

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

COMPLAINT NO. 104/2014

In the Matter of LORRETTA HENRY-
GRANT and ARLEAN BECKFORD, an
Attorney-at-Law.

AND

In the Matter of the Legal Profession Act,
1971

Panel: Patrick Foster, Q.C. - Chairman
Daniella Gentles-Silvera
John Graham

Appearances: Lorretta Henry-Grant was present. No one appeared for the Attorney-at-Law nor did she appear.

Hearing: 6th June, 2015 and 27th June, 2015, 1st September, 2015 *815 1W5*

COMPLAINT

1. The complaint against the Attorney-at-Law, Arlean Beckford, (hereinafter called “the Attorney”) as contained in the Form of Affidavit sworn to on the 10th June, 2014 by Loretta Henry-Grant (hereinafter called “the Complainant”) is that:

- (a) “She has not accounted to me for all monies in her hands for my account or credit, although I have reasonably required her to do so.
- (b) She is in breach of Canon I (b) which states that ‘An Attorney shall at all times maintain the honour and dignity of the profession and shall abstain from behaviour which may tend to discredit the profession of which she is a member.’”

2. Upon the Committee being satisfied that the Attorney had been duly served with notice of the hearing pursuant to **Rules 5 and 21 of the Legal Profession (Disciplinary Proceedings) Rules** set out under the **4th schedule to the Legal Profession Act** on the 23rd April, 2015 and, in exercise of its discretion to proceed with the hearing in the absence of the Attorney, which is provided for under **Rule 8 of the Legal Profession (Disciplinary Proceedings) Rules**, the Committee commenced the hearing of this matter on the 6th June, 2015 with the evidence of the Complainant. The matter was thereafter adjourned to the 27th June, 2015. Notes of the Evidence was sent to the Attorney under cover of letter dated the 22nd June, 2015 and also emailed to her. The Attorney once again did not attend this hearing nor was she represented and therefore having been satisfied that the Attorney had been duly served with notice of the adjourned hearing, the Committee completed the hearing of this matter on the 27th June, 2015.

EVIDENCE

3. The evidence was given by the Complainant on behalf of her husband, Robin Grant, who was unable to file the complaint and represent himself as at the time of the hearing of the matter as he was in the hospital critically ill. The Complainant produced a court order dated the 12th April, 2012 (**Exhibit 1**) which had granted to her the management of the property and affairs of her husband.
4. According to the Complainant, in or around 2006, the Attorney represented her husband, in the sale of property known as 2a Sefton Road, Kingston 5 comprised in Certificate of Title registered at Volume 160 Folio 75. The property was owned by Mr. Grant, Mr. Grant's mother and aunt the latter two (2) of whom had died. The purchase price for the property was Seven Million Dollars (\$7,000,000.00). The purchaser was Vinler and

Associates Limited. The Complainant and her husband went to the Attorney for her to represent Mr. Grant in the sale as she was their neighbour and a member of the same church of which Mr. Grant was the Pastor and they considered the Attorney to be a friend.

5. Sometime in 2006 the Attorney paid over some of the sale price which she had received from the purchaser's Attorneys-at-Law, Jennifer Messado & Co., to Mr. Grant leaving a balance of Seven Hundred Thirty Four Thousand Nine Hundred and Ninety Five Dollars (\$734,995.00). The reason proffered for the balance purchase price not being paid was that "the title was not ready and there was a little problem". The amounts paid by the Purchaser and the amounts due and owing was set out in a statement of account dated the 28th February, 2007 issued by the Attorney to Jennifer Messado & Co. The statement of account showed the balance of Seven Hundred Thirty Four Thousand Nine Hundred and Ninety Five Dollars (\$734,995.00) outstanding and acknowledged receipt from the purchaser of Six Million Four Hundred and Fifty Thousand Dollars (\$6,450,000.00) (**Exhibit 2**). The amounts paid to the Attorney was also documented by letters from Jennifer Messado & Co. to the Attorney enclosing cheques (**Exhibits 3 and 4**) and copies of the cheques drawn on Jennifer Messado's clients account and receipts issued by the Attorney for the amounts paid to her by Jennifer Messado & Co. was tendered into evidence as **Exhibits 4A, 4B, 4C and 4D**. These letters/cheques and receipts were dated between July, 2006 and November, 2006.
6. According to the Complainant after waiting for some time for the balance of the purchase price to be paid over to her husband, she called the purchaser's Attorney, Jennifer Messado & Co., and discovered that the balance of the moneys had been paid over to the

Attorney and the property transferred. She thereafter tried to get in touch with the Attorney by telephone but the phone rang without an answer and she subsequently discovered that the Attorney had removed from her address at Mountain Terrace. The Complainant has to date not been able to locate the Attorney and she has not seen or heard from her.

7. The Title for the property sold was registered in a new title contained in Certificate of Title registered at Volume 1455 Folio 545 which was tendered into evidence as **Exhibit 6**.
6. The title shows that the property had been transferred to Vinler and Associates Limited from the 27th January, 2013.
8. The Attorney has to date not accounted to the Complainant and her husband for the balance purchase price of Seven Hundred Thirty Four Thousand Nine Hundred and Ninety Five Dollars (\$734,995.00).

FINDINGS OF FACT

9. Having seen and heard the Complainant's evidence and having perused the exhibits we accept the evidence of the Complainant as a witness of truth and find that the following has been established beyond reasonable doubt:
 - a) The Attorney represented Robin Grant in the sale of property located at 2a Sefton Road, Kingston 5 to Vinler and Associates for the sum of Seven Million Dollars (\$7,000,000.00).
 - b) Between the 7th July, 2006 and November, 2006 moneys were paid to the Attorney by the Purchaser's Attorneys-at-Law amounting to Six Million Four Hundred and Fifty

Thousand Dollars (\$6,450,000.00) on account of the purchase price for the said property.

- c) That the property was sold and transferred to the Purchaser on the 27th January, 2012.
- d) The balance of the purchase price being Seven Hundred Thirty Four Thousand Nine Hundred and Ninety Five Dollars (\$734,995.00) was paid to the Attorney by the purchaser's Attorneys-at-Law.
- e) The Attorney has not accounted for nor paid to the Complainant's husband the balance purchase price of Seven Hundred Thirty Four Thousand Nine Hundred and Ninety Five Dollars (\$734,995.00).
- f) The Attorney misappropriated the Complainant's husband's money which ought to have been paid over to him.
- g) The Complainant has made efforts to locate the Attorney but has been unable to get in touch with her and the Attorney has removed from the address which the Complainant knew she was at and has left no forwarding address.
- h) The Attorney has acted dishonestly and thereby failed to maintain the honour and dignity of the profession and her behaviour has discredited the profession of which she is a member in breach of Canon I (b) of **the Legal Profession (Canons of Professional Ethics) Rules**.

CANONS

10. We find that the Attorney has breached **Canons I (b) and VII (b) of the Legal Profession (Canons of Professional Ethics) Rules** in that the Attorney received the balance purchase price from the purchaser's Attorneys-at-Law and kept it and failed to account to the Complainant for these monies paid to her for the sale of the said premises notwithstanding that the property was transferred to the purchaser and in circumstances

where the Complainant has not been able to locate the Attorney and she failed to advise them of her whereabouts and new address. In the circumstances it is reasonable to infer that the Attorney has misappropriated the monies paid to her being the balance purchase price.

11. For ease of reference we set out below the aforesaid Canons.

Canon I (b) provides that:

“An Attorney shall at all times maintain the honour and dignity of the profession and shall abstain from behaviour which may tend to discredit the profession of which he is a member”.

Canon VII (b) provides that:

“An Attorney shall-

- i. ...*
- ii. account to his client for all monies in the hands of the Attorney for the account or credit of the client, whenever reasonable required to do so; and he shall for these purposes keep the said accounts in conformity with the regulations which may from time to time be prescribed by the General Legal Council.”*

12. The Complainant's husband placed all his trust and confidence in the Attorney in retaining her to protect his interest in the sale of his property at 2a Sefton Road, Kingston 5 and in allowing her to collect the purchase price. This trust and confidence has been betrayed by the Attorney who has collected all of the purchase price and costs and transferred the property to the Purchaser, yet failed to account to her client for the balance

purchase price. To compound this breach the Attorney has disappeared without notifying her clients including the Complainant of her new address. We find the conduct of the Attorney reprehensible. Not only has the conduct of the Attorney caused loss to her client but has placed a stain on the reputation of Attorneys in general. This Panel must therefore act in the interest of the public to ensure that such conduct is never repeated and that the collective reputation of the profession is maintained.

13. In the circumstances of this case what comes to mind is the judgment of the court in **Bolton v Law Society [1994] 2 All ER, 486** and in particular the judgment of Sir Thomas Bingham, MR:

"It is required of lawyers practicing in this country that they should discharge their professional duties with integrity, probity and complete trustworthiness. That requirement applies as much to barristers as it does to solicitors. If I make no further reference to barristers it is because this appeal concerns a solicitor, and where a client's moneys have been misappropriated the complaint is inevitably made against a solicitor, since solicitors receive and handle clients' moneys and barristers do not.

Any solicitor who is shown to have discharged his professional duties with anything less than complete integrity, probity and trustworthiness must expect severe sanctions to be imposed upon him by the Solicitors Disciplinary Tribunal. Lapses from the required high standard may, of course, take different forms and be of varying degrees. The most serious involves proven dishonesty, whether or not leading to criminal proceedings and criminal penalties. In such cases the

tribunal has almost invariably, no matter how strong the mitigation advanced for the solicitor, ordered that he be struck off the Roll of Solicitors... It is important that there should be full understanding of the reasons why the tribunal makes orders which might otherwise seem harsh. There is, in some of these orders, a punitive element; a penalty may be visited on a solicitor who has fallen below the standards required of his profession in order to punish him for what he has done and to deter any other solicitor tempted to behave in the same way. Those are traditional objects of punishment. But often the order is not punitive in intention. Particularly is this so where a criminal penalty has been imposed and satisfied. The solicitor has paid his debt to society. There is no need, and it would be unjust, to punish him again. In most cases the order of the tribunal will be primarily directed to one or other or both of two other purposes. One is to be sure that the offender does not have the opportunity to repeat the offence. This purpose is achieved for a limited period by an order of suspension; plainly it is hoped that experience of suspension will make the offender meticulous in his figure compliance with the required standards. The purpose is achieved for a longer period, and quite possibly indefinitely, by an order of striking off. The second purpose is the most fundamental of all: to maintain the reputation of the solicitors' profession as one in which every member, of whatever standing, may be trusted to the ends of the earth. To maintain this reputation and sustain public confidence in the integrity of the profession it is often necessary that those guilty of serious lapses are not only expelled but denied re-admission. If a member of the public sells his house, very often his largest asset, and entrusts the proceeds to his solicitor, pending re-investment in another house, he is ordinarily entitled to expect that the solicitor will be a person whose trustworthiness is not, and never

has been, seriously in question. Otherwise, the whole profession, and the public as a whole, is injured. A profession's most valuable asset is its collective reputation and the confidence which that inspires."

(pages 491 – 492)

(Emphasis Ours)

14. In **Georgette Scott v The General Legal Council (Exp. Errol Cunningham) SCCA 118/2008** the Court of Appeal in upholding the General Legal Council's decision to strike off the Attorney off the Roll of Attorneys stated in paragraphs 49 and 50:

*"49. It is abundantly clear that the Committee has a duty under section 3(1) of the Act to uphold the standards of professional conduct of attorneys at law. Barwick CJ stated in **Harvey v Law Society of New South Wales** (1975) 49 ALJ 362 at page 364:*

'The court's duty is to ensure that those standards of the profession are fully maintained particularly in relation to the proper relationship of practitioner with practitioner, practitioner with the court and practitioner with the members of the public who find need to use the services of the profession.'

*50. The Court ought to bear in mind also what Lord Parker CJ said **In re A Solicitor** (supra):*

'...A case shortage of this nature inevitably meant that a solicitor had spent a client's money for the purposes other than those of the client. Public confidence in the profession would be shaken if such conduct were tolerated."

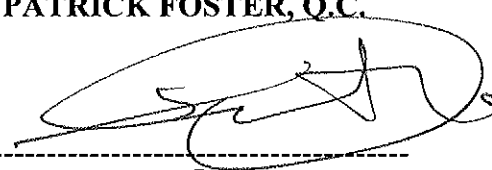
15. We find that the applicable standard of proof in these disciplinary proceedings which is that of the criminal standard being beyond all reasonable doubt, (**Wilston Campbell v Davida Hamlet (as executrix of Simon Alexander) Privy Council appeal No. 73 of 2001**) has been established and the Attorney is guilty of professional misconduct as per Canon VIII (d) in that she has breached Canon I (b) and Canon VII (b) of **the Legal Profession (Canon of Professional Ethics)**. It is therefore the decision of this Panel that pursuant to section 12(4) of **the Legal Profession Act** :

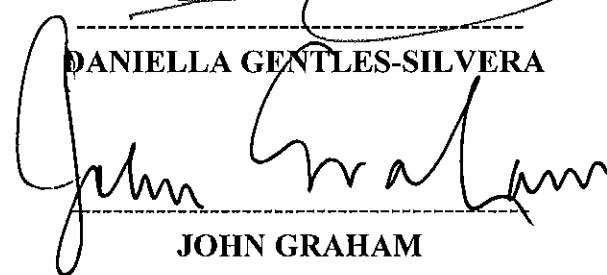
- a) The name of the Attorney, Arlean Beckford, is struck off the Roll of Attorneys-at-Law entitled to practice in the several courts of the island of Jamaica.
- b) By way of restitution, the Attorney is to pay the Complainant the sum of \$734,995.00 with interest at a rate of 6% from the 20th February, 2012 to the date of payment.
- c) Costs of these proceedings in the amount of \$50,000.00 are to be paid by the Attorney to the Complainant.

Dated the ^{September} 1st day of July, 2015



PATRICK FOSTER, Q.C.


DANIELLA GENTLES-SILVERA


JOHN GRAHAM