Judge noted that, because Mr Kuatpen had made no inquiry, he was unaware that the allegation of assault against Mr Letlet had been withdrawn and no charges had been laid in relation to the insider trading allegation. The Judge was critical of Mr Kuatpen's assertion that he was a mere receiver of information, not a fact finder. (We interpolate that it is hard to reconcile that claim with the 22 April letter where Mr Kuatpen made "findings", before he had received any comment from Mr Letlet). The Judge was also critical of other aspects of Mr Kuatpen's evidence. For example, Mr Kuatpen's assertions that if a person was involved in civil proceedings, that meant there was something wrong and if a report is given to the Office of the Public Prosecutor, that amounts to a registered case and means there are criminal proceedings on foot.
22. The Judge noted that in a sworn statement dated 15 January 2024 in a different, but related case, Mr Kuatpen had concluded that Mr Letlet was not a fit and proper person. The Judge considered Mr Kuatpen's consideration of the responses made by Mr Letlet's lawyer to the allegations in the 22 April

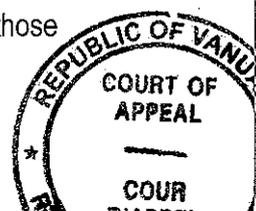


letter was such that Mr Letlet *"paid no more than lip service to the process and did not, in fact, consider the representations at all, because his mind was already made up"*.

23. Mr Kuatpen and the Attorney-General now appeal against the Supreme Court decision to quash their decision to direct the RBV to remove Mr Letlet as Governor. Mr Letlet cross-appeals against the primary Judge's decision not to award indemnity costs.

### The Appeal

24. Counsel for the appellants filed detailed written submissions setting out five grounds of appeal. But at the hearing of the appeal, Mr Aron, who appeared for the appellants, restricted the scope of the appeal.
25. The first ground pursued by Mr Aron was a complaint that the primary Judge failed to make a finding that some of the VFIU's allegations supporting its conclusion that Mr Letlet did not meet the fit and proper criteria were made out. That complaint needs to be considered in context. The primary Judge concluded that Mr Kuatpen had already reached a view that Mr Letlet failed to meet the fit and proper person criteria when he sent the 22 April letter, so that the process that followed, including the making of detailed submissions, did not meet the natural justice requirements in s 50I(2).
26. That finding as to the failure of the process to meet those natural justice requirements was fatal to the appellants' case in the Supreme Court. In those circumstances, it is hard to see why the Judge needed to go on to consider whether any of the criteria were made out, given that the grounds for judicial review had already been established.
27. The primary Judge did, however, observe that the explanations given by Mr Letlet *"were sufficient to suggest [Mr Letlet] was correct [in disagreeing with the VFIU's view that he did not meet the fit and proper person criteria]. We note, however, that the Judge prefaced that statement with the following: "While the view formed by the Court is of little relevance if any in that regard"*.
28. Mr Aron said the Judge's conclusion that Mr Kuatpen had already made up his mind that Mr Letlet did not meet the fit and proper person criteria at the time the 22 April letter was sent improperly relied in part on the sworn statement of 15 January 2024 in a different but related case. He argued that it was inappropriate for the Judge to rely on that statement as it was not in evidence. Counsel for Mr Letlet, Mr Blake, said the statement was in fact the subject of cross-examination, although it does not appear to have been an exhibit. We do not think we need to engage with this because in our view it is clear from the terms of the 22 April letter itself that Mr Kuatpen already had a fixed view that Mr Letlet did not meet the fit and proper person criteria and the fact that the very detailed and cogent submissions made by Mr Letlet's lawyer had absolutely no impact on the VFIU's views appears to give weight to that conclusion.
29. The 22 April letter makes it clear that Mr Kuatpen has made a finding that Mr Letlet does not meet the fit and proper person criteria. Although the next sentence of the letter invites submissions, those

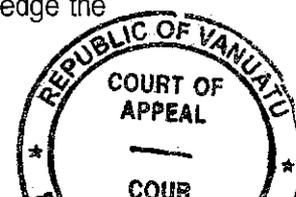


submissions are made against the finding that has already been made.

30. It is clear from the text of the 4 June letter that Mr Kuatpen did not understand that, under s 50l(1), he had a discretion to exercise if he was satisfied Mr Letlet was a disqualified person, being the discretion whether or not to require the RBV to remove Mr Letlet from office. He seems to have assumed that if he was satisfied Mr Letlet was a disqualified person, the requirement to remove him from office automatically followed (that is, that he was bound to require Mr Letlet's removal if he was satisfied Mr Letlet was a disqualified person). That indicates that Mr Kuatpen did not apply his mind to the discretion in relation to the removal requirement at all, which in turn indicates a misunderstanding of his powers under s 50l(1).
31. We conclude that the primary Judge was correct that the outcome of the VFIU investigation was predetermined and that the natural justice requirements of s 50l(2) were not met. In coming to that conclusion, we do not give any weight to the 15 January 2024 sworn statement of Mr Kuatpen in the related proceedings (indeed, it was not before us). We consider that conclusion be reached by reading the 22 April letter itself.
32. That being the case, there is no error in the Supreme Court judgment to correct, and no necessity for us to engage with the specific allegations made by Mr Kuatpen against Mr Letlet.
33. In addition, we conclude that Mr Kuatpen's exercise of power under s 50l was undertaken on a flawed basis, because he did not address his mind to the discretion in relation to requiring Mr Letlet's removal from office at all. That is another reason why Mr Kuatpen's decision was correctly quashed by the primary Judge.
34. We therefore dismiss the appeal.

### **Suggestion for the future**

35. In order to give proper effect to the natural justice requirements of s 50(2) (as already explained by this Court in *Kuatpen v Lal* (noted above at [13]), Mr Kuatpen should have set out in the 22 April letter the matters of concern that had been raised with the VFIU, containing much greater detail than appeared in the 22 April letter itself. For example, it was pointless to simply refer to there being matters with the OPP and the Ombudsman, without telling Mr Letlet what they were and why they were relevant to an AML Act inquiry. Mr Kuatpen should have explained in the letter why the matters raised were considered by the VFIU to increase the risk of money laundering activity occurring.
36. Having set out the matters of concern, Mr Kuatpen should then have said that the VFIU was seeking submissions from Mr Letlet about these matters so that it could evaluate them before coming to a conclusion about Mr Letlet's compliance with the fit and proper person criteria. Sufficient time should be given for such submission; the period will be dependent on the nature and number of allegations, but clearly seven days was unreasonably short in the present context (though we acknowledge the

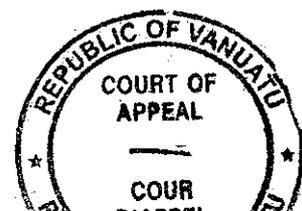


VFIU eventually extended this period). If more information is reasonably sought by the person under review, this should be provided promptly and if necessary, the response time should be extended.

37. The submissions sought by the VFIU should have been both as to whether the VFIU should conclude that Mr Letlet was a disqualified person and, if so, whether it should exercise its discretion under s 50I(1) to require his removal from office. That would better reflect the two-stage nature of the s 50I(1) exercise which seems to have been misunderstood by the VFIU in this case. Throughout the process, the VFIU should have a firm focus on its purpose of reducing the risk of money laundering and the significance to the person under review of the exercise being undertaken (given that the exercise of the discretion adversely to the person would see that person not only lose his or her job, but also be prevented from working in other reporting entities).

### **Cross-Appeal: costs in the Supreme Court**

38. The primary Judge declined to award indemnity costs, as sought by Mr Letlet. He noted that the respondents had to answer the application made by the appellant and the respondents had not conducted the proceedings in any way that prolonged them unnecessarily.
39. Mr Blake particularly took issue with the Judge's observation that the appellants had to answer the claim. He said the claim was so hopeless that it should not have been defended at all. He relied on the earlier decisions of this Court and the Supreme Court in which the conduct of the VFIU had found to be contrary to the statutory requirements. In particular he noted the comment made by the Chief Justice in *IFTC Ltd v Garae* [2025] VUSC 95 at [70] that "*This is another example of the FIU having made decisions that were arbitrary, capricious, done in bad faith, and unreasonable*". In *Voccor v Garae* [2025] VUSC 202 at [45] the Chief Justice noted "*This case shows that the [FIU] has not listened, not inquired and relied on unproven, untested and mistaken information to remove the claimant, Ms Voccor, from career employment. "Incorrigible" can be added to the list of FIU's unreasonable behaviour*".
40. We accept that indemnity costs are available against a defendant that runs or continues to run a meritless defence. See for example *Fountain Selected Meats (Sales) Pty Ltd v International Produce Merchants Pty Ltd* [1988] FCA 85. Indemnity costs were awarded against the VFIU in a similar case in *Lal v Kuatpen* [2024] VUSC 350. We consider that the appellants pursued their defence to the Supreme Court claim unreasonably, given the clear message given to the VFIU in the cases just mentioned as well as the decisions of this Court in *Kuatpen v Lal* (noted above at [13] and [35]) and *Garae v Voccor* [2025] VUCA 42. The guidance given by this Court in *Kuatpen v Lal* about the natural justice requirements of s 50I(2) is particularly relevant in that regard.
41. The matters just mentioned were not considered by the primary Judge in his costs decision. We are satisfied that this led him into error in relation to costs. We therefore allow the cross-appeal and quash the order he made awarding standard costs. We substitute an award of indemnity costs in favour of Mr Letlet for the Supreme court proceeding.



### Costs in this Appeal

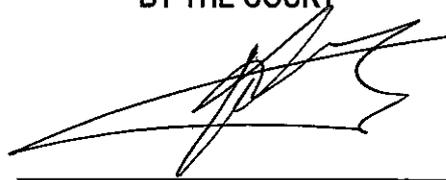
42. In light of that conclusion, it will be no surprise that we consider that the argument for indemnity costs in relation to the present appeal is irresistible. Having received the decision of the primary Judge in this case, and considered it alongside the other cases, it should have been apparent to the appellants that this was an appeal that was not sustainable. In addition, their conduct of the appeal has been reprehensible. Their submissions were not filed on the day they were due, which meant that Mr Blake was required to make submissions for the respondents that had nothing concrete to respond to. When the appellants' submissions were eventually filed on 29 January, Mr Blake was then required to file another submission responding to the appellants' submissions, creating unnecessary additional work for him. Much of what he responded to was not then pursued in the oral presentation of the appeal, so much of this work became a waste of time. Both the hopelessness of the appeal and the poor conduct of it can be justified in an award of indemnity costs in this case.

### Result

43. The appeal is dismissed. The cross-appeal is allowed. The award of standard costs in the Supreme Court is quashed and replaced by an award of indemnity costs in favour of Mr Letlet in that Court. Costs in relation to the appeal and cross-appeal are awarded to the Mr Letlet on an indemnity basis.

DATED at Port Vila, this 13<sup>th</sup> day of February 2026

BY THE COURT



Honourable Chief Justice Vincent Lunabek

