

DECISION OF THE DISCIPLINARY COMMITTEE

Complaint No. 107 of 2010

In the matter of a Complaint by Linford Bogle

AND

In the matter of CONRAD POWELL an
Attorney-at-Law

AND

In the matter of the Legal Profession Act

Panel: Allan S. Wood Q.C., Jerome Lee and Charles Piper
Present: Linford Bogle

When this Complaint came up for hearing, there was no answer for Conrad Powell when his name was called nor was there any explanation for his absence. The Panel referred to the Affidavit of Angela Moses sworn to on the 27th October, 2011 confirming service on Conrad Powell by registered post on the 19th August, 2011 of the notice for hearing on the 5th November, 2011. The Panel also noted that Conrad Powell was not in attendance on the previous date of hearing on July 2, 2011 when the matter was adjourned and an order for payment of costs of \$2,000 was made against him. At the direction of the Panel which made the aforesaid order for costs, by letter dated July 18, 2011 from the Secretary of the Disciplinary Committee, Mr. Powell was advised of the order and was advised that the hearing of the complaint was adjourned to November 5, 2011. The letter advised Mr. Powell that if he failed to attend on that date the matter will be heard in his absence.

Having regard to the foregoing the Panel exercised its discretion pursuant to paragraph 8 of the Legal Profession Act, Fourth Schedule, to hear and determine the complaint in the absence of Conrad Powell.

Oral testimony was given on oath by the Complainant and documentary evidence was also tendered and received. The Panel accepts the Complainant as a truthful witness and finds that the following facts are established beyond reasonable doubt:

1. The Complainant, Linford Bogle and Syndey Marriott, are the executors of the Estate of Ida McPherson.
2. In the year 2008 the Executors entered into an agreement for the sale of 7C Havana Road, Retreat in the parish of St. Thomas to Leaford Satchwell for the sum of \$10,720,000.00 with an initial payment of \$5,000,000.00.
3. The initial payment under the agreement in the sum of \$5,000,000.00 was duly made by the Purchaser Leaford Satchwell on October 1, 2008 by lodgment to Conrad Powell's account at Jamaica National Building Society.
4. A Vendor's Statement of Account dated August 17, 2009 bearing the signature of Conrad Powell confirms that a sum of £6,000 equivalent to J\$797,520.00, was also paid on account.
5. A further sum of \$5,636,102.00 was also paid by the Purchaser, Leaford Satchwell, to Conrad Powell as evidenced by receipt issued by Conrad Powell dated August 19, 2009.
6. In total, the Purchaser, Leaford Satchwell, has paid the sum of \$11,433,622.00 inclusive of costs which is more than the total purchase price
7. Of the total purchase price of \$10,720,000.00 Conrad Powell has paid over to the Complainant the sum of \$200,000.00 on account of Executors fees. No further sum has been paid.
8. Conrad Powell has not accounted for the balance which he holds in the sum of

\$10,520,000.00 nor has he furnished any material to show that he has paid the stamp duty and transfer tax which is due on the Agreement for Sale.

9. Conrad Powell was retained to obtain probate in the Estate of Ida McPherson and to transfer the property to the Purchaser Leaford Satchwell. Rather than fulfill the terms of his retainer on February 15, 2010 Conrad Powell delivered to the Purchaser the Duplicate Certificate of Title for the property, which has not been transferred.
10. Having received the money to complete the transaction Conrad Powell has taken no step to transfer title for the property.

Having regard to the foregoing findings, the Panel further finds that:

- (i) The Attorney, Conrad Powell, has failed to account to his client for all monies in his hand for the account or credit of the client when he was reasonably required to do so in breach of Canon VII(b) of the Legal Profession (Cannons of Professional Ethics) Rules, 1978.
- (ii) The Attorney, Conrad Powell, has failed to maintain the honour and dignity of the Profession and his behaviour has discredited the Legal Profession of which he is a member in breach of Canon I(b) of the aforesaid Rules.

In respect of sanction the acts of professional misconduct committed by the Attorney are grave and the Panel finds that it is incumbent upon it to act in the protection of the public. The Panel is guided by the decision in Bolton v Law Society ([1994] 1 WLR 512 and in particular the often cited guidelines of Sir Thomas Bingham M.R. at page 518 that:

“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. In such cases the tribunal has almost invariably, no matter how strong the mitigation advanced for the solicitor, ordered that he be struck off the Roll of Solicitors.... If a solicitor is not shown to have acted dishonestly, but is shown to have fallen below the required standards of integrity, probity and trustworthiness, his lapse is less serious but it remains very serious indeed in a member of a profession whose reputation depends upon trust. A striking off order will not necessarily follow in such a case, but it may well. The decision whether to strike off or to suspend will often involve a fine and difficult exercise of judgment, to be made by the tribunal as an informed and expert body on all the facts of the case. Only in a very unusual and venial case of this kind would the tribunal be likely to regard as appropriate any order less severe than one of suspension.”

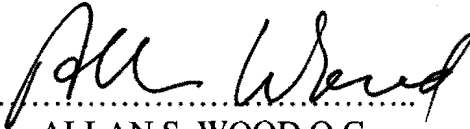
We also note that Conrad Powell holds a balance of \$11,233,622.00 inclusive of the costs of the transaction. Of this sum after taking into account the payment of \$200,000.00 which was made to the Complainant, the balance of the purchase price which would be due and payable to the Complainant and Sydney Marriott as Executors of the Estate of Ida McPherson would be \$6,783,130.00. We have considered this matter and we find that having regard to the fact that no step has been taken to complete the Agreement for Sale and that the Vendors and Purchaser have approached this matter amicably to date and had in fact made an initial joint complaint, the fair and appropriate approach is to require Conrad Powell to repay all sums in hand to the Vendors and Purchaser so that they can then retain attorneys to complete the sale.

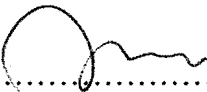
It is accordingly ordered that:

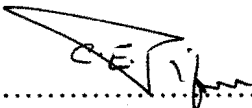
1. The name of the Attorney, Conrad Powell, be struck off the Roll of Attorneys-at-Law entitled to practice in the Island of Jamaica.

2. By way of restitution the Attorney, Conrad Powell is to pay to the Complainant Linford Bogle and the Co-Executor Sydney Marriott and the Purchaser, Leaford Satchwell, the sum of \$11,233,622.00 with interest thereon at the rate of 6% per annum from the 19th August, 2009 to the date of payment.
3. The Attorney, Conrad Powell is to pay the Complainant's costs of \$10,000.00 bringing the total costs order payable to the Complainant to \$12,000.00.
4. The Attorney, Conrad Powell, is also ordered to pay costs to the General Legal Council in the sum of \$20,000.00.

Dated the 5TH day of November, 2011


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ALLAN S. WOOD Q.C.


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JEROME LEE


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CHARLES PIPER

**FORMAL ORDER OF THE DISCIPLINARY COMMITTEE
OF THE GENREAL LEGAL COUNCIL**

COMPLAINT NO. 107/ 2011

**IN THE MATTER OF LINFORD BOGLE vs
CONRAD POWELL, ATTORNEY-AT-LAW**

AND

**IN THE MATTER OF THE LEGAL
PROFESSION ACT**

**PANEL: MR. ALLAN WOOD, Q.C. - CHAIRMAN
MR. JEROME LEE
MR. CHARLES PIPER**

DECISION DELIVERED 5TH NOVEMBER, 2011

UPON THE APPLICATION dated 13th July, 2010 made under section 12(1)(a) of the Legal Profession Act coming on for hearing before the Disciplinary Committee on 2nd July, and 5th November, 2011;

AND UPON the Complainant Mr. Linford Bogle appearing and having given evidence on oath;

AND UPON the Attorney Mr. Conrad Powell not appearing;

AND UPON DUE CONSIDERATION of the evidence of Mr. Linford Bogle;

THE COMMITTEE FINDS that for the reasons set out in the decision in writing delivered on 5th November 2011, in acting in the sale of property 7C Havana Road, Retreat, Saint Thomas, the Attorney, Mr. Conrad Powell is guilty of misconduct in a professional respect and has failed to account to his clients for all money in the hands of the Attorney for the account or credit of the clients when reasonably required to do so in breach of Canon VII (b) of the Legal Profession (Canons of Professional Ethics) Rules 1978 . Further in breach of Canon 1(b) of the aforesaid Rules, the Attorney has failed to maintain the honour and dignity of the Legal Profession and his conduct has discredited the Profession of which he is a member.

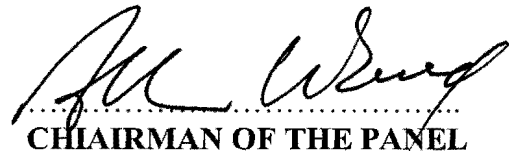
THE COMMITTEE UNANIMOUSLY HEREBY ORDERED THAT:-

1. The name of the Attorney Conrad Powell is struck off the Roll of Attorneys-at-law entitled to practice in the Island of Jamaica.

2. By way of restitution, the Attorney Conrad Powell is to pay to the Complainant Linford Bogle and the Co-executor Sydney Marriott and the Purchaser, Leaford Satchwell the sum of \$11,233,622.00 with interest thereon at the rate of 6% from the 19th August, 2009 to the date of payment.
3. The Attorney Conrad Powell is to pay to the Complainant costs of \$10,000.00 bringing the total costs order payable to the Complainant to \$12,000.00.
4. The attorney Conrad Powell is ordered to pay costs to the General Legal Council in the sum of \$20,000.00.

These Orders are made under section 12(4) of the Legal Profession Act

Dated 8th day of November, 2011


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CHAIRMAN OF THE PANEL