

**DECISION OF THE DISCIPLINARY COMMITTEE
OF THE GENERAL LEGAL COUNCIL
COMPLAINT NO. 252/2005**

In the matter of Edwin Charles Smith
Vs Leonard Horace (Bunny) McLean

AND

In the matter of the Legal Profession Act, 1971

Panel: Mr. Alllan Wood
 Miss Lilieth Deacon
 Mr. Jerome Lee

Present: Mr. Edwin Charles Smith

Hearing: 18, November, 2006

COMPLAINT

The complaint came up for hearing on the 18th November, 2006. The Attorney was not present. The Panel was referred to an Affidavit of Service sworn to by Mervalyn Walker dated 16th November, 2006 which attested that the Attorney had been served with the notice of hearing by registered post on the 12th October, 2006. The Panel commenced the hearing of the complaint pursuant to the power so to do conferred by the Legal Profession Act 4th Schedule r 8 and evidence was taken on oath from the Complainant. The hearing was adjourned to 13th December, 2006 and the notes of evidence were forwarded to the Attorney under cover of letter dated December 7, 2006 from the Secretary of the Disciplinary Committee. The Attorney did not avail himself of the opportunity given to him to respond to the complaint.

The evidence of the Complainant was simple and straightforward. The owners of 39 West Bay Farm Road, Vincent Gordon and Ketta Campbell had given him the property and on the 24th September, 2002, he retained the Attorney to transfer title to his name and paid the Attorney \$78,000. The Attorney gave the Complainant a receipt for the payment which was produced and admitted in evidence as exhibit 1. The Complainant also gave the Attorney the title for the property. Subsequently the Attorney requested the Complainant to obtain the TRN for Vincent Gordon and Ketta Campbell and the Complainant got it and gave it to the Attorney in 2003.

Since that date the Complainant's transaction has not been completed nor has he been able to get back his documents from the Attorney. The Attorney's office in Kingston has since been closed and the Complainant has visited the Attorney at his home in December, 2005 at which time the Attorney promised to look about the matter. On two subsequent visits to the Attorney's home, the Complainant was unable to see the Attorney and to date the transfer has not been completed nor has the Complainant's title been returned.

The Panel finds that the Complainant is a witness of truth; indeed the Panel finds no reason to doubt any part of the Complainant's evidence. The Panel accordingly finds that it has been established beyond reasonable doubt that :-

- (a) The Complainant retained the Attorney on the 24th September, 2002 to effect a transfer to the Complainant of the property situate at 29 West Bay Farm Road Kingston 11 and gave the Attorney the title and paid the sum of \$78,000.
- (b) Subsequently in 2003 the Complainant obtained the tax registration numbers for the owners Vincent Gordon and Ketta Campbell and gave this information to the Attorney
- (c) The Complainant's subsequent investigation at the offices of the Commissioner of Stamp Duty and Transfer Tax reveals that the Attorney submitted a document to that office in

respect of the transfer of the property on 22nd September, 2004.

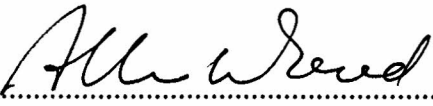
- (d) There has been inordinate delay in effecting the transfer of the property to the Complainant and the attorney has given no explanation whatsoever for such inordinate delay.
- (e) In breach of Canon 1V(r) of the Legal Profession (Canons of Professional Ethics) Rules, the Attorney has failed to deal with his client's business with all due expedition.
- (f) In breach of Canon IV (s) of the Legal Profession (Canons of Professional Ethics) Rules the Attorney has acted in the performance of his duties with deplorable neglect.
- (g) In breach of Canon V11 (b) the Attorney has failed to account to his client the Complainant for all monies in his hand for the account or credit of the Complainant.
- (h) The Attorney's conduct in this matter is of such a nature to bring the profession into disrepute in breach of Canon 1B of the Legal Profession (Canons of Professional Ethics) Rules. The Panel takes cognizance of the fact that Attorney is an elder member of the profession having been in practice for over 40 years and that age and ill health may well have contributed to the unfortunate state of affairs revealed by the evidence in this matter. Further, the Panel is unaware of any previous record of misconduct. Bearing such considerations as to the Attorney's previous good record of long standing, his age and infirmity, and coupled with the Panel's primary duty which is to act in the protection of the public, the Panel is accordingly of the view that a conditional suspension for a period of two years is warranted.

It is Ordered as follows:-

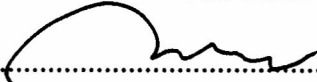
1. Pursuant to section 12(4)(a) of the Legal Profession Act should the Attorney fail to comply with all the conditions hereafter set out and stipulated in paragraph 2 of this Order, the Attorney, Leonard Horace (Bunny) McLean is suspended from practice as an attorney-at-law for a period of 2 years commencing from the 1st of January, 2007. To avoid the aforesaid suspension from practice the Attorney Leonard Horace (Bunny) McLean must comply with and perform all the conditions set out in paragraph 2 of this Order.
2. The Attorney Leonard Horace (Bunny) McLean is required to deliver the following to the General Legal Council on or before the 29th December, 2006 namely:-
 1. The duplicate certificate of title for the premises known as 39 West Bay Farm Road, Kingston 11;
 2. A report or other document from the office of the Stamp Commissioner evidencing the payment of the transfer tax, stamp duty and penalties (if any) in respect of the Transfer of the premises known as 39 West Bay Farm Road, Kingston 11 from Vincent Gordon and Ketta Campbell to Edwin Charles Smith;
 3. The Attorney Leonard Horace (Bunny) McLean is to pay to the Complainant on or before the 29th December, 2006 the sum of \$100,000.00 by way of restitution which sum is to be reduced to the extent of the amount of stamp duty and transfer tax shown to have been paid to the office of the Stamp Commissioner in respect of the transfer of the premises known as 39 West Bay Farm, Kingston 11 from Vincent Gordon and Ketta Campbell to Edwin Charles Smith.

3. The Attorney Leonard Horace (Bunny) McLean is ordered to pay costs to the Complainant in the sum of \$20,000.00.

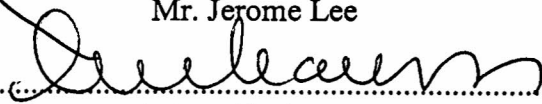
Dated 14th December, 2006


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Mr. Allan Wood


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Mr. Jerome Lee


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Miss Lilieth Deacon