REASONS FOR DECISION

Complaint No. 26 of 2005

In the matter of a complaint by MICHAEL HYLTON Q.C., a member of the General Legal Council

AND

In the matter of E. H. WILLIAMS an Attorney-at-Law

AND

In the matter of the Legal Profession Act

Panel: Pamela Benka-Coker Q.C.,
Stephen Shelton
Charles Piper

Present: The complainant, Mr. Michael Hylton Q.C.

1. A complaint was made by Michael Hylton Q.C., a member of the General Legal Council, against Attorney-at-Law E. H. Williams of 3 King Street, Montego Bay, St. James. Practicing certificate dated 18th June, 1992 for the year ended December 31, 1992 was issued to her in the name Elaine Hyacinth Williams but generally, the Attorney appears to have practiced as E. H. Williams. She will hereafter be referred to as Elaine H. Williams or Ms. Williams.
2. The records indicate that the application and affidavit of complaint were sent to Ms. Williams on or about February 11, 2005, and that by letter dated May 3, 2005 from the Secretary of the Disciplinary Committee, the said Attorney was informed that the complaint was being set for trial.
3. The matter first came up for hearing on the 3rd December, 2005. The panel was not satisfied that Notice of the hearing had been served in sufficient time to fulfill the requirements of Rule 5 of the Fourth Schedule to the Legal Profession Act. For this reason and because Ms. Williams did not appear, the hearing was postponed to February 4, 2006. On that occasion, although properly served in accordance with the said Rule, Ms. Williams did not appear and the matter was adjourned to May 20,

2006. By letter dated February 16, 2006 from the Secretary of the Disciplinary Committee to Ms. Williams, the latter was advised of the date May 20, 2006 fixed for the hearing and was informed that should she fail to attend, the matter would proceed in her absence.

4. On the 20th May, 2006, after the panel satisfied itself that Ms. Williams had been properly served by registered post sent to her on the 19th April, 2006, in keeping with Rule 5 of the Fourth Schedule to the Legal Profession Act, the panel proceeded in her absence, as it is permitted to do by Rule 8 of the Fourth Schedule to the Legal Profession Act.

5. Michael Hylton Q.C. gave evidence. The Form of Application dated February 4, 2005 and his Affidavit sworn to on the February 4, 2005 were admitted as exhibit 1. The Affidavit of Ms. Althea Richards, Secretary of the General Legal Council, was admitted in evidence as exhibit 2. The evidence shows that Ms. Elaine H. Williams, failed to deliver to the General Legal Council, Accountant Reports with respect to her practice as an Attorney-at-Law for the years 2000, 2001, 2002 and 2003, as she is required to do by the Legal Profession (Accounts and Records) Regulations, 1999.

6. In the circumstances outlined above the panel is of the view that the Attorney has been given ample opportunity to either file accountants reports or declarations, if appropriate, for the years in question and has failed to avail herself of the opportunities given to her or to respond to the complaint.

7. The panel having given consideration to the evidence finds that the Attorney, the said Elaine H. Williams, is beyond reasonable doubt in breach of Regulation 16(1) of The Legal Profession (Accounts and Records) Regulations, 1999. By Regulation 17, failure by the Attorney to comply with any of the provisions of the said Regulations constitutes misconduct in a professional respect for the purposes of section 12 of the

Legal Profession Act. The panel considers the breaches committed to be grave and also conduct which brings the profession into disrepute. Where such conduct exists and remains un-rectified, as in the instant case, such an attorney ought to be precluded from continuing in practice. This is necessary for the protection of the Public.

8. In these circumstances, the panel considers that the appropriate sanction under section 12(4) of the Legal Profession Act is to strike the name of Elaine H Williams from the Roll of Attorneys-at-Law entitled to practice in the several courts of the Island. The records of the Disciplinary Committee of the General Legal Council indicate that the said Attorney-at-Law, Elaine H. Williams' name was, on the 14th January, 2006 ordered struck from the Roll of Attorneys-at-Law entitled to practice in Jamaica. Had this not already occurred, we would have imposed that sanction.

9. In the circumstances, we impose a fine of $50,000.00 for each of the years of default 2000, 2001, 2002 and 2003 and costs of $50,000.00 to be paid by the said Elaine H. Williams to the General Legal Council, forthwith.

Dated the 20th day of May, 2006

Pamela Benka-Coker Q.C.

Stephen Shelton

Charles Piper