

DECISION OF THE DISCIPLINARY COMMITTEE OF
THE GENERAL LEGAL COUNCIL

COMPLAINT 167/02

BETWEEN NEVILLE S. M. MAIR & GEORGE COMPLAINANTS
VIVIAN THOMPSON

AND BURNHAM J. SCOTT, Q.C. THE ATTORNEY

PANEL: MR. RICHARD DONALDSON
DR ADOLPH EDWARDS
MR. ALLAN WOOD

Dates of hearing: 29th May , 2004, 25th September, 2004

The Complainants are the Trustees of Joseph Samuel Finlay deceased. The Complaint was supported by vive voce evidence of St. George Vivian Thompson, Mr. Norman Harrison and the Affidavit of Mrs. Gloria Langrin. The Attorney did not appear at the hearing. Notice of the hearing was duly served on the Attorney by registered post at his last known address in accordance the Legal Profession Act 4th Schedule rule 21 and service of the notices of hearing was confirmed by Affidavit of Service sworn to by Mervalyn Walker dated 28th May, 2004 and by Eulalee Steel dated 24th September, 2004.

Having considered the evidence the Panel finds as follows:

1. The Complainants acting as Trustees of the estate of Joseph Samuel Finlay deceased agreed to sell lands part of Highgate in the Parish of Westmoreland to Ryland Bryant for the sum of \$150,000.
2. At all material times the Attorney, Mr. Burnham John Scott acted for the Trustees and Messrs M.N. Hamaty and Company acted for the purchasers.

3. Under cover of letter dated 8th March 1995 from M. N. Hamaty & Company to the Attorney, a deposit of \$130,000.00 was paid to the Attorney and lodged to his account on the 15th March, 1995. He has not accounted to the Complainants for that sum.
4. In the year 1995 the attorney migrated to Atlanta Georgia without accounting to the Complainants for the said sum of \$130,000.00 and without completing the sale.
5. Prior to the Attorney's departure from the island, Mr. Norman Harrison practised in the Chambers of the Attorney. Subsequent to his departure, the Attorney spoke with Mr. Harrison by telephone and promised that he would pay all sums due to client including the sum due to the Complainants. The Attorney failed to do so.
6. In breach of Canon V11(b) of the Legal Profession (Canons of Professional Ethics) Rules, the Attorney has failed to account to his clients for monies in his hands for the account or credit of his clients when he was reasonably required to do so.
7. In breach of Canon 1(b) of the Legal Profession (Canon of Professional Ethics) Rules, the attorney has failed to maintain the honour and dignity of the profession and has indulged in behaviour which has discredited the legal profession.

Having considered the evidence the Panel is of the view that the Complaint against the Attorney has been established beyond a reasonable doubt. In the circumstances the appropriate sanction for the Attorney's misconduct is that he be struck off from the Roll.

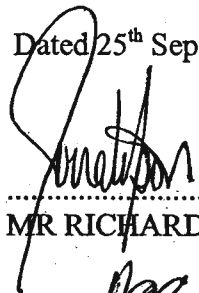
It is ordered as follows:

1. Pursuant to section 12(4)(a) of the Legal Profession Act, the name of Burnham John Scott is struck off the Roll of Attorneys-at-law entitled to practice in the Island of Jamaica.
2. Pursuant to section 12(4)(c) of the Legal Profession Act, by way of making restitution to the Complainants, Burnham John Scott is ordered to pay the Complainants, the sum of

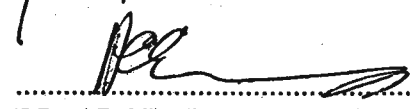
\$130,000.00 together with interest thereon at the rate of 12 percent per annum computed from the 15th day of March 1995.

3. The Attorney is to pay costs to the Complainants in the sum of \$30,000.00

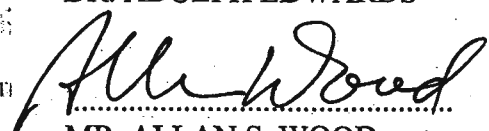
Dated 25th September, 2004



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MR RICHARD DONALDSON



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DR. ADOLPH EDWARDS



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MR. ALLAN S. WOOD