

**DECISION OF THE DISCIPLINARY COMMITTEE  
OF THE GENERAL LEGAL COUNCIL**

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SERAGH LAKASINGH

A N D

PAULETTE THOMPSON - COMPLAINANTS

A N D

RAMNATH HETRAM - DEFENDANT

PANEL PAMELA E. BENKA-COKER Q.C. CHAIRMAN

LEILA PARKER

.BERYL ENNIS

MARJORIE SHAW- CURRIE ATTORNEY-AT-LAW FOR THE COMPLAINANTS

THE RESPONDENT ATTORNEY-AT-LAW IN PERSON.

**NARRATIVE**

The Respondent attorney-at-law (hereinafter referred to as the attorney) is a sole practitioner with offices at Elgin Road in the parish of St. Andrew.

The complainant Seragh Lakasingh is one of the executors of the Will of Aston Thompson deceased. The complainant Paulette Thompson is the widow of Aston Thompson and a major beneficiary under his Will. Both complainants will hereinafter be referred to as the complainants whenever the context permits. On an examination of the Will of the deceased, a copy of which is exhibited as 21 in these proceedings, it will be seen that the deceased devised to his widow, the second complainant, three pieces of real estate described as follows;

- (a) 5 Cherry View, Kingston 8 in the parish of St. Andrew registered at Volume 1056 Folio 883 of the Register Book of Titles
- (b) 64 Alexander Park in the parish of St. Thomas registered at Volume 1099 Folio 304 of the Register Book of Titles.

(c) 7 Retirement Road in the parish of St. Andrew registered at Volume 988 Folio 128 of the Register Book of Titles.

The attorney was instructed by the first complainant, the executor, to obtain probate of the Will in relation to the estate of the deceased and to act for the executors in the sale of two pieces of the real estate devised to the second complainant. They were premises 5 Cherry View and premises 64 Alexander Park.

Such a transaction would make it obligatory on the attorney not only to obtain Probate of the Will but also to have the names of the executors registered on transmission on the relevant certificates of title and then to effect transfers to the purchasers of the properties at Cherry View and Alexander Park. The attorney was also to seek buyers for the properties being sold and to pay off a mortgage on premises 7 Retirement Road, the mortgagee being the Bank of Nova Scotia.

The attorney was retained sometime in 1987. No fees were paid to the attorney in advance, but the attorney proceeded to act on behalf of the executors of the estate. In 1988, an agreement for the sale of 5 Cherry View was entered into between the executors as the vendors and the purchasers Earnest and Claudia Bonnick. This agreement for sale is tendered as exhibit 8 herein. This agreement discloses that the total purchase price of the land and chattels was 1 million dollars. On the signing of the agreement an amount of \$500,000.00 became payable by the purchasers to the vendors. In the agreement the attorney is designated as having carriage of sale and attorney-at-law Sylvester Morris is stated as acting for the purchasers. 5% of the sale price was to be paid to Realtors Violet Lee and Associates.

Special Condition 2 of the said agreement authorises the application of a part of the deposit to be paid towards reducing the mortgage. The mortgage referred to being the mortgage owing to the Bank of Nova Scotia.

No agreement for sale was exhibited with regards to 64 Alexander Park but it is uncontroverted that an agreement for sale was in fact entered into by the executors with a purchaser at a price of \$35,000.00.

It is also not contested that \$25,000.00 of the purchase price was paid to the attorney. It is fair to say, that the attorney did do work on the estate. He obtained Probate of the Will in May 1989. He did secure registration on transmission of the executors on all three pieces of real estate. He also liquidated the mortgage with the bank from funds raised by him for and on account of the estate as sale proceeds from 5 Cherry View and 64 Alexander Park.

However, the attorney never completed the contracts for the sale of the properties, nor did he ever correspond with the complainants in writing as to the progress of their business and he did not account to them in any form whatsoever as to the amount of funds received by him for and on behalf of the estate and the purposes for which they were disbursed, and the manner in which they were disbursed. Apart from the sum of \$20,000.00, which was paid over to the second complainant, no monies from the estate have been paid by the attorney to the executors.

Over the passage of the years, from the attorney was retained in or around the year 1987 to 1994, the complainants became increasingly disgruntled by the way in which the attorney was conducting the affairs of the estate. The first complainant wrote several letters to the attorney inquiring of the progress of the business and seeking information as to what was happening. Many telephone calls and visits were made to the attorney by the complainants. The

complainants made requests for a detailed statement of account re the business of the estate.

The attorney did not respond. The first complainant by letter dated the 20<sup>th</sup> July 1994 demanded that the attorney send all the documents concerning the estate to the firm of Messers Dunn Cox & Orrett. The attorney did not comply with the demand of his client.

Finally, having been completely frustrated by the conduct of the attorney in dealing with the estate of the deceased, the complainants formally reported the matter to the General Legal Council and filed complaint dated the 26<sup>th</sup> March 1996.

**THE COMPLAINT** The gravamen of the complaint is as follows;

- (a) The Complainants have never been provided by the attorney with a statement of account as to the monies received by him for and on behalf of the estate of Aston Thompson deceased.
- (b) The titles to 5 Cherry View and 64 Alexander Park have not been Transferred into the names of the two purchasers.
- (c) Monies have been paid over to him by the purchasers.
- (d) The second complainant has been paid only \$20,000.00 by the attorney.
- (e) The complainants need information as to where the money has been placed, the amount of the interest it has attracted.

**THE EVIDENCE** Both complainants gave oral evidence in support of the complaint. The complainant Seragh Lakasingh stated that he was one of the executors of Aston Thompson deceased. That he had known the attorney for a number of years and in or about the year 1987 he instructed the attorney to obtain probate of the Will to seek buyers and to sell premises 5 Cherry View and 64 Alexander Park, to proceed with the sale and to liquidate the mortgage in

favour of the Bank of Nova Scotia on premises 7 Retirement Road. The complainant stated that he signed a transfer in the year 1988 in relation to 5 Cherry View.

Having signed the transfer, the attorney ceased to communicate with him. He only become aware that the sale for 5 Cherry View was going through when the realtor abused him about the non-payment of her commission.

He visited the attorney a number of times, and he wrote the attorney a number of letters, he got no response. He asked the attorney to send the documents re the estate to Dunn Cox & Orrett, the attorney did not do so. Antonnette Haughton, attorney-at-law wrote to the attorney about the matter, he did not respond. The complainant advised the Committee that he had never received a statement of account from the attorney. The witness confirms that the certificates of title in relation to 5 Cherry View and 64 Alexander Park were never registered in the names of the purchasers by the attorney.

Twenty nine (29) exhibits were tendered in this case. The following exhibits were admitted through this witness.

1. Exhibit 1 - letter dated the 20<sup>th</sup> July 1994 Seragh Lakasingh to the attorney requesting that he deliver the papers re the estate to the firm of Messers Dunn Cox & Orrett.
2. Exhibit 2 - letter dated 7<sup>th</sup> July 1993 Lakasingh to the attorney - In this letter the complainant asks that the attorney pay over the sum of \$20,000.00 to the second complainant as she was in urgent need of funds. The complainant also complains of the excessive delay in winding up the estate of the deceased. He informed the attorney that the executors could simply wait no longer and that they were not prepared to accept the attorneys "silly and foolish excuses which the executors interpreted as "delay tactics".

3. Exhibit 3 - letter dated 20<sup>th</sup> July 1994
4. Exhibit 4 - letter dated 2<sup>nd</sup> November 1995 under cover of which the attorney delivered to the executors the duplicate certificates of title in relation to the 3 pieces of real estate devised under the Will of Aston Thompson.
5. Exhibit 5 - letter dated the 3<sup>rd</sup> September 1993 from the Stamp Commissioner to the Attorney.
6. Exhibit 6 - letter dated 9<sup>th</sup> December 1992 the Stamp Commissioner to the Attorney.
7. Exhibit 7 - letter dated August 19<sup>th</sup> 1992 the Stamp Commissioner to the Attorney.

Under cross-examination by the attorney - the first complainant agreed that he had known the Attorney for a long time and that the attorney was a family friend. The attorney sought to get from the complainant that he received money \$500,000.00 under the agreement for sale. The attorney also put to the complainant that he the attorney paid over the sum of \$654,000.00 to the bank of Nova Scotia. The complainant was unable to answer these questions as he was not at all aware of what the attorney was doing with the estate, (that being one of the complaints he has made to this Committee).

At the adjourned hearing on the 27<sup>th</sup> May 1998, the attorney stated that he had no further questions of the first complainant under cross-examination. He was advised by the panel that he had every right to continue cross-examination but he declined to do so. The second complainant Paulette Thompson then gave evidence.

This witness gives formal uncontroverted evidence concerning the death of her husband Aston Thompson and that he died on the 29<sup>th</sup> of December 1986. They had had two children together and at the time of his death, there

was a daughter Nicole aged 15 years and a son Shaun aged 19 years. She stated that her husband had owned property one of which was 7 Retirement Road from which she operated her business.

She knew that 5 Cherry View and 64 Alexander Park were sold but she did not know or now remember the names of the persons to whom these properties were sold. She was aware that her husband owed money to the bank of Nova Scotia at the time of his death and this was in the amount of about \$400,000.00 with interest at the time of his death.

She advised the Committee that she did receive correspondence from the bank with regards to her husbands indebtedness, a letter dated the 29<sup>th</sup> July 1992 from the bank to the complainant was admitted in evidence as exhibit 9.

This letter purports to give a breakdown of the deceased's indebtedness to the bank which appears to have been liquidated by the attorney from the 23<sup>rd</sup> of February 1990. It is important to observe that this statement records payments to the bank in the following amounts after the death of the deceased.

August 1988	\$350,000.00
24 <sup>th</sup> January 1990	\$070,000.00
23 <sup>rd</sup> February 1990	\$034,368.84

The witness also confirmed the sale price of 5Cherry View which she said was 1 million dollars and 64 Alexander Park which was \$35,000.00. She was aware that the executors had retained the attorney to act on behalf of the estate. She herself had asked the attorney what was happening about the matter and he would always say that the stamp office or something else was holding up the progress of the business. She has never received a statement of account from the attorney. She received \$20,000.00 from the sale of Alexander Park, but she received no further monies from the estate from the attorney.

The attorney did not cross-examine this witness. In response to questions from the panel, she said that she met the attorney for the first time in 1987. She had visited the attorney's office several times, from he was at East Street, to an Indian Restaurant at Holborn Road and then at Elgin Road.

She asked the attorney about the delays on visits and by the telephone. About five years ago she began objecting to the attorney's handling the estate. She never had a problem locating her husband's Will.

The attorney for the complainants then closed her case.

The attorney then opened to his case. After recounting the history of the case he said that he was not guilty of any professional lapses and he denied the allegations and the charges.

The attorney then gave evidence and the following is a review of his evidence.

He admitted that he was engaged by the first complainant to undertake action in respect of the estate of Aston Thompson deceased. He was engaged to obtain Probate, register the executors on the relevant titles on transmission, to give overall supervision to the estate and to finalize it.

From day one, in seeking to achieve the objectives of his retainer, he was bombarded by problems. There was a mortgage on premises 7 Retirement Road and there were threats of foreclosure.

He then produces exhibit 10 which is letter dated the 10<sup>th</sup> May 1988 from the bank of Nova Scotia to the attorney.

This letter was inquiring about the sale of 5 Cherry View. The bank gave a deadline of 3 Months within which positive action should be taken or else the bank would have no option but to put the place up for auction. This agreement for sale re 5 Cherry View dated June 1988 was tendered as exhibited 8

Copy cheque dated the 5<sup>th</sup> July 1988 in the amount of \$550,000.00 payable to R. Hetram (the attorney) was tendered in evidence as exhibit 12

Copy letter dated August 1988 from the attorney to the Bank of Nova Scotia was tendered as exhibit 13. This letter confirms the attorney having sent off a sum of \$350,000.00 to the bank of Nova Scotia towards liquidation of the mortgage loan on 7 Retirement Road.

Having sent the sum of \$350,000.00 the attorney continues his evidence by saying that after the deduction of the sum of \$350,000.00 a balance of \$200,000.00 would be left of the amounts paid into the estate under the sale agreement in relation to 5 Cherry View. He stated that this sum had to meet many more expenses.

Under letter dated the 6<sup>th</sup> September 1989 the bank of Nova Scotia details a statement of account re the loan to the deceased Aston Thompson. This is tendered by the attorney as exhibit 14 In this letter the bank states that the figure outstanding as of the 15<sup>th</sup> of September 1989 is principal - \$1,025.30

Interest - \$290,772.26

The bank required a full settlement as soon as possible.

Under letter dated the 14<sup>th</sup> November 1989, and tendered by the attorney as exhibit 15 Sylvester Morris sent an additional \$300,000.00 to the attorney in reduction of the sale price of 5 Cherry View. The attorney, Sylvester Morris sent this sum "on the sole understanding that the money would be used to pay off the bank holding the lien, to procure the title free of all encumbrances, and to endorse the names of the purchasers on the title to 5 Cherry View.

Sylvester Morris was careful to state in exhibit 15 that no more of the purchase price would be paid until the title to the property was delivered to him.

By letter dated the 15<sup>th</sup> November 1989 and tendered in evidence as exhibit 16 the attorney sent an additional sum of \$200,000.00 to the bank. According to his evidence so far, the attorney paid to the bank, a total of \$550,000.00 from a sum of \$850,000.00 received under the purchase price.

The attorney tendered as exhibits 17 and 18 letters dated the 22<sup>nd</sup> January 1990 and 21<sup>st</sup> February 1990. Under cover of these two letters he remits to the bank a sum of \$70,000.00 and a final balance of \$34,368.54. The total amount paid to the bank, according to the attorneys evidence is \$654,368.54.

He stated that during the time that he was doing all this work, nothing was paid to him.

He stated that he did not get the balance of the purchase price which was \$150,000.00. He states that any delay that was experienced was due to fact that the Probate was sent back to him on a requisition by the Registrar of the Supreme Court. He never kept anything from the complainant and at all times the first complainant knew the figures. After strenuous representations to the stamp office on behalf of the estate, the attorney was able to get a substantial reduction in the duties payable on the estate.

See exhibits 19 and 20 letters dated 30<sup>th</sup> April 1991 and August 19<sup>th</sup> 1992, Stamp Commissioner to Hetram. The attorney informs the Committee that he paid out on behalf of the estate \$705,110.70 and received on behalf of the estate \$850,000.00. A balance of \$143,000.00 remained. He admits paying out the sum of \$20,000.00 from the \$25,000.00 received in relation to 64 Alexander Park.

The attorney then embarks on a speculative and hypothetical exercise in seeking to compute fees which he says were due to him as a consequence of the work done on the estate. We do not think that we can take this into account, as the attorney never submitted a bill to the executors for work done. However, he contends that he owes the estate no money as he was entitled to keep funds for fees and the rest he had expended in resolving the problems affecting the estate.

Under cross-examination by the attorney-at-law representing the complainants, the attorney responded to questions as to when he obtained

probate of the Will, and the time at which the names of the executors were registered on transmission on the certificates of title relating to the three premises. The attorney explained that there was delay, which was not due to his lack of effort but to other circumstances. He admitted that his attorney's costs for the obtaining probate of the Will would not exceed \$20,000.00. He stated that he had to pay himself because he was not paid any fees, he did not advise the first complainant of the amount of his fees. There was no formal retainer between himself and the first complainant.

He continued that he never responded to any of the letters that were written to him either by the first complainant or Dunn Cox & Orrett. He did not Stamp the agreement for Sale of 5 Cherry View and there was no instrument of transfer in relation to it.

The attorney denied ever having admitted that he received the sum of 1 million dollars for the sale of Cherry View, and he denied that he did receive that sum.

Exhibits 21, 22 and 23 and 24 were admitted in evidence. Exhibit 21 was the copy Probate and copy Will. Exhibit 22 was copy letter dated 26<sup>th</sup> July 1989, The attorney to Sylvester Morris. In this letter the attorney asks Sylvester Morris to release the further sum of \$500,000.00 to him payable on the purchase price re 5 Cherry View, the attorney also assured Mr. Morris that he was pursuing vigorous action to have the title registered in his clients' name.

Exhibit 23 was letter dated the 16<sup>th</sup> April 1992 from the attorney to the Stamp Commissioner seeking a waiver of the Stamp Duty payable on the estate. Exhibit 23 is an affidavit of the second complainant.

Exhibit 24 is a requisition from the Registrar of Titles to the attorney dated the 24<sup>th</sup> February 1995.

On the completion of the attorney's evidence, Marjorie Currie sought permission of the panel to have Sylvester Morris give evidence. The panel gave its permission.

In his evidence, Sylvester Morris stated that he acted for the purchasers Earnest and Claudette Bonnicks in the sale of 5 Cherry View by the executors of the estate of Aston Thompson. He had discussions and meetings with the attorney re the said sale. He identified exhibit 8. The clients had terminated his retainer in 1992 because of the interminable delay in the matter being completed. However he was able to locate documentation in relation to the sale.

He said three payments were made by him on behalf of the purchasers on the sale. The first payment was \$550,000.00, the second payment was \$300,000.00 and the third payment was \$150,000.00. Exhibit 25 was tendered to corroborate his assertion that the sum of \$150,000.00 had been paid to the attorney. It is to be remembered that that attorney had denied receiving the final payment of \$150,000.00.

Exhibit 25 is dated the 11<sup>th</sup> of October 1991 and made payable to Mr. R. Hetram. It is drawn on the Account of Sylvester Morris at the Eagle Commercial Bank 4 Duke Street. It also refers to premises 5 Cherry View.

Exhibit 26 is letter dated the 11<sup>th</sup> October 1991 from Sylvester Morris to the attorney.

The cheque, exhibit 25 is sent under cover of this letter. Receipt of the letter referring to the cheque is acknowledged by R.H. and the date received, 11-10-91 is written thereunder.

The Transfer re 5 Cherry View, signed by the two executors and one purchaser is tendered in evidence as exhibit 27. It is undated but was obviously prepared in the year 1989.

The following evidence of Sylvester Morris is very important. He said that the cheque for the sum of \$150,000.00 was crossed. He received a telephone call from the bank asking his permission to cash the cheque. He gave his permission.

Under cross-examination by the attorney, Sylvester Morris said that he thought that the attorney visited him at his offices and asked him to release to the attorney the sum of \$150,000.00. It is at that time that the attorney brought to Sylvester Morris a copy of the Transfer signed by the vendors, the attorney suggested to Sylvester Morris that he did not go to Sylvester Morris's office. Sylvester Morris refutes this suggestion and further stated that the attorney came to his office perhaps the very day that the cheque was drawn. He released the money to the attorney as a favour to the attorney.

Sylvester Morris insisted that the cheque passed through the attorney's hands. The attorney denied getting the money in his account.

In response to a question from the panel the attorney admitted that he received the cheque from Sylvester Morris, he lodged the cheque but the money was not received in his, the attorney's account. The attorney insists that the cheque was lodged to his account but the monies were not credited to his account. Mr. Morris stated that this was the first time he was hearing from anyone including the attorney that he did not receive the money as his account was debited in the amount of \$150,000.00.

Exhibits 28 and 29, letters dated the 10<sup>th</sup> August 1989, Sylvester Morris to the attorney and letter dated 26<sup>th</sup> October 1989, the attorney to Sylvester Morris were tendered in evidence.

Having heard submissions from Marjorie Shaw-Currie and the attorney, the panel reserved judgment. This complainant was heard on the 20<sup>th</sup> and 27<sup>th</sup> May 1998, and the 5<sup>th</sup> June 1998.

In adjudicating on this, it is the duty of this panel to consider the substance of the complaint made against the attorney in order to apply the appropriate standard of proof in evaluating the evidence.

The purport of the complaint is that the attorney received into his custody, monies for and on behalf of the complainants under the estate of Aston Thompson, the business for which the attorney was employed was never completed, there was great delay by the attorney in pursuing the business which he was retained to do, he received monies on behalf of the estate and has never accounted to the complainants for the money received into his custody and control.

**STANDARD OF PROOF** This complaint against the attorney involves grave allegations of impropriety which if proven have very serious consequences as to the attorney's professional standing. The standard of proof in such cases is a standard of proof beyond reasonable doubt. This principle is enunciated in the East African Privy Council Case of BHANDARI V ADVOCATES COMMITTEE 1956 3 All E.R. p. 742 and forming the ratio decidendi of this case is the following statement;

“In every allegation of professional misconduct involving an element of deceit or moral turpitude, it is the duty of the professional domestic tribunal investigating the allegations to apply a high standard of proof and not to condemn on a mere balance of probabilities”.

Of the three witnesses who gave evidence on behalf of the complainants, Seragh Lakasingh, Paulette Thompson and Sylvester Morris we can discern no issue on which they did not speak the truth on all material particulars. Further, their evidence is corroborated by many of the exhibits tendered in evidence. The attorney's cross-examination of Seragh Lakasingh could not be described as penetrating and he did not cross-examine Paulette Thompson at all.

Sylvester Morris gave his evidence in a credible and non-partisan fashion, and his evidence as it goes to material issues was supported by exhibits 25 and 26.

On the other hand, there were times when the attorney's credit was not to be relied on, and we are of the view that wherever the attorney's evidence was in conflict with another witness, the evidence of the witness was to be preferred.

**BURDEN OF PROOF** The burden of proof is on the complainants to satisfy this Tribunal, beyond reasonable doubt, of the allegations made in the complainant, and it is for the Tribunal to decide whether or not those allegations amount to professional misconduct on the part of the attorney.

**EVALUATION OF THE EVIDENCE** After a careful examination of all the evidence, oral and documentary, and applying the designated standard of proof to the evidence, the Committee makes the following findings of fact as it is obliged to do in keeping with section 15(1) of the Legal Profession Act.

**FINDINGS OF FACT AND MIXED LAW AND FACT**

1. The attorney is a sole practitioner with offices at Elgin Road in the parish of St. Andrew.
2. Prior to 1987 the attorney was socially acquainted with the first complainant for a number of years.
3. In December of 1986, Aston Thompson the husband of the first complainant died.
4. The deceased died testate, and in his Will the <sup>first</sup>~~second~~ complainant was named as one of the executors.
5. The complainants did not have a problem locating the Will of the deceased.
6. In the year 1987, the attorney was contracted to do the following;
  - (a) To obtain Probate of the Will of Aston Thompson.

- (b) To act for the executors on the sale of two pieces of real estate devised under the Will.
  - (c) To have the names of the executors registered on transmission on the relevant certificates of title.
  - (d) Locate buyers for the properties being sold.
  - (e) Liquidate the mortgage on premises 7 Retirement Road from the proceeds of sale.
7. The attorney did not receive any fees in advance from the executors for the work to be done.
  8. The attorney commenced work on the estate and secured purchasers for premises 5 Cherry View and 64 Alexander Park.
  9. The attorney prepared an agreement for sale in relation to 5 Cherry View.
  10. The total purchase price on 5 Cherry View was 1 million dollars.
  11. The total purchase price on 64 Alexander Park was \$35,000.00.
  12. The attorney obtained Probate of Aston Thompson's Will in May 1989.
  13. In July of 1988, the attorney was paid the sum of \$550,000.00 as a deposit under the agreement for sale of Cherry View.
  14. Sylvester Morris acted as the attorney-at-law for the purchasers under the agreement for sale of 5 Cherry View.
  15. The attorney acted for the executors, the vendors.
  16. Out of the sum of \$550,000.00 the attorney paid the sum of \$350,000.00 to the bank of Nova Scotia towards liquidating the mortgage debt on 7 Retirement Road.
  17. In November 1989 the attorney received an additional amount of \$300,000.00 on the balance of the purchase price of 5 Cherry View from Sylvester Morris.

18. The attorney paid an additional amount of \$200,000.00 to the bank of Nova Scotia towards liquidation of the mortgage on 7 Retirement Road in November of 1989.
19. In January of 1990 the attorney paid an additional sum of \$70,000.00 to the bank on the mortgage debt.
20. In February of 1990, the attorney paid a further sum of \$34,368.54 on the mortgage debt. This payment totally liquidated the mortgage debt.
21. The attorney paid a total of \$654,368.54 to the bank from the purchase price of 5 Cherry View.
22. The attorney received a further sum of \$150,000.00 from Sylvester Morris in October 1991.
23. The attorney received the total purchase price of 1 million dollars on the sale of 5 Cherry View.
24. The attorney received visits and telephone calls from the complainants over a period of years, inquiring of the attorney what was happening re the estate.
25. He received letters from the first complainant inquiring about the progress of the estates' business and asking for an account of the monies belonging to the estate.
26. The attorney never responded in writing to any of the letters.
27. The attorney never accounted to the complainants as to the receipts and expenditures of funds relating to the estate.
28. The attorney received an amount of \$25,000.00 re the sale of 64 Alexander Park.
29. The attorney paid out \$20,000.00 of that sum to the second complainant in 1993.

30. The attorney paid out in total an amount of \$705,110.70 in relation to expenses of the estate.
31. A balance of \$294,889.93 has not been accounted for by the attorney as it relates to 5 Cherry View.
32. The attorney has failed to account for \$5,000.00 of the purchase price received by him for 64 Alexander Park.
33. The attorney has failed to produce any statements of account in relation to the conduct of the estate of Aston Thompson.
34. The attorney has failed to produce any documentation showing any financial institution in which the funds of the estate were kept pending disbursement.
35. The attorney never ever formally billed the first complainant for work done on the estate.
36. The attorney was not entitled to take from the funds belonging to the estate any fees for work done until he had produced a bill to the first complainant and the first complainant had agreed to same.
37. The attorney never maintained proper accounts with regards to the funds of the estate and did not observe proper accounting principles.
38. The attorney failed to account to the first complainant for all of the monies in his hands for and on account of the estate of Aston Thompson.
39. The attorney never completed all the work that he was retained to do.
40. The attorney is guilty of inexcusable delay in the total conduct of the business of the estate.

CONCLUSIONS The committee after careful consideration of all the evidence and after perusal of the relevant law on the issues before it has arrived at the decision that the conduct of the attorney is in breach of Canons IV r and IV s and Canons VII (b) (i) and Canons VII b (ii) of the Legal Profession

(Canons of Professional Ethics) Rules of 1978. The attorney did not deal with his client's business with all due expedition and when reasonably required, failed to provide his client with information as to the progress of his business with due expedition.

He also acted with inexcusable and deplorable neglect in the performance of his duties.

His breaches of Canon's VII b (I) and VII b (ii) are even more grave. He failed to keep accounts which clearly and accurately distinguished the financial position between himself and his client, and failed to account to his client for all the monies in his hands for the account or credit of his client.

Further, we find that the conduct of the attorney is such as also to be in breach of Canons (1) (b) and VIII (b) of the Legal Profession (Canons of Professional Ethics Rules. The attorney has failed to maintain the honour and dignity of the Profession and has acted in a manner which tends to discredit the profession.

The attorney has conducted himself in a manner which does not promote confidence in the integrity and efficiency of the administration of Justice and the Legal profession.

We are satisfied beyond reasonable doubt, that based on the evidence and on our findings the attorney is guilty of misconduct in a professional respect.

It is now our very painful duty to determine and impose the appropriate sanction in the circumstances. We are mindful of the fact that the attorney is a man of mature years, we recognise that perhaps his profession is his only source of financial support.

However, the important consideration in determining adequate punishment for professional misconduct, "is to protect the collective reputation of the profession and to maintain public confidence in the profession". This is

the statement of principle adumbrated by Sir Thomas Bingham, Master of the Rolls in the case of Bolton v Law Society reported at 1994 2 A.E.R. p.486 at p. 492.

The Learned Judge also stated, “ It is important that there should be full understanding of the reasons why the Tribunal makes orders which might otherwise seem harsh ... One is to ensure that the offender does not have the opportunity to repeat the offence, and the second purpose is to maintain the reputation of the solicitor’s profession as one in which every member of whatever standing may be trusted to the ends of the earth.”

Having found the attorney Ramnath Hetram guilty of professional misconduct of the gravest kind, conduct which undermines and erodes public confidence in the profession, we are of the unanimous opinion that the name of Ramnath Hetram should be struck from the roll of attorneys-at-law entitled to practise in the several Courts of the Island of Jamaica and we so order.

This order is made under section 12(4) of the Legal Profession Act.

We again reiterate our position, that the very survival of our profession depends on the public having trust and confidence in us as an identifiable group. We cannot utilize client’s funds in a manner inconsistent with the client’s right to those funds, and for our own personal gain.

We as a Committee sincerely hope that other attorneys-at-law will recognise their responsibility to the public and to the profession and to at all times act in a manner which maintains the honour and dignity of the profession.

  
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 PAMELA E. BENKA-COKER Q.C.

  
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 LEILA PARKER

  
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 BERYL ENNIS

*Done the 15<sup>th</sup> day of the month 1997*