

**DECISION OF THE DISCIPLINARY COMMITTEE OF THE
GENERAL LEGAL COUNCIL
COMPLAINT NO. 124/2017**

SANCTION

**IN THE MATTER OF MRS. ELISE WRIGHT-
GOFFE**

AND

**IN THE MATTER OF THE LEGAL
PROFESSION ACT**

AND

MRS. JENNIFER MESSADO

**PANEL: MR. PETER CHAMPAGNIE (CHAIRMAN)
MR. MICHAEL THOMAS
MS. KATHERINE FRANCIS**

On the 29th of September, 2018 this panel resumed its hearing into this matter by way of a plea in mitigation that was tendered on behalf of the Respondent through her Counsel, Mr. Patrick Bailey. In attendance were Counsel for the Complainant, Mr. Gavin Goffe and the Respondent herself, Mrs. Jennifer Messado. The panel is satisfied that proper notice of today's hearing in respect of sanction was given.

In mitigating on behalf of his client, Mr. Bailey acknowledged receipt of the written Judgment in the matter and stated that the panel should take into consideration that this was the first time that his client had been found guilty of any professional misconduct.

Upon an inquiry by the panel through its Chairman as to how long his client had been an Attorney-at-Law, Mr. Bailey on being instructed by his client, indicated that she was

admitted to practice in 1974. Mr. Bailey urged the panel not to consider any extraneous matters that were not part of this complaint against his client. Counsel rightly pointed out in his mitigation that it was open to the panel to impose a sanction other than ordering that his client be struck from the Roll of Attorneys. In support of this, Counsel argued that the circumstances giving rise to the finding of guilt of his client, were not extreme and therefore striking off his client from the Roll of Attorneys would not be appropriate. By way of case law, Counsel referred *Sylvester Morris v General Legal Council Ex Parte Alpart Credit Union 22 JLR 1* in which the Attorney having been found guilty of professional misconduct as a result of a breach of undertaking, was reprimanded and ordered to make restitution.

In completing his mitigation plea on behalf of his client, Counsel made reference to her poor health and emphasized that the decision arrived herein before by the panel, was not rooted in dishonesty or deceit on the part of his client but in the way of negligence or recklessness.

Full consideration of all matters raised has been given to Counsel's plea mitigation. In determining what sanction should be imposed, the panel accepts that it ought not to take into account any extraneous matters that do not form part of this hearing. The panel therefore is concerned only with the evidence that was presented in this case and nothing more. The panel also accepts that there are other options available other than striking off.

The panel also notes Counsel's submission that his client has not previously been found

guilty of any professional misconduct during her long career. Indeed, there is no evidence to the contrary and the panel therefore accepts Counsel's submission in this regard.

Whereas reference was made to *Sylvester Morris v General Legal Council Ex Parte Alpart Credit Union* the panel notes that the Appellant in that case had advanced a defense or explanation in which he sought to exonerate himself from liability by pleading that he had delegated the performance of the undertaking to another person. The Court of Appeal did not find favour with this. The panel is of the view that in the instant case, the Respondent by virtue of her Affidavit in response to the complaint did not seek to say that it was the fault of a third party per se but rather that she held a belief that her client would have put her in good stead to honour the undertaking given. In any event the panel also notes the comment of Justice Boyd Carey JA in the *Sylvester Morris* case where he made the observation that the sanction imposed on the Appellant could not be, by any means, stigmatized as harsh but rather benevolent.

In the circumstances, the panel finds the conduct of the Respondent, to be grave. It adopts the dicta of Justice Wright JA in the said case of *Sylvester Morris* where he noted the following:

“For my part, I think it ought to be made unequivocally clear that this court frowns very sternly upon this detraction from the high standard of practice expected of the

Bar. And this must be so not only in defense of the legal profession but in the

protection of the general public against havoc that can result from any further deterioration in the standard of the practice at the Bar.”

The panel notes that in the instant case an aggravating feature in terms of the evidence was that the breach of the undertaking concerned many Certificates of Title and involved as a consequence of the breach the following sums; **\$19,000,000.00, \$6,484,000.00, US\$26,876.00**, as well as Attorney’s cost and/or legal fees for the Complainant. There was no evidence to suggest that the Respondent even made any attempts to respond to the Complainant. In judgement of ***Murray Ian Withers v. Standards Committee NO. 3 of the Canterbury Westland Branch of the New Zealand Law Society*** [2014]

concerning the breach of a Professional Undertaking, the court stated that

“In commerce it is essential that people can have total confidence in the worth of solicitors’ undertaking. Any failure erodes that confidence and is detrimental to the legal profession as a whole”.

Additionally, the panel finds that the Respondent an Attorney-at-Law since 1974 certainly ought to have appreciated the significance of giving a Professional Undertaking when at the material time she was not in a position so to give. Holding the belief that her client would have put her in a position to fulfill her undertaking was naïve on the part of the Respondent. She is a mature practitioner and has been in practice for 44 years. This betrays her considerable years of experience as Counsel. Her conduct was reckless and therefore even though not deceitful, as Counsel has alluded to, is nevertheless egregious.

In all the circumstances, the panel is of the considered view and order that that the appropriate sanction is that of:

1. The Respondent's name be struck off the Roll of Attorneys-at-Law entitled to practice in Jamaica;
2. The Respondent is ordered to pay costs in the sum of \$400,000.00 of which \$250,000.00 is to be paid to the Complainant and \$150,000.00 is to be paid to the General Legal Council.

DATED 6TH OCTOBER 2018



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MR. PETER CHAMPAGNIE (CHAIRMAN)



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MR. MICHAEL THOMAS



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MS. KATHERINE FRANCIS