

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

COMPLAINT NO. 110/2008

In the Matter of PATRICIA DAWKINS and
ANTHONY PEARSON an Attorney-at-
Law.

AND

In the Matter of the Legal Profession Act,
1971

Panel: Daniella Gentles-Silvera
John Graham
Ursula Khan

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

Hearing: 17th April 2010, 26th June 2010, 16th July 2011, 9th June 2012, 27th April, 2013

COMPLAINT

1. The complaint against the Attorney-at-Law, Anthony Pearson, (hereinafter called "the Attorney") is contained in the Form of Affidavit sworn to on the 4th day of August 2008 by Patricia Dawkins (hereinafter called "the Complainant"). The complaint in effect is:
 - (a) that the Attorney has not provided the Complainant with information as to the progress of her business although reasonably required to do so;
 - (b) has failed to deal with the Complainant's matter with due expedition; and
 - (c) has failed to account to the Complainant for moneys in his hand.

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 17th April 2010 with the evidence of the Complainant. The matter was thereafter adjourned to the 26th June 2010. The notes of the proceedings of the 17th April 2010 and notice of the date of the adjourned hearing were served on the Attorney and he was asked in the notice to advise the General Legal Council if he requires the Complainant to attend for cross examination bearing in mind that she resides overseas. On the 26th June 2010 the Attorney did not attend the hearing and he did not advise the General Legal Council if the Complainant should attend so she did not. The matter was adjourned to the 26th June 2010. The Attorney did not appear and the matter was adjourned to the 24th July 2010 for mention and then to the 11th December 2010 for continuation. On none of these two dates did the Attorney attend nor did he advise if the Complainant should attend for cross examination. Upon the adjournment of each of the said dates a letter was written to the Attorney asking if he wished the Complainant to attend for cross-examination. On the 9th April 2011, although no notice of this hearing had been sent out to either party, the Attorney attended for the first time and indicated that he wanted to cross examine the Complainant. The Attorney was ordered to file the List of Documents upon which he wished to rely. The matter was adjourned to the 16th July 2011. The Complainant wrote to the Council on the 4th July 2011 having received notice of the hearing on the 2nd July 2011 saying she was

unable to come to Jamaica on 16th July 2011 hence although the Attorney appeared the matter had to be adjourned to 26th November 2011. On the 26th November 2011 the Attorney appeared but had still not filed his List of Documents. The Complainant had sent an email on the 22nd November 2011 indicating that due to a medical condition she could not attend. The matter was adjourned to the 25th February 2012 but did not proceed on that day as a member of the panel was unable to attend. The matter was adjourned to the 9th June 2012. On the 9th June 2012 the Complainant attended. The Attorney had sent a letter dated 6th June 2012 to the General Legal Council which was received on 7th June 2012 to say he was unable to come as he had to go to a funeral. The matter was adjourned to the 23rd June 2012. The Complainant had to return to the USA and therefore could not attend on the 23rd June 2012. On the 23rd June 2012 the Attorney attended and applied for an adjournment on the basis that he wanted to get Counsel and also he wanted to adduce evidence. The application for the adjournment was refused in light of –

- (a) the delay in the matter;
- (b) the fact that the List of Documents which the Attorney was ordered to file from 9th April 2011 had still not been filed;
- (c) the Complainant had come to Jamaica on two occasions and closed her case and on both occasions the Attorney did not attend especially on the last occasion on the 9th June 2012 when she attended for the sole purpose of being cross examined.

The Attorney indicated that he was not willing to proceed and so the matter was adjourned for the panel to deliver our Judgment.

EVIDENCE

3. The evidence of the Complainant was that in 1995 she engaged the services of the Attorney to represent her to transfer property located at 3¼ Johnson Terrace, Rollington Town, Kingston 2 comprised in Certificate of Title registered at Volume 1039 Folio 288 of the Register Book of Titles into her name and to remove her mother's name, Vylencia Dawkins, off of the Title she having died in 1991. The property was registered into the Complainant's deceased mother's name and her father's name and her father was transferring his one-half interest to the Complainant for natural love and affection. The Complainant paid the Attorney \$136,000.00 to effect the transfer (Exhibits 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 11). The duplicate Certificate of Title was given to the Attorney in 1995. The Complainant's father died in 1996. In 2001 the Complainant signed a Lost Title Application and Application to Note Death of a Joint Tenant presented to her by the Attorney (Exhibit 14). A fire at the offices of Playfair, Junor & Pearson destroyed the duplicate Certificate of Title for the said property.

4. The Complainant gave evidence that she telephoned the Attorney, she thinks about 100 times, and also wrote to him on numerous occasions requesting advice as to the status of the matter (Exhibit 15A, 15B, 15C, 15D, 15E). She received no response. By letters dated 28th June 2005 and 3rd November 2007 the Complainant wrote to the Attorney and demanded a refund of the money which she paid or documentation showing that the property had been transferred to her (Exhibits 15E and 15F). To date the Attorney has not had the Complainant's name registered on the title nor has he provided her with any

information as to the progress of her business. Letters were also written requesting an accounting (Exhibits 3, 5, 7, 8, 12 and 15A).

5. The frustration of the Complainant was evident upon reading the correspondence tendered into evidence. Her letters of the 13th May 2004 and 17th December 2004 to the Attorney (Exhibits 15C and 15D) capture this frustration.

"3400 Snyder Avenue, 4K
Brooklyn, New York 1103
May 13, 200

PEARSON & CO.
Attorneys-at-Law
33 Duke Street
Kingston, Jamaica W.I.

Dear Mr. Pearson:

Re: CVPD000254 – TRANSFER FOR NATURAL LOVE AND AFFECTION
PATRICIA DAWKINS

Let me begin by saying that although I consider you a friend, my gross displeasure is with the attention given to my legal matter referred above.

This transfer began prior to March 31st, 1995 as is evident in your letter to me. Although it was decided on August 31, 1996 for you to return documentation to my father the late Mr. James Dawkins, your letter dated October 23rd, 1996 stated that he transfer document along with the Certificate of Title would have been handed to him upon notation of the death of my mother the late Mrs. Vycenia Dawkins who left us on December 17th, 1991. It is now over **seven years** and neither the transfer nor the title is yet visible.

My father died on November 10th, 1996 and my sister already has her title for the other property. The balance of \$19373.00 as stated on August 16th, 2000 by Mrs. Ann Pearson will hopefully be paid prior to return this year.

I am tired of calling and coming by your office only to be told that something else is missing. I truly, and I think that you should also believe it is time for this legal matter to be finalized. I also know that if I was there in Jamaica that this would have already been completed.

I had called twice today and told Mrs. Dixon that I would call again on May 14th, but thought against it.

At this time I would truly appreciate the status, as I am not a very happy client. My aim is to have the amount owing to be paid in full prior to my return to your office. Hopefully then I will be receiving what was promised to father in 1996.

Yours truly,

Patricia Dawkins"

"3400 Snyder Avenue, 4K
Brooklyn, New York 11203
December 17, 2004

Mr. Anthony Pearson
Pearson & Pearson Attorneys-at-Law
33 Duke Street
Kingston, Jamaica W.I.

Dear Sir or Madam:

Re: Transfer of Natural Love and Affection - PATRICIA DAWKINS

Although my thought is redundant I definitely have to repeat it. It is now apparent that you fulfilling your agreement of having my name registered on the title for 3¼ Johnson Terrace, Rollington Town, Kingston 2, Jamaica W.I. is not going to happen.

I am tired of calling, sending fax and being taken for a FOOL obviously because I am not in the island. Each and every promise that you have made has been broken. At this, you have been paid a total of Ja.\$136317.00. Due to an oversight, there is a balance of \$363.00.

This transfer started in March 1995 when my father the late Mr. James Dawkins who died on November 10, 1996 signed the transfer documentation in your office. It is therefore definitely time for its completion. If you cannot do this, it is only correct for \$136317.00 and possible any interest in the ESCROW ACCOUNT for my account is refunded along with the title for the same property.

I definitely will be advising you prior to my visit to Jamaica so that everything can be in order by your office prior to coming there.

This needs to be done, and it therefore up to me to find someone who can do it. My parents were not rich but I still do cherish whatever they gave to me. Time is promised to

no one, and so I would hate for anything to happen to me and then have my son go through even half of all of this.

Yours truly,

Patricia Dawkins".

6. Having heard the Complainant's evidence and having perused the exhibits the Panel 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 in 1995 to transfer her father's one-half interest in the property to her and to note the death of her mother on the title.
- b. The Complainant gave the Attorney in 1995 the duplicate Certificate of Title for the property and \$136,000.00.
- c. The Complainant has telephoned and written to the Attorney on numerous occasions seeking information from the Attorney on the status of the matter and has received no response.
- d. The Attorney has failed to keep the Complainant up to date as to the progress of the matter.
- e. The Attorney has failed to account to the Complainant for monies in hand although the Complainant has repeatedly requested an accounting.
- f. The Attorney has failed to do the work for which he was retained, that being to register the Complainant's name on the title.

CANONS

7. We find that the Attorney has breached Canons I (b), IV (r) and VII (b) (ii) 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:

Canon VII (b) 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 VII (b) (ii) provides that:

"An Attorney shall –

(i) ...

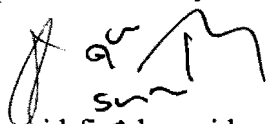
(ii) account to his client for all monies in the hands of the Attorney for the account or credit of the client, whenever reasonably required to do so..."

8. The Attorney was retained from 1995 to transfer the Complainant's father's one-half interest in property to her and to note the death of her mother on the title. 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. The Complainant is entitled to be advised as to the progress of her 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 Complainants' business with all due expedition having been retained around seventeen (17) years ago. Further to charge fees for work not done we find unreasonable and unwarranted. The Complainant has requested that the Attorney account for the monies in hand but to date he has not done so. All of 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 VII of the Legal Profession (Canons of Professional Ethics of Rules)** in that he has breached Canons I (b), IV (r) and VII (b) (ii) and it is the decision of this Committee that pursuant to Section 12 (4) of the **Legal Profession Act**:

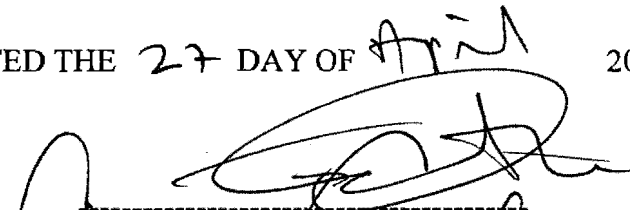
(i) The Attorney, Anthony Pearson, do make restitution in the sum of \$170,000.00 to be paid within forty-five (45) days of the date hereof.

(ii) The said ~~fine~~  be paid over to the Complainant in satisfaction of any damage she may have suffered as a result of the Attorney's, Anthony Pearson, misconduct.

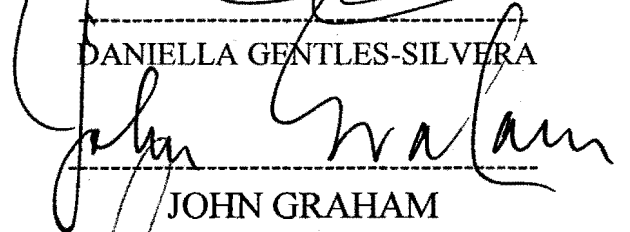
(iii) The Attorney, Anthony Pearson, do deliver all documents including the duplicate Certificate of Title registered at Volume 1039 Folio 288 of the Register Book of Titles to the Complainant on or before the 31st May 2013.

- (iv) The Attorney should also pay the costs of these proceedings in the amount of \$100,000.00 on or before the 31st May 2013.

DATED THE 27 DAY OF April 2013



DANIELLA GENTLES-SILVERA



JOHN GRAHAM



URSULA KHAN