

**DECISION OF THE DISCIPLINARY COMMITTEE OF THE
GENERAL LEGAL COUNCIL**

COMPLAINT NO. 128/2005

In the Matter of FREDERICK MORRIS,
MADGE MORRIS AND FREMADER
AGENCIES LIMITED and JONATHAN
VERNON RICKETTS, an Attorney-at-Law.

AND

In the Matter of the Legal Profession Act,
1971

Panel: Allan Wood
Dr. Adolph Edwards
Daniella Gentles

Present: Dennis Daley Q. C. appeared for the Complainants, Frederick Morris and Madge Morris, who were present. Mr. Akin Adaramaja appeared on the 19th July 2006 for the Attorney-at-Law, Jonathan Vernon Ricketts, who did not appear.

Hearing: 13th May, 2006, 2nd June, 2006, 19th July, 2006 and 22nd July 2006

COMPLAINT

1. The complaint against the Attorney-at-Law, Jonathan Vernon Ricketts, (hereinafter called "the Attorney") is contained in Form of Affidavit sworn to on the 12th July, 2005 (Exhibit 5) by Frederick Morris and Madge Morris on their own behalf and on behalf of their Company, Fremader Agencies Limited, which Company was added as a Complainant on the 2nd June 2006 by way of amendment and are hereinafter called "the Complainants". The complaint is that:
 - a. "[He] has not provided [us] with all information verbally, written or otherwise as to the progress of [our] business with due expedition although [we] have reasonably required him to do so;

- b. [He] certainly has not dealt with [our] business with all due expedition;
- c. [He] has acted with inexcusable or deplorable negligence in the performance of his duties; and
- d. [He] has not accounted to [us] for all monies in his hands for [our] account or credit, although [we] have reasonably required him to do so.”

2. Upon the Committee being satisfied that the Attorney had been duly served with notice of the hearing pursuant to **Rules 5 and 21 of the Legal Profession (Disciplinary Proceedings) Rules** set out under the **4th Schedule to the Legal Profession Act** and, in exercise of its discretion to proceed with the hearing in the absence of the Attorney, which is provided for under **Rule 8 of the Legal Profession (Disciplinary Proceedings) Rules**, the Committee commenced the hearing of this matter on the 13th May 2006 with the evidence of Mr. Frederick Morris. The matter was thereafter adjourned to the 2nd June, 2006 for continuation. The notes of the proceedings of the 2nd June 2006 and notice of the date of the adjourned hearing were served on the Attorney. On the 2nd June, 2006 the Attorney did not appear nor was he represented but he sent a letter advising that he was ill and requested an adjournment. The request for the adjournment was considered by the Committee and was refused. The evidence of the Complainants was completed and the matter adjourned to the 19th July, 2006. Notice of the proceedings of the 2nd June, 2006 and notice of the date of the adjourned hearing were served on the Attorney. On the 19th July 2006 Mr. Akin Adaramaja appeared for the Attorney and applied for an adjournment on the basis that the Attorney was on his way to Kingston from Savannalamar but developed car problems and had to turn back. The Committee adjourned the matter to 2:00 p.m. on the same day for the Attorney to attend the hearing. At the adjourned hearing on the 19th July 2006 at 2:00 p.m. Mr. Adaramaja advised the Committee that he had relayed the Committee’s message to the Attorney who advised that he was on his way but would probably not be able to attend the hearing. Although the Committee felt that the Attorney had been given more than ample opportunity to attend

and participate in the matter, the Committee decided, given the nature and gravity of the complaint, to once again give the Attorney the opportunity to attend. The matter was therefore adjourned to the 22nd July 2006.

EVIDENCE

3. The evidence in this matter was given by Mr. Frederick Morris and Mrs. Madge Morris. Their evidence was that they were shareholders and directors of Fremader Agencies Limited, the registered owner of land at Bloomingdale, Strathbogie, Westmoreland comprised in Certificate of Title registered at Volume 1237 Folio 922 of the Register Book of Titles. In 1997 the Complainants retained the Attorney to obtain subdivision approval of the said land and splinter titles. Sometime in 2002, the Attorney obtained subdivision approval of the land into twenty lots and obtained the splinter titles for eighteen of these lots. The other two lots remained in the parent title.

4. In 2003 the Complainants entered into agreements for the sale of nine of the lots. The Attorney was retained to effect the transfer of the said lots to the respective purchasers. The lots and the purchasers are listed below:

Lot 1	Linval Robinson
Lot 3	Owen Brown
Lot 9	Patricia Nesbeth
Lot 10	Olive Henam
Lot 11	Dr. Everton Hylton
Lot 12	Florence McIntosh
Lot 13	Francis Whyte
Lot 14	Emeline Thompson
Lot 19	Mae Gardner

5. Monies representing stamp duty, registration fees and Attorney's costs in relation to each of the nine (9) lots were paid to the Attorney to effect the transfer of the said lots to the purchasers. These monies were paid either directly to the Attorney by the purchaser, for which a receipt was issued, or to the Complainants who would then in turn pay it over to the Attorney. By the 9th February, 2003 the Attorney had been paid \$2,077,810 .00. This sum represented the vendor's entire half costs of registration fees, stamp duty and

Attorney's costs and the purchasers' half costs in relation to these items for the nine (9) lots. The payment to the Attorney of the aforementioned sum was confirmed in writing by letter dated the 29th July, 2003 from Fremader Agencies Limited to the Attorney and letter dated the 23rd March, 2004 from Mr. Morris to the Attorney. These letters were tendered into evidence and admitted as Exhibits # 8 and # 6 respectively.

6. The Attorney never responded to the letters and neither did he ever deny being in receipt of these funds. A receipt dated the 7th April, 2003 issued by the Attorney to purchasers, Helene and Owen Brown, for \$100,990.00 for Lot 13, and receipt dated 12th May, 2003 issued to Emiline Thompson by the Attorney for \$100,990.00 for lot 14 were also tendered into evidence as Exhibit # 2. The sums representing the costs to effect the transfer of these lots and as regards the purchaser Emiline Thompson, had been expressly requested by the Attorney in a letter dated the 19th February, 2003 (Exhibit # 1).
7. According to the Complainants they became concerned over the length of time the transfer of the lots were taking and with the progress or lack of progress of the matters generally and over the period made several attempts to speak to the Attorney by way of telephone, appointments and by letters. The evidence of the Complainants was that for the most part whenever they telephoned the Attorney's office he was not in and he never responded to letters. Meetings would be fixed and invariably his office would telephone them and postpone the meeting. When they were lucky enough to speak with the Attorney he would apologise and promise to call them when things were done and/or the matters were concluded. He never called.
8. According to the Complainants sometime in the middle of 2004 they requested the Attorney to hand over the files and monies in relation to the transactions to Daly, Thwaites & Co. This request was followed up by a verbal request made on the Attorney by Mr. Ronnie Thwaites of the firm Daly, Thwaites & Co., for the Attorney to hand over the files and monies collected to them. He promised to hand over the files and monies by a certain date but never did it.
9. By letter dated the 5th May, 2004 the Complainants wrote to the Attorney:

“It is our wish that you turn over all papers and monies in connection with your representation of us together with an accounting for receipts and disbursements, to Daly, Thwaites & Co.”

This letter was tendered into evidence and admitted as Exhibit # 7

10. The Attorney did not accede to the Complainants' wishes. In early April, 2005 Mrs. Morris spoke to the Attorney and again requested that he hand over the matters to Mr. Dennis Daly of Daly, Thwaites & Co. The Attorney promised again to do so but did not. Indeed as of today's date the Attorney has not handed over to the Complainants or Daly, Thwaites & Co. the documents and moneys collected and neither has he accounted to the Complainants for the monies in hand. Further he has not transferred any of the nine lots to the purchasers notwithstanding that all of the fees and costs to transfer the lots were fully paid to the Attorney from February, 2003.
11. The Complainants gave evidence of the severe embarrassment the failure of the Attorney to complete the matters for which he was retained has caused them.

FINDINGS OF FACTS

12. Having heard the evidence and having perused the exhibits, the Committee accepts Mr. and Mrs. Morris as witnesses of truth and finds that the following facts have been established beyond reasonable doubt which is the burden of proof in these matters. **(see Winston Campbell v David Hamlet (as Executrix of Simon Alexander) Privy Council Appeal No. 73 of 2001):**
 - a. The Complainants retained the services of the Attorney to obtain subdivision approval of land at Bloomingdale, Strathbogie, Westmoreland. The Attorney was also to obtain splinter titles for the lots after the land had been subdivided and then transfer the individual lots to purchasers to whom the Complainants had agreed to sell the said lots.

- b. Subdivision approval and splinter titles was obtained from 2002.
- c. In 2003 the Complainants entered into agreements to sell nine (9) of the lots of the subdivided land.
- d. \$2,077,810.00 representing stamp duty, registration fee and the Attorney's costs to effect the transfer of nine (9) lots was paid to the Attorney in full by the 9th February, 2003, being the sum of \$1,642,810.00 and \$435,000.00 respectively (see Exhibit # 9).
- e. The Complainants made several attempts to have dialogue with the Attorney throughout to ascertain the progress of the transfer of the lots to the purchasers and/or to ascertain the reason for the delay in the completion of the matters.
- f. Throughout the matter the Attorney failed to keep the Complainants up to date as to the progress of the matter and did not explain the delays to the Complainants.
- g. The Complainants have verbally requested of the Attorney that he hand over to their new Attorneys, Daly, Thwaites & Co., all monies in hand and documents in relation to the transaction.
- h. Daly, Thwaites & Co has, on behalf of the Complainants, requested that the Attorney hand over all monies in hand and documents in relation to the transaction to them.
- i. By letter dated the 5th May 2004 the Complainants requested that the Attorney hand over all monies and papers to Daly, Thwaites & Co. and account to them for all monies received and disbursed.

- j. The Attorney has not handed over any of the monies in his hand nor the documents in relation to this matter notwithstanding demand, nor has the Attorney completed the transfers despite the lapse of more than two (2) years.
- k. The Attorney has not accounted to the Complainants for the monies received by him despite having been instructed more than two (2) years ago to render an account and to hand over the monies in his hand to the Complainants' now Attorneys Daly, Thwaites & Co.
- l. The Attorney has failed to effect the transfer of the said nine (9) lots to the purchasers with whom the Complainants entered into agreements to sell the said lots.
- m. The Complainants have been severely embarrassed by the Attorney's failure to effect the transfer of the lots purchased by purchasers.

CANONS

13. We find that the Attorney has breached Canon VII (b) of The Legal Profession (Canons of Professional Ethics) Rules which provides that:

“An Attorney shall –

- (i) ...
- (i) account to his client for all monies in the hands of the Attorney for the account or credit of the client , whenever reasonably required to do so; and he shall for these purposes keep the said accounts in conformity with the regulations which may from time to time be prescribed by the General Legal Council.”

14. By February 2003 the Attorney had received the sum of \$2,077,810.00 being stamp duty, registration fees and Attorney's costs to effect the transfer of nine (9) lots. He has failed

to effect the transfer of the nine (9) lots notwithstanding being in receipts of the funds necessary to effect the said transfer and has also failed to comply with the requests of the Complainants and Daly, Thwaites & Co., which requests have been made verbally and in writing (Exhibit # 7), to hand over the monies and papers in relation to the transfer of the nine (9) lots and to account for the sums received and the disbursements made. For over three (3) years the Attorney has had the sum of Two Million and Seventy Seven Thousand Eight Hundred and Ten Dollars (\$2,077,810.00) in his possession which does not only include legal fees but also funds to stamp and register the documents which is impressed with a trust for which the Attorney is the trustee. To date the Attorney has failed to use the funds for the purposes for which they were paid over to him being to stamp and register the transfers, nor has the Attorney given an account of the said sum.

15. The Attorney was retained from 2003 to effect the transfer of nine (9) lots to purchasers to whom the Complainants had agreed to sell the lots. By February 2003 he was in possession of all the monies necessary to effect the transfer yet he has still not done so. Being concerned over the time the matters were taking the Complainants sought over the period to get in touch with him the Attorney by telephone, letters and appointments to discuss the status of the matters. For the most part the Attorney would not be at office and when he was he would promise to call them to tell them about the matters but never did. He proffered no explanation for the delays. Meetings would be fixed for the Attorney to meet with the Complainants but they would be postponed by the Attorney (Exhibit # 6). The result is that after three (3) years of the Attorney being paid to transfer the nine (9) lots, none of the lots have been transferred and no explanation has been given for this. This Committee finds that this constitutes a breach of Canon IV (r) and Canon IV (s) of The Legal Profession (Canons of Professional Ethics) Rules.

16. **Canon IV (r)** provides that:

“An Attorney shall deal with his client’s business with all due expedition and shall whenever reasonably so required by the client provide him with all information as to the progress of the client’s business with due expedition.”

17. **Canon IV (s)** provides that:

“In the performance of his duties an Attorney shall not act with inexcusable or deplorable negligence or neglect.”

18. It is clear to the Panel that the Attorney’s conduct in the present case is more serious than mere neglect. The Attorney has had in his hands for more than three (3) years the sum of \$2,077,810.00 which sum was entrusted to him for the purpose of effecting the transfer of nine lots to purchasers and the Attorney has not been able to account for that sum, nor has he complied with the Complainants’ instructions, given in writing by letter dated the 5th May 2004, to hand over the money and the papers to Daly, Thwaites & Co. The Committee regards this misconduct as grave and to this end we are mindful of the statement by Sir Thomas Bingham M.R. in **Bolton v Law Society [1994] 2 ALL ER 486**:

“It is required of Lawyers practicing in this country that they should discharge their professional duties with integrity, probity and complete trustworthiness.... Any solicitor who is shown to have discharged his professional duties with anything less than complete integrity, probity and trustworthiness must expect severe sanctions to be imposed upon him by the Solicitors Disciplinary Tribunal. Lapses from the required high standard may, of course, take different forms and be of varying degrees. The most serious involves proven dishonesty, whether or not leading to criminal proceedings and criminal penalties.” (P. 491)

On page 492 Sir Thomas Bingham M.R. went on to state that:

“... to maintain the reputation of the solicitors’ profession as one in which every member, of whatever standing, may be trusted to the ends of the earth. To maintain this reputation and sustain public confidence in the integrity of the profession it is often necessary that those guilty of serious lapses are not only

expelled but denied re-admission. If a member of the public sells his house , very often his largest asset , and entrusts the proceeds to his solicitor, pending re-investment in another house, he is ordinarily entitled to expect that the solicitor will be a person whose trustworthiness in not, and never has been, seriously in question. Otherwise the whole profession, and the public as a whole, is injured. A profession's most valuable asset is its collective reputation and the confidence which that inspires."

19. We feel also that special note should be made of **Canon I (b)** of **The Legal Profession (Canons of Professional Ethics) Rules** which provides that:

"An Attorney shall at all times maintain the honour and dignity of the profession and shall abstain from behaviour which may tend to discredit the profession of which he is a member".

20. We find that the Attorney is guilty of professional misconduct as per Canon VII in that he has breached Canons 1 (b), IV (r), IV (s) and VII (b). The Attorney has had in his hands the amount of \$2,077,810.00 for more than three (3) years and has not accounted to the Complainants notwithstanding their request. The hearing of this matter took place on the 13th May 2006 and the 2nd June 2006 and was then adjourned to the 19th July 2006 and again to the 22nd July 2006. The Attorney was notified of all hearings and therefore given ample opportunity to respond to the complaint or make good on the sums in his hands. He has not taken advantage of these adjournments. Having regard to all these matters and the fact that as a Committee of the General Legal Council we are invested with a duty to protect not only these Complainants but also unsuspecting members of the public who may wish to retain the Attorney we feel that the appropriate order in these circumstances is a striking off coupled with an order for restitution.

21. In the circumstances it is the decision of this Committee that pursuant to **Section 12 (4) of the Legal Profession Act:**

1. The name of the Attorney, Jonathan Vernon Ricketts be struck off the roll of Attorneys entitled to practice in the several courts in the island of Jamaica.
2. The Attorney do pay the sum of Two Million and Seventy Seven Thousand Eight Hundred and Ten Dollars (\$2,077,810.00) to the Complainants by way of restitution together with interest thereon at the rate of 6% per annum from the 12th July 2005 until payment.
3. The Attorney pay the costs of these proceedings in the amount of Eighty Thousand Dollars (\$80,000.00).

DATED THE 22ND DAY OF JULY, 2006



ALLAN WOOD



DR. ADOLPH EDWARDS



DANIELLA GENTLES