

**DECISION OF THE DISCIPLINARY COMMITTEE OF  
THE GENERAL COUNCIL  
COMPLAINT 177/2010**

IN THE MATTER of MARK WILLIAMS  
vs KEISHA McDONALD an Attorney-at-  
Law

AND

IN THE MATTER of The Legal Profession  
Act

**PANEL**

**MR. RICHARD DONALDSON-CHAIRMAN  
THE HONOURABLE MR. JUSTICE DAVID BATTS  
MR. CHRISTOPHER KELMAN**

**Present:**

**Mr. Mark Williams-Complainant  
Ms. Keisha McDonald  
Mr. Michael Howell-Counsel for Ms. McDonald  
Ms. Roxanne Mars-Counsel for Ms. McDonald**

**DECISION**

1. The Complaints brought by the Complainant Mr. Mark Williams against the Attorney Ms. Keisha McDonald are that:-
  - (a) Contrary to Canon IV(r) of the Legal Profession (Canons of Professional Ethics) Rules:-
    - (i) Having been reasonably so required the Attorney failed to provide him with all information as to the progress of the Complainant's business;
    - (ii) The Attorney has not dealt with the Complainant's business with all due expedition.

- (b) Contrary to Canon IV(s) of the Legal Profession (Canons of Professional Ethics) Rules the Attorneys acted with inexcusable negligence in the performance of her duties
  - (c) Contrary to Canon VII (7b) (ii) of the Legal Profession (Canons of Professional Ethics) Rules the Attorney failed to account to the Complainant for all monies in the hand of the Attorney for the account or credit of the Complainant having been reasonably required to do so.
2. The matter was heard over seven (7) dates commencing on the 3rd March, 2012 and ending on the 10<sup>th</sup> November, 2012 when the panel took time to deliver its decision.
  3. The Complainant was unrepresented. The Respondent Attorney-at-Law was represented by Mr. Michael Howell and Ms. Roxanne Mars, Attorneys-at-Law.
  4. Evidence was given by the Complainant and his wife Mrs. Annette Williams and by the Attorney Ms. Keisha McDonald.

#### **The Evidence of the Complainant Mr. Mark Williams**

5. Mr. Mark Williams stated that he had been a social friend of Ms. Keisha McDonald from the year 2006. He and his wife owned a property which they wished to sell. The property was a Townhouse at 15 Waterloo Road, Kingston 10 having title registered at Volume 1127 Folio 104 (See Exhibit 14). In September 2009 Mr. Williams communicated with Ms. McDonald by the 'online' network known as Facebook. In a series of exchanges between himself and Ms. McDonald on Facebook between 23<sup>rd</sup> September and 1<sup>st</sup> October, 2009 he enquired if Ms. McDonald handled real estate transactions. She responded in the affirmative. He then enquired as to her fee and she responded saying 2-3% (of the sale price). He responded saying he could only afford a fee of \$40,000.00. She asked if he could pay a fee of \$60,000.00 to which he agreed. She agreed to wait until completion of the sale to collect her fee.
6. Mr. Williams said he had some experience in Real Estate transactions and so prepared a draft agreement and sent it to Ms. McDonald for approval as there was a prospective purchaser. The purchaser did not proceed and no agreement was signed.
7. In January, 2010 there was another prospective purchaser. Mr. Williams provided Ms. McDonald with the details of that proposal and asked her to amend the draft agreement he had sent to her in respect of the first prospective purchaser. An agreement was prepared and signed by the parties and dated 2<sup>nd</sup> March, 2010. An initial payment of \$1,770,000.00 was made on the sale price of \$11,800,000.00. From one week after the date of the agreement Mr. Williams says he started calling Ms. McDonald for progress reports. Her responses were that she had not yet heard from the Stamp Office.

8. He said that 1 ½ months after the date of the agreement Ms. McDonald told him that the Stamp Office wanted to see a valuation report on the property. He said she was unable to locate a valuation report he had given to her previously. She told him the Stamp Commissioner's Department wanted to inspect the property. He says he was never contacted by the Stamp Office to arrange for any inspection.
9. He said that on 28<sup>th</sup> April Ms. McDonald informed him that she had collected the documents from the Stamp Office. He understood her to mean she had paid the relevant duties. This communication to him was by e-mail (see Exhibit 2).
10. A Transfer was prepared by Ms. McDonald and sent to the Complainant. A correction was necessary. That correction was made by the Complainant and he and his wife signed the document and it was delivered by Mr. Williams to Ms. McDonald at Ms. McDonald's office at the N.E.P.A office in Cross Roads where she worked.
11. Mr. Williams says that he and his wife began having difficulty contacting Ms. McDonald by telephone. He said that he was becoming impatient at the apparent delay in the progress of the transaction and not getting a satisfactory explanation for the delay. On or about 13<sup>th</sup> May 2010 both Mr. & Mrs. Williams went to Ms. McDonald's office. They had a meeting with her. She said the delay was due to difficulty her bearer had in locating the 'Courts' store in Cross Roads where Mrs. Williams works. Mr. Williams did not accept that explanation from her as he said the 'Courts' store was within 5 minutes of Ms. McDonald's office. He asked her for confirmation that Transfer Tax and Stamp Duty had been paid. Ms. McDonald replied 'Yeah man that done long time'. He asked if the documents were sent to the Titles Office and Ms. McDonald replied 'Yes'.
12. Mr. Williams said that on the same day of the meeting with Ms. McDonald he called the Titles Office. He made inquiries. Based on what he was told he called and spoke to Ms. McDonald the following day. He asked her for the Titles Office tracking number for the documents submitted. She said she would give it to him shortly but she never did so.
13. On Monday 17<sup>th</sup> May, 2010 Mr. Williams called the Stamp Office and made inquiries. He received information that only that same day a part payment of \$740,000.00 had been made on account of the \$826,000.00 due for Transfer Tax and Stamp Duty. He tried without success to get Ms. McDonald by phone for an explanation. He prepared a letter that same day terminating Ms. McDonald's service as Attorney and requested a return of all documents. That letter was sent to her by e-mail. The letter dated 18<sup>th</sup> May, 2010 bore his and his wife's signatures (See Exhibit 3).
14. Ms. McDonald responded by e-mail saying she would return the documents to Mrs. Williams on 20<sup>th</sup> May 2010. (See Exhibit 4A).
15. Mr. Williams said that during the period of 17 to 21<sup>st</sup> May 2010 he learnt that the 21<sup>st</sup> May 2010 was the deadline for payment of the Transfer Tax and Stamp Duty. At same point in that four day period Ms. McDonald disclosed to him that she had made a payment to the Stamp Office on the 6<sup>th</sup> May, 2010 but the Manager's cheque was lost and

that she was then about to put a stop order on it. He disbelieved her. He informed her in writing that he intended to make a report of the matter to the police and to her boss. In joint emails of 17 and 18<sup>th</sup> May 2010 the Complainant and his wife registered their dissatisfaction with Ms. McDonald's handling of the matter and lack of candour. She replied by e-mail dated '27<sup>th</sup> December, 2009'. On Thursday 20<sup>th</sup> May 2010 documents were delivered by Ms. McDonald's bearer to Mrs. Williams. A statement of account was among the documents delivered (See Exhibit 6) but no cheque was included. On Friday 20<sup>th</sup> May Mr. Williams says that he contacted Mr. Dean Attorney-at-Law and requested him to pay the \$86,000.00 owing for Transfer tax and Stamp Duty. That was done the same day.

16. In an e-mail of 21<sup>st</sup> May 2010 to Ms. McDonald, Mr. Williams queried the Attorney's fee of \$177,000.00 and \$25,000.00 respectively shown on the statement of account received from Ms. McDonald. Ms. McDonald replied by email on the same day (See Exhibit 7) in which she outlined the work she had done. Mr. Williams said to the Panel that he had expected to be charged no more than the \$60,000.00 fee which had been agreed with Ms. McDonald.
17. He also told the Panel that he had to pay Mr. Dean Attorney-at-Law a fee of \$200,000.00 to complete the sale.
18. Under cross examination by Mr. Howell Mr. Williams said that the fee of \$60,000.00 was charged because of his friendship with Ms. McDonald. He denied that any new fee arrangement was made at the time the second prospective purchaser made a proposal to purchase the property in January 2010. He denied that Ms. McDonald suggested her fee would be 2%.
19. Mr. Williams did not accede to the suggestion that there had been at least 2 prospective buyers referred to Ms. McDonald prior to the introduction, in January 2010, of the party who did purchase the property. He said he was unaware the Stamp Office had caused a valuation to be carried out on the subject property. After being pressed by Counsel he admitted to having made his complaint to the General Legal Council by letter dated 21<sup>st</sup> May, 2010. He disagreed there were no undue delays in his transaction between March and June, 2010. He denied having had a sexual relationship with Ms. McDonald but did say he had taken her out on one occasion. He denied that it is because his wife found out about his intimate relationship with Ms. McDonald why he began pressing Ms. McDonald about progress with the transaction. In answer to the panel he said he would not consider a 2% fee to be concessionary.
20. Mrs. Annette Williams the wife of the Complainant was called by him to give evidence.
21. In her evidence in chief Mrs. Annette Williams denied any awareness of an intimate relationship between Mr. Williams and Ms. McDonald. She said Ms. McDonald was being followed up on the transaction because of her failure to communicate with Mr. and Mrs. Williams on the transaction. She said that on a visit to Ms. McDonald's office on 13<sup>th</sup> May, 2010, Ms. McDonald told her that Transfer Tax and Stamp Duty had been paid

some time in April. Under cross examination by Mr. Howell she said she was aware Mr. Williams had known Ms. McDonald for some time prior to the sale of the property. She was unaware Ms. McDonald was charging a 2% fee for her services. She said she expected a Real Estate sale could take from 2 to 6 months to be completed. She agreed that Ms. McDonald's services were terminated only 2 ½ months from the date of the Agreement for Sale.

22. She said that she had been aware that there were still three (3) days left for payment of the duties at the time she terminated Ms. McDonald's services. She became aware of the penalty on examining the document from the 'tax office' (see Exhibit 11). She did not agree that the transaction had not been subject to any extraordinary delay. She accepted that the letter of 21<sup>st</sup> May, 2010 from the Taxpayer Audit & Assessment Department (Exhibit 12) meant that no penalty would be applied.
23. In response to questions about the lost Manager's cheque she said she learnt of that for the first time about 18<sup>th</sup> May, 2010. She said that Ms. McDonald sent her an email with a letter dated 21<sup>st</sup> May from the Bank of Nova Scotia.
24. She maintained that the fee Ms. McDonald agreed to charge was \$60,000.00. She also confirmed that the other Attorney charged them between \$200,000.00 - \$250,000.00.
25. Counsel for Ms. McDonald made a no-case submission but the Panel ruled that there was a case to answer.

**The Evidence of the Respondent Ms. Keisha McDonald Attorney-at-Law**

26. Ms. McDonald said that she was presently employed to the Ministry of Justice.
27. She said she had been asked to represent the Complainant in two previous failed efforts to sell their property. She said she had known Mr. Mark Williams from 2005 and had developed an intimate relationship which lasted for one year.
28. She said she prepared an Agreement for Sale in respect to a third transaction. She had meetings with Mr. Williams and one of the Purchasers and exchanged e-mail and had telephone conversation in order to settle the terms of sale. She said she prepared an Agreement for Sale which was signed by the parties and dated 2<sup>nd</sup> March, 2010 which she submitted to the Stamp Office on 4<sup>th</sup> March, 2010. She said Mr. Williams contacted her after one week for a progress report. She told him it was unlikely anything would yet be ready but she would keep him informed. She said that she checked on the matter at least once per week. She said she first became aware on the 6<sup>th</sup> May 2010 that the agreement was assessed by the Stamp Office. She on that same day purchased a Manager's cheque in the sum of \$826,000.00 payable to the Taxpayer Audit & Assessment Department. On that same day she attended at the Tax Payer Audit & Assessment Department (Stamp Office) joined a line and was then told to return in 45 minutes. On her return she could not find the cheque. She asked an officer at the Stamp Office if she had seen a cheque

left on the counter. She searched her bag and vehicle but could not find the cheque. The next day she asked a representative of the Stamp Office to make a search for the cheque.

29. She made further searches. On the 17<sup>th</sup> May, 2010 she informed the Complainant of the loss of the cheque. She said that being aware of the penalty which would be applied if the agreement was not stamped on time she approached a representative of the Stamp Office. Following that she paid \$740,000.00 to the Stamp Office on 17<sup>th</sup> May 2010. She obtained a letter stating no penalty would be applied (Exhibit 12). She informed the Complainant. She next received a letter from the Complainant terminating her services.
30. She complained that the Complainant had become abusive.
31. In response to a question from her Counsel she said that she only paid \$740,000.00 on account of the Transfer Tax and Stamp Duty due so as to ensure she still had enough money in her hands to settle her fee. She said that the deposit paid to her under the Agreement was \$1,770,000.00 and after withdrawal of \$826,000.00 used to purchase the manager's cheque she was left with \$944,000.00. She then paid out the \$740,000.00 to the Stamp Commissioner leaving \$204,000.00 in hand. She said she subsequently got a replacement cheque for \$818,000.00 from the Bank of Nova Scotia which she gave to Mr. Williams on 28<sup>th</sup> June, 2010.
32. Ms. McDonald said she has been sued by Mr. & Mrs. Williams for sums in excess of \$400,000.00.
33. Under cross examination by Mr. Williams Ms. McDonald said that on receiving the deposit on or about 21<sup>st</sup> February, 2010 she deposited it to her bank Account at The Bank of Nova Scotia at Scotia Centre. She said she deposited the money to her personal account and not to a client trust account. She said she did not operate a trust account (see notes of 14<sup>th</sup> July 2012 page 6). She denied prolonging each stage of the matter so she could use the deposit for her own use. She said that the Stamp Office wanted to carry out a valuation of the property and that she gave them a valuation provided by Mr. Williams. She denied she had lost that valuation.
34. In response to a suggestion from Mr. Williams that the Taxpayer Audit and Assessment Department had not requested a valuation or inspection she said 'Okay, I don't know if I am in a position to answer that question'.
35. She denied that the Agreement had been assessed by 19<sup>th</sup> April 2010. She was shown a copy of the Agreement for Sale. Her attention was directed to a date which had been crossed out. She said it was 19<sup>th</sup> April 2010. She did not concede that this was the original date of the assessment.

36. She denied having told Mr. Williams that she had paid the duties in full from April 2010. She denied having so advised and Mr. & Mrs. Williams on 12<sup>th</sup> May 2010 when they visited the office.
37. Her attention was directed to a copy of an email dated 11<sup>th</sup> May 2010 (Exhibit 15) which was sent by her to Mr. Williams. Her attention was directed to a highlighted section where she said '..... their records should show that the assessment was brought back to them at the end of April for settlement.....'. She denied that those words meant that payment of the Transfer Tax and Stamp Duty had been made in April. Asked if her statement meant that the Taxpayer Audit and assessment Department ( Stamp Office ) had finished the process she said 'correct'. She was asked by Mr. Williams to say what she meant by the words ' assessment was brought back to them' she said it meant that the person who had been sent to do the inspection had brought the assessment to them. She then said she meant the assessment would have been completed at the end of April. She was further referred to the email of 27<sup>th</sup> April 2010 from Mr. Williams which states: 'we need to confirm the following:
1. ....
  2. Collections of documents from the Stamp Office.....'
38. Ms. McDonald was referred to her e-mail of 28<sup>th</sup> April 2012 (Exhibit 16) sent in response to Mr. Williams e-mail of 27<sup>th</sup> April. Asked to explain what she meant in her email of 28<sup>th</sup> April 2010 by the words: 'Documents from the Stamp Office have been collected....'
39. It was suggested to her that her response meant she had collected the assessment from the stamp office. She responded saying the document does not equal the assessment.
40. She denied having told Mr. Williams that documents had been lodged with the National Land Agency.
41. Ms. McDonald was referred to 3 email two of which were from Mrs. Williams to her and one from Ms. McDonald in response to the first one from Mrs. Williams. In her email Mrs. Williams referred to a conversation with Ms. McDonald on 13<sup>th</sup> May 2010 in which she is alleged to have said that the documents had been lodged at the National Land Agency on the 13<sup>th</sup> May 2010. In her e-mail response to Mrs. Williams, Ms. McDonald did not refute the content of the alleged conversation of 13<sup>th</sup> May. She said she had seen these email before.

42. Ms. McDonald subsequently said she had refuted what she is reported to have said on 13<sup>th</sup> May. She had done so on the telephone and to this tribunal.
43. Ms. McDonald was referred to her own email to Mr. Williams which is incorrectly dated 23<sup>rd</sup> December '2009'. She was referred to the highlighted section which included a statement by her, that 'all the documents were lodged'. (The true date of that email is to be 14<sup>th</sup> May 2010).
44. When asked what documents the email referred to she maintained that she had been referring to documents submitted to the stamp office.
45. In relation to the lost managers cheque she said it took her 11 days to make a thorough search for it. She disagreed that she had been irresponsible in not telling the Complainant of the loss of the cheque more promptly. She said she had not signed the Bank's indemnity form until 21<sup>st</sup> May 2010
46. Ms. McDonald admitted that though the agreement had been for her to collect her fee at the end of the transaction she in fact deducted her fee prior to making the payment of \$740,000.00 to the Stamp Office. She denied that she placed a higher priority on her fee than on getting the document stamped. She said the arrangement for the Stamp Office to accept \$740,000.00 was made after Mr. Williams terminated her services. She said that she did not pay to Mr. Williams the sum recovered from the Bank until 1<sup>st</sup> July 2010. Ms. McDonald maintained that a new fee arrangement was made with Mr. Williams prior to the sale of the property which negated the previously agreed fee of \$60,000.00.
47. At the invitation of the Panel each party made written submissions and then orally commented on each others submissions on the 10<sup>th</sup> November 2012.

### FINDINGS

48. Before going further we must observe that the device from which Ms. McDonald was sending some, if not all, of her e-mail was not always accurately programmed as to date as it kept showing dates in December '2009' when in the context of the transaction the matters being addressed were occurring between April and May 2010.



49. The Complainant has the burden of satisfying us to the extent that we are sure beyond reasonable doubt. This standard of proof is that applied in criminal proceedings.
50. We find that Mr. Mark Williams and Ms. Keisha McDonald had been friends for some years prior to 2009. The relationship may have been more than a passing friendship but whatever it was it did influence Ms. McDonald in fixing her fee for legal services provided to Mr. Williams and his wife. When Mr. & Mrs. Williams decided to sell their property Mr. Williams approached Ms. McDonald about representing them. She agreed to represent them and agreed to charge a fee of \$60,000.00 which is substantially below what she would normally have charged. No doubt that was due to their friendship. She agreed that her fee would be paid at the end of the transaction. Mr. Williams drafted an Agreement for Sale in or about October 2009 which he sent to Ms. McDonald as there was a prospective purchaser. That proposed sale fell through and no agreement was signed. One or two other prospective purchasers showed an interest but no agreement was made with them. In January 2010 new prospective purchasers were introduced and an Agreement for Sale of the property for \$11,800,000.00 was prepared by Ms. McDonald. We find that there was no new discussion concerning the amount of Ms. McDonald's fee and that the existing fee arrangement for \$60,000.00 was still in place.
51. The Purchasers paid a deposit of \$1,770,000.00 to Ms. McDonald which she lodged to her personal account at the Bank of Nova Scotia. That account carried no designation to indicate that it was a trust account. In fact Ms. McDonald said that she did not maintain a trust account and did not deny that she might conduct her personal transactions from that same account.
52. The Agreement for Sale was dated 2<sup>nd</sup> March 2010 and submitted to the Stamp Office (TAX Payer Audit and Assessment Department or TAAD) on 4<sup>th</sup> March 2010. We find that the Agreement for Sale was assessed by the Stamp Office in April 2010. Ms. McDonald was aware of this. We find that in response to inquiries from Mr. and Mrs. Williams, Ms. McDonald did mislead them when she said in the email of 28<sup>th</sup> April 2010 (Exhibit 16) 'Documents from the Stamp Office have been collected'. That statement in the circumstances could only be reasonably understood to mean that the duties had been paid and the Agreement stamped and delivered.
53. For reasons not known to the Panel the Taxpayer Audit and Assessment Department's assessment date on the Agreement was extended from 19<sup>th</sup> April to 7<sup>th</sup> May 2010 and the date of payment extended from 3<sup>rd</sup> to 21<sup>st</sup> May 2010. What is curious is that if in fact the assessment was only made by the Stamp Office on the on the 7<sup>th</sup> May why would Ms. McDonald have gone to pay the duties a day earlier on 6<sup>th</sup> May 2010 and how would she

have been certain of the sum payable. This reinforces our belief that Ms. McDonald was aware of the assessment made on the 19<sup>th</sup> April 2010. If she knew of it then why was it not paid in April?

54. Much was made of the suggestion by Ms. McDonald that the Stamp Office wished to carry out a valuation and inspection of the property and that contributed to the delay in the assessment. However we believe Mr. Williams when he said he was never asked by the Stamp Office to arrange for them to view the property.
55. Mr. Williams suggested that Ms. McDonald had misused the money paid by way of the deposit and that is why the money was unavailable to pay the duties when due. The panel finds that there is no proof of any misuse of money but Ms. McDonald could have better protected herself against such an assertion by either producing the stub of the cheque which had gone missing just as she did for the replacement cheque of 29<sup>th</sup> June 2010. Though the manager's cheque was lost from the 6<sup>th</sup> May 2010 it was not until 18<sup>th</sup> May that Ms. McDonald disclosed the loss to the Complainant. They had been to her office on 13<sup>th</sup> May and she told them that the Stamp Duty had long been paid.
56. We accept the evidence of both Mr. and Mrs. Williams that at the meeting on the 13<sup>th</sup> May Ms. McDonald told them that the documents had been lodged at the Titles Office. Ms. McDonald in her evidence denied telling them so. Mr. Williams said that following the meeting he made a call to the Titles Office and was told that no document had been lodged. Following that call we find that he did call Ms. McDonald who then promised to call and inform him of the Titles Office tracking number. She did not carry out that promise. We accept that on Monday 17<sup>th</sup> May 2010 Mr. Williams called the Stamp Office and was told that only a part payment of \$740,000.00 on account of the duties had been paid. On Monday the 18<sup>th</sup> May he wrote to Ms. McDonald terminating her service. If in fact Ms. McDonald had not told Mr. and Mrs. Williams the documents had been lodged at the Titles Office there would have been no reason for him to call the Titles and Stamp Office. The Panel believes that she did tell them so and it was only after he by email of 18<sup>th</sup> May 2010 (Exhibit 15) queried her about the part payment, that she in her email of 18<sup>th</sup> May 2010 (Exhibit 15) told them that the cheque had been lost.
57. If in fact Ms. McDonald had not told the Complainant that the documents had already been lodged in the Titles Office (NLA) why did she not refute that assertion contained in both email of 14<sup>th</sup> May 2010. She merely responded in her email incorrectly dated 23<sup>rd</sup> December 2009 that 'the comments below are most unfortunate. The matter will be addressed today'.

58. Furthermore in her email of 18<sup>th</sup> May 2010 (incorrectly dated 23 December 2009) Ms. McDonald blamed her bearer for misleading her that all the documents had been lodged. It seems to us that the word lodged must have been referring to the Titles Office as all documents had been deposited in the Stamp Office from 4<sup>th</sup> March 2010. For those reasons the Panel finds that Ms. McDonald did tell Mr. Williams on 13<sup>th</sup> May 2012 that the documents had been lodged in the Titles Office.
59. We find that in the circumstances of the misleading information given to the Complainant and his justifiable concern about the possible imposition of a heavy penalty by the Stamp Office that the Complainant was justified in terminating Ms. McDonald's services and retaining another Attorney-at-Law to complete the sale. We accept that the said Attorney-at-Law charged the Complainant and his wife \$200,000.00 for his services.
60. It is evident to the Panel that in deciding how to proceed following the loss of the cheque Ms. McDonald placed her own interest in her fee ahead of the interest of the clients which would have required that she pay out \$826,000 in full a second time. After all she would have been able to recover her fees and expenses from the refund of money on the lost cheque when received from the Bank. As her Counsel rightfully conceded in his oral closing comments –  
 “Ms. McDonald now says in hindsight she ought to have paid the full amount of the duties rather than withhold her fees”
61. We find that in giving to the Complainant misleading information as to the stamping of the documents and as to the lodging of the documents in the Titles Office in response to his inquiries as to the progress of his transaction and in withholding information as to the loss of the Managers cheque and as to what was taking place at the Stamp Office Ms. McDonald was in breach of Canon IV (r) of The legal Profession ( Canons of Professional Ethics) Rules. Ms. McDonald is therefore ordered to pay a fine of Eighty thousand Dollars (\$80,000.00).
62. We find that in delaying payment of the Transfer Tax and Stamp Duty Ms. McDonald put the complainant at risk of having a penalty imposed as there is no statutory provision which automatically gives one a reprieve from the penalty by making a part payment. Ms. McDonald put her interest in getting her fee ahead of the interest of the clients in not paying the full amount of the duties. We therefore find that though no penalty was applied by the Taxpayer Audit and Assessment Department Ms. McDonald did not deal with the stamping of the documents with all due expedition. Accordingly the Complainant was justified in seeking the services of another Attorney to conclude the matter and so incurred unexpected costs of Two hundred thousand dollars (\$200,000.00). We therefore find that Ms. McDonald was again in breach of Canon (IV) (r) aforesaid

and order that she pay the sum of Two hundred thousand dollars (\$200,000.00) to Mr. & Mrs. Williams by way of restitution

63. We find that the loss of the manager's cheque in the circumstances as disclosed by Ms. McDonald does not amount to inexcusable negligence or neglect on her part and accordingly there is no breach of Canon (IV) (r) in that regard
64. In placing the deposit in what was her personal Bank account Ms. McDonald failed to comply with the requirements of paragraph 3 of The Legal Profession Accounts and Records ) Regulations 1999. No complaint was made against her in that behalf so we make no finding against her in that regard.
65. Though Ms. McDonald rendered a statement of account to Mr. & Mrs. Williams, the account while mathematically correct was erroneous in that Ms. McDonald entered in the account fees of \$202,000.00 which is \$142,000.00 in excess of the Sixty thousand Dollars (\$60,000.00)fee she had agreed with them. To that extent we find that she failed to account to her clients in breach of Canon VII (b) (ii). Ms. McDonald is ordered to pay the sum of One hundred and forty two thousand dollars (\$142,000.00) which sum is to be paid to Mr.& Mrs.Williams by way of restitution

Dated this 23<sup>rd</sup> day of March 2013

  
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 MR. RICHARD DONALDSON

  
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 MR. JUSTICE DAVID BATTS

  
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 MR. CHRISTOPHER KELMAN