

**GENERAL LEGAL COUNCIL**

**ANNUAL REPORT**

**1<sup>ST</sup> APRIL, 2008 – 31<sup>ST</sup> MARCH, 2009**



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#### INTRODUCTION

The General Legal Council was established in January 1972 by the Legal Profession Act. Its statutory function is concerned with the legal profession and in particular the organization of legal education and the upholding of standards of professional conduct. By virtue of the Legal Education Act the General Legal Council's function as the Legal Education Authority is vested in the Council of Legal Education which is established by Agreement among several Commonwealth Caribbean countries.

Apart from Law Officers of the Crown and legal officers of Government who are ex officio entitled to practise as such, no person can lawfully practise as an attorney who does not hold a practising certificate issued by the General Legal Council. Practising Certificates are issued annually on payment of an annual fee.

The General Legal Council is required to appoint from among its members or former members, Judges or retired Judges and attorneys of not less than 10 years standing to the Disciplinary Committee which adjudicates on complaints of misconduct by attorneys in any professional respect.

The General Legal Council is authorized to make rules prescribing the standards of professional etiquette and professional conduct for attorneys and to direct that any specified breaches of such rules constitute misconduct in a professional respect.

The following is a report on the activities of the General Legal Council and the Disciplinary Committee during the twelve months ended on March 31, 2009.

## GENERAL LEGAL COUNCIL

### 1. MEMBERSHIP

Dr. Lloyd Barnett - Chairman  
 Senator Dorothy Lightbourne, Q.C.  
 Mr. Justice Lloyd Hibbert  
 Miss Hilary Phillips, Q.C.  
 Mrs. Pamela Benka-Coker, Q.C.  
 Mr. C. Dennis Morrison, Q.C.  
 Miss Norma Linton, Q.C.  
 Dr. Eileen Boxill, Q.C.  
 Mr. Richard Donaldson  
 Mr. Allan Wood  
 Mr. Crafton Miller  
 Mr. Ransford Braham  
 Mrs. Donna Scott-Mottley  
 Dr. Adolph Edwards  
 Mrs. Kay Reuben  
 Mr. George Soutar

Mr. C. Dennis Morrison, Q.C. demitted office in April 2008, upon his appointment as Judge of the Court of Appeal.

The term of office of the members of the General Legal Council will end on February 15, 2010.

### 2. MEETINGS

During the period April 1, 2008 to March 31, 2009, a total of thirteen (13) meetings were held as follows:-

2008: 23<sup>rd</sup> April, 28<sup>th</sup> May, 18<sup>th</sup> June, 9<sup>th</sup> July, 4<sup>th</sup> August, 24<sup>th</sup> September, 29<sup>th</sup> October, 20<sup>th</sup> November, 26<sup>th</sup> November & 10<sup>th</sup> December

2009: 28<sup>th</sup> January, 23<sup>rd</sup> February, & 25<sup>th</sup> March

## ATTENDANCE OF MEMBERS AT MONTHLY MEETINGS

NAMES	TIMES POSSIBLE	TIMES PRESENT	TIMES EXCUSED
Dr. The Hon. Lloyd Barnett, O.J.	13	13	-
Miss Hilary Phillips, Q.C.	13	12	1
Mrs. P. Benka-Coker, Q.C.	13	9	4
Dr. Eileen Boxill, Q.C.	13	5	6
Miss Norma Linton, Q.C.	13	8	2
Mrs. Donna Scott-Mottley	13	6	5
Mr. Richard Donaldson	13	8	3
Mr. Justice Lloyd Hibbert	13	5	7
Mr. Allan Wood	13	8	3
Sen. The Hon. D. Lighbourne, Q.C.	13	-	8
Mr. Crafton Miller	13	6	7
Mr. Ransford Braham	13	10	-
Ms. Kay Reuben	13	5	6
Dr. Adolph Edwards	13	9	1
Mr. C. D. Morrison, Q.C.		1	
Mr. George Soutar	13	4	6

3. STAFF

As at the end March 31, 2008 the employees of the Council were:

Miss Althea Richards	Secretary
Mrs. Jeanne Barnes	Attorney-at-law (Part-time)
Miss Dahlia Davis	Administrative Officer
Miss Jeanie McLeod	Records Clerk/Typist
Mrs. Janet Francis-Wright	Filing Clerk/Typist
Miss Fay Williams	Receptionist/Typist
Miss Cecile Johnson	Receptionist/Typist
Miss Tanya Ferril	Clerk/Typist
Miss Donette McLean	Receptionist
Miss Eulalee Steele	Office Help

Mr. Eric Riley's services were terminated March 17, 2009.

#### 4. OUTSTANDING FINES

It was determined that Mrs. Jeanne Barnes should be asked to examine the list of outstanding fines so as to determine where it was practicable to seek recovery and take the necessary steps. Of the twenty-two cases, it was decided that 10 should be written off as the attorneys involved were either deceased or their whereabouts unknown, two should be investigated further and ten be enforced.

#### 5. COMPLIANCE WITH ACCOUNTING REGULATIONS

The decision by the Court of Appeal in the matter of **Antoinette Haughton-Cardenas vs General Legal Council** was made on the 20<sup>th</sup> December, 2007, wherein the Court concluded that the General Legal Council did not have the power to require filing of declarations or accountant's reports by attorneys. The judgment resulted in the suspension of action to enforce this requirement.

The matter was appealed to the Privy Council and the appeal was heard on 12<sup>th</sup> February, 2009. The decision of the Board was being awaited at the end of the period under review.

The two points taken in the case related to:

- i) The jurisdiction of the Privy Council to hear appeals from the Disciplinary Committee of the General Legal Council
- ii) Whether the Legal Profession Act gave the General Legal Council the power to enact regulations requiring attorneys-at-law to produce annual accountant's reports to the General Legal Council.

In view of the general importance of the matter, the Council provided some financial assistance to Mrs. Cardenas to enable her to procure legal representation at the Privy Council.

6. BARRY FRANKSON - PRIVY COUNCIL APPEAL

The appeal has been set for hearing on 1<sup>st</sup> June, 2009

The Chairman volunteered to represent the Council with assistance from any available counsel.

7. CONTINUING LEGAL EDUCATION

The Council continued to partner the Bar Council in the arranging of CLE Seminars.

8. REFORM OF THE LEGAL PROFESSION ACT AND CANONS

The Council's comments on the draft Bill were sent to the Minister of Justice in March 2008 and a request made for a revised Bill to be done.

The Council continued to make representations to the Ministry regarding its proposal that compulsory Continuing Legal Education be provided for in the Legal Profession Act.

9. ACCOUNTS OF THE GENERAL LEGAL COUNCIL

The Council's accounts have now been audited up to the financial year 2007-2008.

10. COMPENSATION FUND

By reason of the seriousness of the complaints received, and the losses sustained by clients of attorneys as a result of the latter's defaults, representations have been made to the Minister that the Council be granted the power to establish a compensation fund and to regulate and administer it to assist complainants who have been defrauded by attorneys.

11. WEBSITE

The Council has agreed to offer financial assistance to the Bar Council for the establishment and maintenance of a website and in return the Council's material is to be accommodated, the extent to which has not yet been agreed.

There is yet no agreement between the Council of the Jamaican Bar Association and the General Legal Council as to the establishment of the proposed website.

12. JUDICIAL APPOINTMENT

The Chief Justice was requested to provide the Council with lists of persons applying for judicial appointments in the same way as they are sent to the Bar Council.

13. PANEL OF ACCOUNTANTS TO INVESTIGATE ATTORNEYS' ACCOUNTS

Mr. Dalma James, Ms. Ethel Mae Crooks, Ms. Michelle Chevannes and Mr. Carlton Hibbert have been approved to be a part of the panel of Accountants to investigate Attorneys' accounting records at the request of the General Legal Council.

14. PART-TIME ACCOUNTANT

Dalma James and Associates were employed as part-time Accountants for the Council.

15. PRACTISING CERTIFICATE FEES

The following fee structure remained in effect on January 1, 2008:

0 - 2 years	\$ 3000.00
3 -5 years	\$ 5000.00
6 -10 years	\$ 9000.00
11 - 14 years	\$12500.00
15 years & over	\$17000.00

16. NON-PAYMENT OF PRACTISING CERTIFICATE FEES

A Private Investigator has been hired to investigate persons who have not paid fees but who are believed to be practising.



17. APPLICATIONS FOR ENROLMENT

The following applications were received and approved.

Marlon O'Neil Gilbert	Warren D. Mottley
Nathifa S. Grandison	Vincent Nelson
Terriann M. Jeffery	Sean Damon Shelton
Cavelle C. R. Johnson	Neil Anthony Stanley
Maia A. Lee	Amanda Wong
Opal Phiona Lee	Reiba Maria Harper
Marsha M. Edwards	Leymon Flloyd Strachan
Michael Fraser	Andrea Kinach
Samantha Elaine Bigby	Donna-Marie Neaves
Cleveland Roy F. Allen	Juliet Joan Johnson Clarke
Carole Susaye Barnaby	Topaz L.M. Johnson
Mitsy Shawnagay Baumont	Walter Rohan Shaka Kirton
Tonelle Yolanda Beecher	Yolande Elizabeth Magnus
Latoya Alanda Bernard	Harold Bruce Malcolm
Donna Erica Brown	Ruthlyn Deleta Matthews
Shereeda Simone Brown	Courtney Anthony Maxwell
Teri-Ann Brown	Zavia Taze Mayne
Maria Louise Burke	Marshalyn McKoy
Shaunna-Kay Elizabeth Carter	Herma Blossom Mcrae
Karen Petula Clarke-Davis	Essence L. Monroe-Douglas
Melissa Moya Cunningham	Charmaine Donna Newsome
Vernon Nicholas Daley	Janna-Marie A. Patel
Jemelia Albertha Dvais	Sophia C. Preston
Everton Johseph Dewar	Audrey B. Robinson
Nicosie Ruth Ann Dummett	Anika Rodriques
Nicola Rennee Earle	Melissa Carole Scott
Alison Foster	Tameisha Stacy Sinclair
Toni-Ann Celia Foster	Alwayne Damian Smith
O'Neil St. Patrick Francis	Robert Jon Taylor
Sundiata Jean-Paul Gibbs	Carla Teressa Thomas
Melanie Alicia Gilchrist	Martyn George Thomas
Kaysha Tamari Grant	Sophia Andrea Tomas
Floyd O'Brian Green	Chrislyn Annroy Thompson
Anna Imoleope Harry	Tresha-Gaye H. Ustanny
Geraldine Cherese Hewitt	Marlene Robertha Uter
Natalya Olivia Heywood	Arlene Anjulene Williams
Shelly Ann Ranae Hyman	Patrice Petra-Ann Williams
Christine Eloise Johnson	Jodi Taylor
Jason Jones	Jennifer Housen
Lorraine Ramson	

18. EXTRA ORDINARY CONFERENCE OF THE COMMONWEALTH  
LAWYERS ASSOCIATION

The Council bore the cost for the entertainment at the opening ceremony of the Conference in the sum of \$271,070.00.

19. QUEEN'S COUNSEL

It was agreed that, Miss Hilary Phillips, Q.C. should be nominated to represent the Council on the Special Committee appointed to make recommendations for appointments as Queen's Counsel.

20. SALARIES

Increases in salaries as well as an increase to the special allowance for members of staff who are required to attend hearings of the Disciplinary Committee on Saturdays were approved.

THE DISCIPLINARY COMMITTEE

The Disciplinary Committee of the General Legal Council has specific responsibility for the maintenance and enforcement of discipline in the legal profession by the examining and hearing of complaints laid against attorneys-at-law.

21. MEMBERSHIP OF THE DISCIPLINARY COMMITTEE

During the year under review, the following persons were reappointed to serve on the Disciplinary Committee for 3 years, ending 31<sup>st</sup> March 2011:

Mrs. Pamela Benka-Coker, Q.C. - Chairman

Mr. Christopher Bovell

Miss Hilary Phillips, Q.C.

Miss Norma Linton, Q.C.

Mrs Gloria Langrin

Mr. Jerome Lee

Mr. George Magnus

Mr. Lincoln Eatmon  
 Dr. Adolph Edwards  
 Mrs. Jeanne Robinson-Foster  
 Mr. Richard Donaldson  
 Mr. Crafton Miller  
 Miss Beryl Ennis  
 Mrs. Margarett Macaulay

Mr. Charles Piper  
 Miss Daniella Gentles  
 Mr. David Batts  
 Miss Lilieth Deacon  
 Mr. Allan Wood  
 Mr. Stephen Shelton  
 Mr. David Johnson

Dr. Randolph Williams, Mr. Christopher Kelman and Mrs. Ursula Khan were also appointed as members with their tenure also ending on 31<sup>st</sup> March 2011.

Mr George Magnus died on July 30, 2009.

## 22. MEETINGS

There were nine (9) plenary meetings of the Disciplinary Committee for the year. These were held on the following dates:

2008: 26<sup>th</sup> April, 31<sup>st</sup> May, 26<sup>th</sup> July, 27<sup>th</sup> September, 25<sup>th</sup> October, 22<sup>nd</sup> November

2009: 24<sup>th</sup> January, 28<sup>th</sup> February, 28<sup>th</sup> March

## 23. ATTENDANCE BY MEMBERS AT MONTHLY MEETINGS

	<u>TIMES POSSIBLE</u>	<u>TIMES PRESENT</u>	<u>TIMES EXCUSED</u>
Mrs. P. Benka-Coker, Q.C.	9	8	1
Miss Hilary Phillips, Q.C.	9	2	4
Miss Norma Linton, Q.C.	9	3	-
Mr. Christopher Bovell	9	3	2
Mr. Richard Donaldson	9	-	-
Mr. Lincoln Eatmon	9	2	-
Dr. Adolph Edwards	9	-	-
Miss Beryl Ennis	9	6	1
Mr. George Magnus		-	-
Mrs. Gloria Langrin	9	7	2
Mr. Jerome Lee	9	-	-

	<u>TIMES</u> <u>POSSIBLE</u>	<u>TIMES</u> <u>PRESENT</u>	<u>TIMES</u> <u>EXCUSED</u>
Mrs. Margarette Macaulay	9	3	5
Miss Danielle Gentles	9	7	2
Mr. Crafton Miller	9	4	3
Miss Lilieth Deacon	9	3	1
Mr. Charles Piper	9	5	2
Mrs. Jeanne Robinson-Foster	9	2	-
Mr. David Batts	9	7	2
Mr. Allan Wood	9	7	2
Mr. Stephen Shelton	9	3	5
Dr. Randolph Williams	3	2	-
Mr. Christopher Kelman	3	3	-
Mrs. Ursula Khan	3	3	-

#### 24. SEMINARS

During the year under review a seminar was held by the Disciplinary Committee of the General Legal Council at the Terra Nova Hotel on 22<sup>nd</sup> January, 2009.

#### 25. ORDERS MADE AGAINST ATTORNEYS

Report for 1<sup>st</sup> April 2008 - 31<sup>st</sup> March 2009

**Mr. Howard Lettman** was found guilty of professional misconduct for his failure to effect the transfer of ¼ acre to the Purchaser, failure to return the title to the Complainant and failure to keep Mr. **Frederick Chambers**, the complainant, informed. The attorney was found to be in breach of Canon VIII of the Legal Profession (Canons of Professional Ethics) Rules and Canons I(b), IV(r) and IV (s). Pursuant to section 12 (4) and (5) of the Legal Profession Act the attorney was fined the sum of \$200,000.00 to be paid within forty-five (45) days of the date of 13<sup>th</sup> December, 2008, the said fine to be paid in partial satisfaction of any damage the Complainant may have suffered as a result of the attorney's professional misconduct. The attorney was ordered to deliver all documents including certificate of title and subdivision approval for the said property to the Complainant on or before the 30<sup>th</sup> day of January, 2009. Failure to do so should result in his suspension from practice for a period of three (3) months

commencing 30<sup>th</sup> day of January, 2009. The Attorney, was also ordered to pay costs of these proceedings in the amount of \$20,000.00. The attorney failed to comply with the Order and was suspended for three months. **(The order was made on the 13<sup>th</sup> December, 2008)**

**Miss Georgette Scott** was found guilty of professional misconduct for her failure to account to her client **Mr. Errol Cunningham** for the proceeds of sale which she received on the complainant's behalf and having sought to pay him by cheque which cheque was dishonoured. The complainant also alleged that at the time of the signing of the complaint the attorney failed to pay him the total amount of proceeds of sale due to him and still owed him \$1,040,000.00 which did not include interest due to him. The attorney was found to be in breach of Canon VII (b) (II) of the Legal Profession (Canons of Professional Ethics) Rules and also Canon I(b). The attorney was ordered to make restitution of the sum of \$750,000.00 to the complainant with interest thereon at the rate of 12% per annum from May 2005 until payment. The attorney was also struck from the roll of attorneys-at-law entitled to practise in Jamaica. Costs of \$50,000.00 were awarded to the complainant against the attorney. **(The order was made on the 14<sup>th</sup> October, 2008)**

**Mrs. Antoinette Haughton Cardenas** was found guilty of professional misconduct for having failed in her duty to her client to commence legal action in an accident case in which the complainant **Mr. Joseph Terrelonge** was involved in 1995, before the (6) years period of limitation had expired. The attorney was found to be in breach of Canon IV(s) of the Legal Profession (Canons of Professional Ethics) Rules. The attorney was ordered pursuant to Section 12(4) (c) of the Legal Profession Act to pay a fine in the amount of \$180,000.00. to be paid to the complainant in partial satisfaction pursuant to Section 124c (5) (a). Plus cost of \$10,000 to be paid to the complainant pursuant to Section 12 4c (b) **(The order was made on the 5<sup>th</sup> November, 2008)**

**Lord Anthony Gifford** was found guilty of professional misconduct for his failure to enforce judgment on behalf of the complainant **Mr. John Grewcock** under which judgment the Complainant would stand to benefit. In the circumstances a fine of \$1,100,000.00 was imposed on the attorney. The Panel directed that such fine was to be paid by the attorney to the complainant within 30 days of the 23<sup>rd</sup> June, 2008 pursuant to Section (12)(5)(a) of the Legal Profession Act in partial satisfaction of any damage caused to him by the default giving rise to the complaint. The Attorney was also ordered to pay cost in respect of these proceedings in the amount of \$200,000.00. **(The order was made on the 23<sup>rd</sup> June, 2008)**

**Mr. Berriston Bryan** was found guilty of professional misconduct for his failure to represent the complainant **Mr. Carl Leadbeater** in a case in which he was callously shot by a **Mr. Michael Kerr** on the 23<sup>rd</sup> May, 2003. The complainant

entered into a contingency fee agreement authorizing Mr. Bryan and Mr. Sylvester Morris to negotiate compensation. Mr. Bryan advised Mr. Leadbeater that the sum of \$14 million would be reasonable and an offer of \$3 million was refused. The attorney took no further steps since February, 2004 to see the matter through and no action was filed. The attorney was found to be in breach of Canon IV (r) of the Legal Profession (Canons of Professional Ethics) Rules and Canon IV(s) and was ordered to pay a fine of \$50,000.00 to the General Legal Council \$40,000.00 of which was to be paid to the complainant in light of the fact that the action is not yet statute barred. The attorney was also ordered to pay costs of \$5000.00 to the Complainant. The fines were ordered to be paid on or before the 17<sup>th</sup> July, 2008. **(The order was made on the 17<sup>th</sup> June, 2008)**

**Mr. J. Vernon Ricketts** was found guilty of professional misconduct for failing to complete transfer in sale of land at Kingswood Pen and failing to remove the name of the complainant's deceased husband from title for Smithfield. The attorney has also failed to account to the Complainant for the sum of \$1million that he received. The attorney subsequently advised the Complainant Ms **Yvonne Chambers** that the papers were stolen from his car. The attorney was found to be in breach of Canon IV (r) & (s) of the Legal Profession Canons of Professional Ethics) Rules, Canon VII (b) and Canon I(b). The name of the attorney was also struck off the Roll of attorneys-at-law entitled to practice in Jamaica. By way of restitution the attorney was ordered to pay to the complainant the sum of \$1million dollars plus a fine of \$200,000.00 to the General Legal Council. The sum payable to the complainant bears interest at a rate of 8% per annum from 1<sup>st</sup> January, 2006 to the date of payment. The attorney was also to pay costs to the Complainant in the amount of \$10,000.00 **(The order was made on the 8<sup>th</sup> November, 2008)**

**Mr. Berriston Bryan** was found guilty of professional misconduct for his failure to handle the sale of the complainant's property which he was retained to do through his secretary in March, 2003. A deposit of \$750,000.00 was paid by the purchasers to the respondent on 11<sup>th</sup> April, 2003. The Agreement for sale provided for completion on or before 120 days of the date of Agreement. The Agreement for sale was not submitted to the Stamp Office within 30 days of the Agreement for sale as provided for under Section 76A and 32(3) of the Stamp Duty Act. The Respondent did not write to the Complainant's mortgagee to inform them of the proposed sale until 14th July, 2003. The attorney re-dated the Agreement for the 18<sup>th</sup> September, 2003 and it was not sent for stamping until 27<sup>th</sup> October, 2003. The attorney was found to be in breach of Canons IV (r) (s) and VI (d) contrary to Section 12 of the Legal Profession act. The attorney was ordered to make restitution to the Complainant **Hortense-Sharpe Sanderson** in the sum of \$140,000.00 in relation to undertaking he did not honor with interest at 12% per annum from the 20<sup>th</sup> February, 2004 to the date of payment. The attorney was also ordered to pay a fine of \$50,000.00 to the General Legal Council for his failure to act expeditiously, plus \$50,000.00 to the General Legal

Council for his inexcusable negligence and neglect in the execution of his duties. The attorney was also ordered to pay costs in the amount of \$150,000.00 to the Complainant. **(The order was made on the 4<sup>th</sup> October, 2008)**

**Mr. Michael Williams** was found guilty of professional misconduct for his failure to recover possession of matrimonial home for the Complainant **Mrs. Millicent Porter** after he took over from his brother Richard Williams who had the case at first. Mr. Williams was paid \$19,960 out of an agreed amount of \$25,000.00 as retainer. He told her he was waiting on some papers in 2003 and gave her date for 15<sup>th</sup> May, 2003 to go to court. She went to court in May but her name was not on the court list nor was her name there for any other date. The Respondent did not diligently pursue the process or follow up proceedings which were filed on the Complainant behalf in the Supreme Court in Suit E240 of 1999. the attorney was found to be in breach of Canons IV (r) and (s) and Canon VI (d) and was ordered to pay by restitution the sum of \$19,960.00 in relation to the undertaking he did not honour at the rate of 12% per annum from 23<sup>rd</sup> April, 2004 to date of payment. The Respondent attorney was also ordered to pay a fine of \$50,000.00 for his inexcusable negligence and neglect in the execution of his duties plus costs of \$25,000 to the complainant. **(The order was made on the 13<sup>th</sup> December, 2008)**

**Mr. J. Vernon Ricketts** was found guilty of professional misconduct for having abandoned the complainant **Derrick Brimmer's** civil case against Wilton Reynolds for damages for personal injuries, loss and expense suffered in a motor vehicle accident. The case was undertaken by the attorney on a contingency basis and all the relevant information which was requested by the Attorney to proceed with the matter was provided by the Complainant. The attorney has failed to diligently pursue or proceed with the complainant's matter and this failure amounted to inexcusable or deplorable negligence or neglect. The complainant was severely prejudice by his action. The Attorney was found to be in breach of Canon IV (s), IV (n), (o) and (q) It was ordered that the attorney suspended for a period of six (6) months if he failed to transferred files in relation to the Supreme Court Suit No. C.L.B 028 of 2000 to an attorney-at-law of the complainant's choice **(The order was made on the 4<sup>th</sup> August, 2008)**

**Mr. Howard Lettman** was found guilty of professional misconduct for his failure to obtain title for land located in Grove Place, Mandeville, Manchester for **Ms. Pauline Smith** in which he acted for both vendor and purchaser in the transaction. The attorney was found to be in breach of Canon IV(s) and Canon IV(r) of the Legal Profession (Canons of Professional Ethics) Rules. A penalty of \$250,000.00 was imposed on the attorney to be paid forthwith. Two Hundred Thousand of which was to go to the complainant by way of compensation for the years of anxiety and being without a title. Costs of \$50,000.00 was also awarded to the complainant. **(The order was made on the 19<sup>th</sup> April, 2008)**

**Lorraine Earle** was found guilty of professional misconduct for her failure to have the Complainant **Ms. Grace Peart's Company** incorporated for which she was retained and paid to do, her failure to lodge visa application for the complainant for which she was again retained and paid to do and finally to change the names on two titles from deceased persons to living persons and to deal with probate and administration in relation to the deceased persons. The attorney received \$100,000.00 from the Complainant for attorney's fees. The titles were not processed and the names were not changed. In February 2003 the Respondent asked the Complainant to cash a cheque for \$50,000.00. They gave her the cash but the bank refused to honour the cheque on the basis that the account upon which the cheque was drawn had been closed. The Complainant has never recovered that money. The attorney was found to be in breach of Canon IV (r) and (s), VII (b) (ii) and 1(b) contrary to Section 12 of the Legal Profession Act. Pursuant to Section 12 (4) (a) of the Legal Profession Act the name of the Attorney-at-law Lorraine A. Earle was struck off the Roll of Attorneys-at-law entitled to practice in the Island of Jamaica. Pursuant to 12 (4) (c) the attorney was also ordered to make restitution to the Complainant in the sum of \$262, 500.00 being the sum of \$212, 5000 paid by the Complainant to the Respondent for work which was not performed and \$50,000.00 for reimbursement of the cheque which was drawn on the closed account. Interest to be paid on the sum of \$262,500.00, from February, 21, 2003 to the dated of payment. The Respondent was also to pay cost to the Complainant of \$20,000.00. (The order was made on the 4<sup>th</sup> April, 2009)

**R.A. (Bill) Salmon** was found guilty of professional misconduct for his failure to obtain title for the Complainant **Mr. Llewellyn Clarke**, which he was retained to do when he acted for the complainant in the purchase of land. The Complainant had paid all that was required to him to complete the purchase. The complainant was put in possession of and has since built on and now occupied the land. The Complainant had received no documentary title for the land. The Complainant notwithstanding several approaches to the attorney had never received a satisfactory explanation for not having received title. The attorney was found to be in breach of Canon IV(s) of the Canons of Professional Ethics (Rules), in that he had acted with inexcusable and /or deplorable negligence and neglect. The Complainant approached Mr. Salmon to do the matter in 1972. The Committee ordered that the Attorney be fined a sum of \$250,000.00 of which \$200,000.00 was to go to the Complainant by way of partial compensation for him being kept out of his title. The remaining \$50,000.00 was to be paid to the General Legal Council. The attorney was suspended from practice for a period of 6 months. (The order was made on the 28<sup>th</sup> day of February, 2009)

**Mr. Berriston Bryan** was found guilty of professional misconduct in that he failed to inform his client, **Mr. Everal Walker**, with due expedition, although reasonably required to do so and he has failed to act expeditiously. He was found to be in breach of Canon 4(r) and Canon 4(s) of the Legal Profession



(Canons of Professional Ethics) Rules. Pursuant to Section 12(4) & (5) of the Legal Profession Act, the attorney was ordered to pay a fine of \$40,000 to the Complainant plus costs of \$1,500.00, \$1,500.00, \$1,500.00 and \$1000.00 respectively.

**Matters Appealed during 1<sup>st</sup> April, 2008 – 31<sup>st</sup> March, 2009**

General Legal Council vs Antoinette Haughton Cardenas

Georgette Scott vs General Legal Council Exparte Errol Cunningham

26. Summary of Complaints 1<sup>st</sup> April, 2008 - 31<sup>st</sup> March, 2009

Number of complaints pending at the commencement of the year (Complaints scheduled to be considered at the general meetings And those scheduled to be set for hearings)		409
Number of complaints filed in the current year		<u>128</u> 537
Complaints considered at the general meetings Of the Disciplinary Committee as at March 31, 2009:		
Number of complaints where prima facie case found	99	
Number of complaints with no prima facie		41
Number of complaints withdrawn		<u>3</u>
		(44)
Complaints dealt with at hearings:		
Number of complaints withdrawn		56
Number of complaints dismissed		41
Number of complaints struck out for want of prosecution		7
Number of complainants upheld		<u>15</u>
Number of attorneys on whom sanctions imposed	15	
Number of decisions appealed to the court	2	
Number of complaints disposed of		<u>(119)</u>
Number of complaints pending at the end of the year		<u>374</u>

27. INCOME AND EXPENDITURE

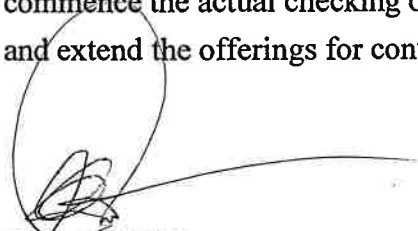
An unaudited statement of the Council's Income and Expenditure for the period 1<sup>st</sup>

April, 2008 to 31<sup>st</sup> March, 2009 is set out as follows:

	<u>2008</u>
	\$
<u>INCOME</u>	
Practising Certificate Fees	16,161,329.83
Interest on Deposit	3,797,691.78
Fines & Costs	112,500.00
Miscellaneous	<u>730,473.77</u>
	20,214,435.73
Administrative and general	<u>(17,781,662.14)</u>
Surplus from operations	2,432,773.59
Finance cost	<u>(165,088.45)</u>
Net surplus for the year	2,267,685.14
<u>EXPENDITURE</u>	
Advertising	287,819.67
Audit and accounting fees	337,400.00
Donation (Commonwealth Law Conference)	217,070.00
Supreme Court Library	25,000.00
Utilities	754,573.69
Insurance	33,910.00
Legal and professional fees	1,873,025.07
Meeting expenses	<u>57,800.00</u>
Office expenses	587,990.66
Office rent & Maintenance	1,538,810.00
Printing, stationery and postage	295,753.22
Repairs and maintenance	236,956.13
Salaries, wages and related costs	6,430,240.95
Statutory Deductions	2,216,199.59
Security	213,574.00
Seminar expenses	48,686.40
Staff welfare	1,119,913.49
Travel and accommodation	1,458,467.77
Equipment	<u>48,471.50</u>
	<u>17,781,662.14</u>
<u>Finance cost:</u>	
Bank charges	<u>165,088.45</u>

**CONCLUSION**

The General Legal Council by the promulgation of the Accounting Rules established an essential mechanism for monitoring the treatment by attorneys of their clients' money as well as providing a means by which attorneys can uniformly comply with proper standards in the exercise of their fiduciary responsibilities. However, the decision of the Court of Appeal in the **Haughton-Cardenas vs G.L.C.** case compelled the suspension of the enforcement of provisions requiring the filing of accountant's reports certifying that attorneys are properly maintaining their clients' trust accounts. While the Privy Council's decision is being awaited, all pending complaints regarding this regulation were suspended. The challenges which now face the General Legal Council and the Disciplinary Committee are to expedite the actual processes of dealing with complaints, commence the actual checking of the manner in which clients' accounts are being kept and extend the offerings for continued professional development.



CHAIRMAN



SECRETARY

November 2, 2009

DATE

