

DECISION OF THE DISCIPLINARY COMMITTEE OF THE
GENERAL LEGAL COUNCIL

COMPLAINT NO. 254/2005

In the Matter of FREDERICK CHAMBERS
and HOWARD LETTMAN, an Attorney-at-
Law.

AND

In the Matter of the Legal Profession Act,
1971

Panel: Hilary Phillips, Q.C.
Jerome Lee
Daniella Gentles

Present: The Complainant, Frederick Chambers, appeared in person. No one appeared for
the Attorney nor did he appear.

Hearing: 21st July 2007 and 8th December 2007

COMPLAINT

1. The complaint against the Attorney-at-Law, Howard Lettman, (hereinafter called “the Attorney”) is contained in the Form of Affidavit sworn to on the 22nd day of February 2006 by Frederick Chambers (hereinafter called “the Complainant”). The complaint is that the Attorney has failed to deal with the Complainant’s matter with due expedition in that the Attorney was given a certificate of title to property and subdivision approval on the 1st July 1998 to complete the sale and transfer of a portion of the property to a purchaser and up to February 2006 the Attorney had failed to return to the Complainant the title notwithstanding requests for same and nor has the Attorney given an explanation for the delay.
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 21st July 2007 with the evidence of the Complainant. The matter was thereafter adjourned to the 8th December 2007. The notes of the proceedings of the 21st July 2007 and notice of the date of the adjourned hearing were served on the Attorney. The Attorney did not appear at the adjourned hearing on the 8th December 2007 and the Committee having been satisfied that the Attorney had been duly served with notice of the adjourned hearing completed the hearing of this matter on the 8th December 2007.

EVIDENCE

3. The evidence of the Complainant was that on or about July 1998 he engaged the services of the Attorney to represent himself and his son, Paul Chambers, in the sale of ¼ acre of property at Wales, Newport, in the parish of Manchester comprised in Certificate of Title registered at Volume 689 Folio 19 of the Register Book of Titles, to one Mr. Bloomfield. The Attorney was, pursuant to the conditions of subdivision approval for the said property, to apply for a separate title for the ¼ acre portion being sold and transferred to the purchaser and return to the Complainant the old title with the ¼ acre cut off. On the 1st July 1998 the Complainant handed the Attorney the Title for the said premises and the subdivision approval for which the Complainant was issued a receipt (Exhibit 1).

4. According to the Complainant since 2000 he has been asking the Attorney for the return of the Title and by letter, written and delivered on the 2nd February 2004 (Exhibit 2), the Complainant asked the Attorney to return his Title. To date the Attorney has not done what the Complainant required of him and has neither returned the Title to the Complainant nor provided him with any information as to the progress of his business. The purchase price for the ¼ acre portion of the land was paid by the purchaser to the Attorney who in turn paid it over to the Complainant. The Complainant contends that the Attorney has:
 - (1) not acted with due expedition;
 - (2) not provided him with any information as to the progress of his business; and
 - (3) acted with inexcusable or deplorable negligence in the performance of his duty.

5. Having heard the Complainant's evidence and having perused the exhibits the Committee accepts the Complainant as a witness of truth and finds that the following has been established beyond reasonable doubt (Winston Campbell v David Hamlet (as Executrix of Simon Alexander) Privy Council Appeal No 73 of 2001):
- a. The Complainant retained the services of the Attorney on or about the 1st July 1998 and therefore *had locus standi* to bring this complaint. The Attorney was retained to complete the sale and transfer of a portion of property at Wales, Newport, in the parish of Manchester to one Mr. Bloomfield, specifically ¼ acre, and the Attorney was, pursuant to the subdivision approval, to apply for and obtain a separate title for the ¼ acre of land being sold and transferred and thereafter to return to the Complainant the old (parent) title for the property remaining after the ¼ acre had been cut off.
 - b. In July 1998 the Complainant gave the Attorney the Certificate of Title registered at Volume 689 Folio 19 of the Register Book of Titles for the said property and the subdivision approval for the said property.
 - c. The Complainant has verbally asked the Attorney for the return of the title and on the 2nd February 2004 the Complainant delivered a letter to the Attorney requesting the return of the title.
 - d. The Attorney has failed to keep the Complainant up to date as to the progress of the matter.
 - e. The Attorney has not returned the title to the Complainant.
 - f. The Attorney has failed to effect the transfer of the ¼ acre to the Purchaser (Mr. Bloomfield).

CANONS

6. We find that the Attorney has breached Canons I (b), IV (r) and IV(s) of The Legal Profession (Canons of Professional Ethics) Rules and for ease of reference set out below the said Canons:

Canon I (b) 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.”

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.”

Canon IV (s) provides that:

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

7. The Attorney was retained from 1998 to complete the sale and transfer of a portion of land owned by the Complainant’s son and to obtain separate titles for the portion of land sold and the portion of land remaining pursuant to the conditions of subdivision approval. To date the business for which the Attorney was retained has not been carried out and the Attorney has proffered no explanation for the delay nor has he provided any information to the Complainant as to the progress of the Complainant’s business. Further the Attorney has failed to return the title for the land to the Complainant which he has been requesting verbally from 1999 and in writing since 2004. The Complainant was entitled to be advised as to the progress of his affairs and the failure of the Attorney to do so constitutes misconduct in a professional respect. There is no evidence that any of the matters for which the Attorney was retained has been carried out and therefore we find that the Attorney did not deal with the Complainant’s business with all due expedition having been retained almost ten (10) years ago in July 1998.

8. As regards the contention of the Complainant that the Attorney acted with inexcusable or deplorable negligence, the Court of Appeal in Earl Witter v Roy Forbes [1989] 26 JLR 129 held that Canon IV (s) which deals with inexcusable or deplorable negligence or neglect involved failing “to deal with the Claimant’s business in a business like manner”. This Committee is cognizant of the fact that the Complainant in his Form of Affidavit did not **specifically refer to the words in the canons for instance he did not state that he complained** of inexcusable or deplorable negligence or neglect however **the facts deponed in his affidavit encompassed this complaint** and this was part of his oral testimony to the Committee on the 21st July 2007 when he answered to one of the question asked “yes he acted with inexcusable or deplorable negligence in the performance of his duties as an Attorney”. These notes of evidence were sent to the Attorney after this hearing where he had every opportunity to present his case and answer the charge before the Committee in accordance with the principles of natural justice as the matter did not come back before the Committee until the 8th December 2007 hence the Attorney had adequate notice of this charge. In any event disciplinary proceedings are not criminal proceedings or penal proceedings (McCalla v The General Legal Council (1993) 49 WIR 213) and therefore the complaint need not be drawn up like an indictment, **although the standard of prove is beyond reasonable doubt**. The object of disciplinary proceedings is to ensure the maintenance of proper professional standards of probity, integrity and competence in the protection of the public (Bolton v the Law Society [1994] 2 All ER 486). **It is also important to remember that the complaints for the most part are drawn up by lay persons who will give evidence at the hearing which will establish other breaches then entitling the Committee to make such findings. This was upheld by Justice of Appeal Panton in SCCA No. 52/99 Barrington Earl Frankson v The General Legal Council exparte Basil Whitter (at the instance of Monica Whitter).** Further as stated above the facts on which the complainant intended to rely were set out in the Form of Affidavit which grounded the complaint.

The Attorney certainly did not deal with the Complainant’s matter in a business like manner. He was retained from 1998 to carry out certain business and to date (nearly ten (10) years later) according to the evidence and we so find, he has failed to carry out the work for which he was retained, he has not explained to the Complainant the reason(s)

for the delay or even advised the Complainant as to the progress. These actions of the Attorney can only bring the rest of the legal profession into disrepute.

9. In these circumstances we find that the Attorney is guilty of professional misconduct as per Canon VIII of the Legal Profession (Canons of Professional Ethics of Rules) in that he has breached Canons I (b), IV (r) and IV (s) and it is the decision of this Committee that pursuant to Section 12 (4) and (5) of the Legal Profession Act:

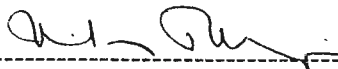
(i) The Attorney, Howard Lettman be fined the sum of Two Hundred Thousand Dollars (\$200,000.00) to be paid within forty-five (45) days of the date hereof;

(ii) The said fine shall be paid over to the Complainant in partial satisfaction of any damage he may have suffered as a result of the Attorney Howard Lettman's professional misconduct;

do
(iii) ~~In the event that~~ the Attorney, Howard Lettman, ~~fails to~~ deliver all the documents including the Certificate of Title registered at Volume 688 Folio 19 and Subdivision Approval for the said property, to the Complainant on or before the ^{30th} 13th day of January 2009, ^{IN THE EVENT} the Attorney, Howard Lettman ^{FAILS TO DO SO HE} will be suspended from practice for a period of three (3) months commencing on the ^{30th} 13th day of January 2009; and

(iv) The Attorney, Howard Lettman must pay the costs of these proceedings in the amount of \$20,000.00.

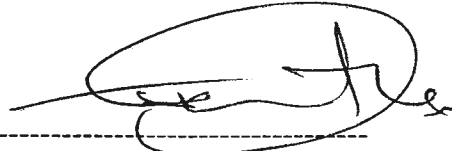
DATED THE 13th DAY OF DECEMBER, 2008



HILARY PHILLIPS Q.C.



JEROME LEE



DANIELLA GENTLES