

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

**COMPLAINT NO.: 65/2010**

<b>BETWEEN</b>	<b>DENNIS WHITE</b>	<b>COMPLAINANT</b>
<b>AND</b>	<b>JOSEPH ALLEN</b>	<b>RESPONDENT</b>

**PANEL:** ALLAN S. WOOD, Q.C.  
JOHN GRAHAM  
DAVID BATTS


**Hearing Date(s):** 18<sup>th</sup> September, 14<sup>th</sup> October 2010

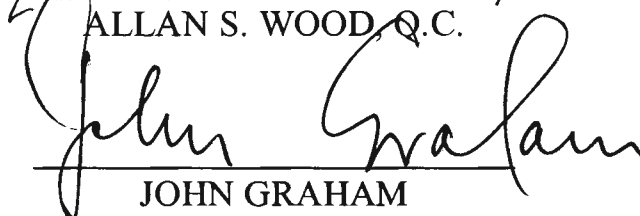
1. This is a Complaint brought by Dennis White that the Respondent has not accounted for all monies in his hands, although he has reasonably required him to do so. The matter came on for hearing on 18<sup>th</sup> September 2010 when the Respondent was absent.
2. The Affidavit of Service sworn by Angela Moses on 17<sup>th</sup> September 2010, deponed that Notice of Hearing was duly served by registered post on 13<sup>th</sup> July 2010 and accordingly the Panel exercised its discretion under the Legal Profession Act 4<sup>th</sup> Schedule, par. 8 to commence hearing and evidence taken from the Complainant on 18<sup>th</sup> September 2010. The hearing was then adjourned to 14<sup>th</sup> October 2010 to give the Respondent a further opportunity to state his defence to the Complaint. The Respondent has not seen fit to attend.
3. Evidence was given by the Complainant and Fay Williams, a clerk employed to the General Legal Council. Having regard to the evidence, the Panel is satisfied that the complaint has been established beyond reasonable doubt. The Panel finds that:
  - i. The Respondent suffered injuries in an accident and the Complainant was retained to pursue a claim. The Complainant duly paid the Respondent a retainer fee on 30<sup>th</sup> April 2009.

- ii. A settlement was negotiated by the Respondent with Advantage General Insurance Company Limited in the sum of \$497,500.01 and a Release was duly prepared and executed by the Complainant dated 5<sup>th</sup> October 2009. The aforesaid sum specified in the release amounting to \$497,500.01 was collected by the Respondent on 23<sup>rd</sup> October 2009 and the Respondent issued a receipt confirming that he had received same.
- iii. The Respondent has failed to pay over the said sum of \$497,500.01 or any part therefore to the Complainant.
- iv. Since the 23<sup>rd</sup> October 2009, the Complainant has visited the offices of the Respondent to collect his money and has not been able to find him and efforts to make contact with the Respondent through his brother have been to no avail.
- v. Prior to filing the formal complaint dated 23<sup>rd</sup> March 2010, the Complainant wrote a letter to the General Legal Council dated 26<sup>th</sup> November 2009 making complaint against the Respondent. Quite coincidentally, the Respondent attended the offices of the General Legal Council on 21<sup>st</sup> December 2009 and was handed a copy of the Complainant's letter by Fay Williams, a clerk employed to the General Legal Council. The Respondent in the presence of Fay Williams read the letter of complaint, hissed his teeth and threw the letter into the garbage bin. There has been no further response to the complaint.
- vi. To date no part of the sum of \$497,500.01 has been paid by the Respondent to the Complainant.
- vii. The Respondent has failed to account to the Complainant for the said sum of \$497,500.01, when reasonably required to do so in breach of Canon VII (b) of the Legal Profession (Canons of Professional Ethics Rules) [1978].
- viii. The Respondent has failed to maintain the honour and dignity of the legal profession and his behaviour has discredited the profession of which he is a member in breach of Canon 1(b) of the aforesaid Regulations.

4. The Respondent has breached his professional duties and the duty of trust which he owed to the Complainant and has committed an act of outright dishonesty in failing to pay over any part of the sum which he collected on the Complainant's behalf. The failure in such circumstances to account for client's money is a grave act of professional misconduct and we believe that the appropriate sanction is that the Respondent be struck off the Roll of Attorneys-At-Law. This is necessary in protection of the public so that there can be no repetition of such abuse. In addition to that the Respondent must make restitution to the Complainant.
5. It is accordingly hereby ordered as follows:-
- i. Pursuant to section 12 (4)(a) of the Legal Profession Act, the name of Joseph Allen is struck off the Roll of Attorneys-At-Law entitled to practice in the Island of Jamaica;
  - ii. Pursuant to section 12(4)(f) of the Legal Profession Act, by way of restitution Joseph Allen is to pay to the Complainant, Dennis White the sum of \$497,500.01 together with interest thereon at the rate of 8 per cent per annum computed from the 23<sup>rd</sup> October 2009 to the date of payment;
  - iii. Joseph Allen is to pay costs to the Complainant, Dennis White in the sum of \$20,000.00.

Dated the 14<sup>th</sup> day of October 2010

  
ALLAN S. WOOD, Q.C.

  
JOHN GRAHAM

  
DAVID BATTS