

DECISION OF THE DISCIPLINARY COMMITTEE  
OF THE GENERAL LEGAL COUNCIL

COMPLAINT No. 12/2002

IN THE MATTER of RUSSIE GRANT AND  
VERNON RICKETTS, an Attorney-at-Law

A N D

IN THE MATTER of the Legal Profession Act.

Before: Clayton Morgan – Chairman  
Merlin R. Bassie  
David Batts

Complainant: Miss Russie Grant in person  
The Attorney not appearing or being represented

Hearing Dates: 31<sup>st</sup> July, 2004 and 10<sup>th</sup> August, 2004

The Form of Affidavit dated the 5<sup>th</sup> day of February, 2003 by Russie Grant the Complainant (hereinafter called “the Complainant”) alleges that Mr. Vernon Ricketts the Attorney (hereinafter called “the Attorney”) “acted with inexcusable or deplorable negligence in the performance of his duties”.

The Attorney, Mr. Vernon Ricketts, was called on the date of hearing, that is, 31<sup>st</sup> July, 2004, but there was no answer. Having satisfied itself from the record of the General Legal Council and the Affidavit of Eulalee Steele-Coulton that a notice of the hearing dated 21<sup>st</sup> day of June, 2004 was sent by hand-delivery to Mr. Vernon Ricketts on the 23<sup>rd</sup> day of June, 2004 signed for by E. Elliott on the 23<sup>rd</sup> day of June, 2004, the Committee commenced the hearing in the Attorney's absence, noting particularly that the Complainant had specifically travelled to Jamaica for the hearing from Canada where she resides. It was further decided to “part-hear” the matter and to send the Notes of Evidence to the

Attorney thereby giving him the opportunity to attend and cross-examine the Complainant at the next sitting which was fixed for 10<sup>th</sup> August, 2004, the Complainant having advised the Panel that she was due to return to Canada shortly thereafter.

The Complainant gave evidence as follows:

- That in 1990 she went to the office of the Attorney at Savanna-la-mar where she saw the Attorney and asked him to obtain a Probate of the Will of her grandmother, Joanna Buchanan.
- That she gave the Attorney the Will of her grandmother, Joanna Buchanan, deceased, and the amount Five Hundred Dollars (Ja.\$500.00). He gave her a receipt for the amount of \$500.00 and she showed the Panel a copy of the receipt. The original she said was left in Canada. The copy receipt dated 16<sup>th</sup> May, 1990 was tendered and admitted into evidence as Exhibit No. 1.
- That apart from the Five Hundred Dollars (\$500.00) she paid no other amount in relation to the matter, as she was not asked by the Attorney for any other amount and the Attorney never quoted a fee for doing the Probate.
- That the Attorney never communicated with the Complainant, but she telephoned him and visited him whenever she was in Jamaica. On those occasions, she said the Attorney kept giving her excuses. He told her that the "papers" were in Kingston and at another time he said there were

more “papers” to sign, which “papers” he gave to the Complainant who signed them. The Complainant could not remember what “papers” they were as , she said, “it was such a long time ago”.

- The Complainant said the last time she contacted the Attorney was in the year 2000, by phone from Toronto, Canada. She asked the Attorney about her “papers” and he told her they were ready to “pick up” and she told him that she was coming to collect them. In year 2000 she came to Jamaica and went to the Attorney’s office but she did not see him. She contacted him by phone and he told her the “papers” were in Kingston. She then told the Attorney the date she was leaving Jamaica. She never saw the Attorney and never got the “papers” and he never called her so she asked her son Roy Buchanan to call the Attorney. Her son now resides in Toronto.
- That she is the executrix and beneficiary under the Will of her grandmother, Joanna Buchanan. The copy of the Will admitted into evidence was marked “A” for identity.
- The Complainant did not remember if the Attorney had the original Will but said he never asked for any more money other than the \$500.00 which he said was retainer fee but at some time she was expecting to pay more.

The Form of Affidavit dated the 5<sup>th</sup> February, 2003 filed by the Complaint against the Attorney, was tendered and admitted into evidence as Exhibit 2.

On the second day of the hearing, that is, 10<sup>th</sup> August, 2004, at the office of the General Legal Council the Complainant further deposed that her brother’s name,

Melmoth Grant is in the Will but he died two years ago; that the property has a registered Title and she pays the Land Tax. She tendered the copy of the Will which she gave to the Attorney to obtain probate, which copy Will was admitted into evidence as Exhibit 3. She further stated that a witness to the Will, Hazel Drummond, died a long time ago but was alive when the Complainant delivered the Will to the Attorney.

The Complainant stated that in 1990 she signed the Will before a Justice of the Peace, one Mr. Ronald Young, and returned it to the Attorney. By virtue of the Attorney's negligence and delay in performance of his duties, the Attorney not having obtain Probate of the Will, she said she suffered financially – she had planned a business venture to build a house but could not get a loan as she had no "papers" for the property and she incurred additional expense in her effort to contact the Attorney.

The Attorney was given every opportunity to attend the hearing to cross-examine the Complainant and to answer the complaint but on the second day of the hearing 10<sup>th</sup> August, 2004 which was set for 2:00 p.m., the Panel was informed by Miss Dahlia Davis of the General Legal Council that a Mrs. Elliott from the Attorney's office in Kingston called her at about 11:40 a.m. and said that the Attorney had called and asked to inform the Council that he was in traffic at Savanna-la-mar and was asking the Panel "to give him until 3:00 p.m.". Miss Davis further stated that at 1:40 p.m. she called Mrs. Elliott and was told that the Attorney had reached Mandeville, whereupon she told Mrs. Elliott to inform the Attorney that the Panel would wait until 3:00 p.m. for him. Mrs. Elliott called Miss Davis at 3:15 p.m. and told her that the Attorney said he was at the toll in Old

Harbour and requested that the Panel adjourn the hearing for another date, whereupon Miss Davis told Mrs. Elliott, on the instructions of the Panel, that the Panel would not be adjourning the matter and would continue hearing the complaint in his absence. The hearing on the 10<sup>th</sup> day of August, 2004 was completed at 4:46 p.m. and the Attorney had not arrived by then.

The Committee having heard the evidence of the Complainant considered her to be a witness of truth and accepted her evidence.

The Complainant had engaged the services of the Attorney as far back as 1990, at a time when the joint beneficiary Melmoth Grant and a witness to the Will, Hazel Drummond, were alive. The Complainant made numerous efforts to contact the Attorney which proved futile.

The Committee found that the Attorney Mr. Vernon Ricketts failed to deal with his client's business with due expedition being liable for inexcusable neglect and delay in the conduct of the Complainant's business which resulted in his client incurring additional expenses and inconvenience.

Accordingly, pursuant to Section 12 of the Legal Profession Act and Canons (iv) (r) and (s) of the Legal Profession (Canons of Professional Ethics) Rules 1978 the Committee unanimously hereby order that the Attorney, Mr. J. Vernon Ricketts pays:

1. a fine of \$250,000.00 pursuant to Section 12(4) (a) of the Legal Profession Act and in accordance with Section 12(5) being \$200,000.00 which is apportioned to the Complainant to offset her inconvenience and losses including future legal expenses to obtain Probate of the Will caused by the Attorney's default;

2. Costs to the Complainant as follows:

- (a) Ja.\$2,000.00 for two days of hearing at Ja.\$1,000.00 per day;
- (b) U.S.\$118.00 for hotel accommodation on the 31<sup>st</sup> July, 2004;
- (c) U.S.\$130.00 for hotel accommodation on 10<sup>th</sup> August, 2004; and
- (d) \$699.00 Canadian for airfare to Jamaica and return to Canada.

Dated the 10<sup>th</sup> day of August 2004

  
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CLAYTON MORGAN

  
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MERLIN R. BASSIE

  
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DAVID BATTS