

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

COMPLAINT NO. 48/2009

In the Matter of GARNETT DAWKINS and
JERMAINE R. SIMMS an Attorney-at-Law.

AND

In the Matter of the Legal Profession Act,
1971

Panel: Dr. Adolph Edwards
Miss Beryl Ennis
Mrs. Daniella Gentles-Silvera

Present: Neither the Complainant, Garnett Dawkins, nor the Attorney-at-Law appeared.

Hearing: 12th October, 2017.

On the 21st September, 2017 this Committee found that the Attorney, Jermaine R. Simms was guilty of professional misconduct. The Attorney was written to on the 27th September, 2017 in which letter he was advised that he had been found to be guilty of professional misconduct and that he would be permitted to attend or send in submissions as to what he felt the appropriate sanction should be. A copy of the written decision was also enclosed and he was advised that the matter was adjourned to the 12th October, 2017. On the 12th October, 2017 neither the Complainant nor the Attorney appeared. No submissions were sent to the Disciplinary Committee of the General Legal Council by either party.

This panel understands that the Attorney's name was struck off the Roll of Attorneys-at-Law entitled to practice in the Supreme Court and all the courts of Jamaica. Had the Attorney's name not been struck off the Roll of Attorneys-at-Law we would have ordered that his name be struck off the Roll of Attorneys-at-Law given the gravity of the complaints and our findings. The Complainant placed all trust and confidence in the Attorney in retaining him in the sale transaction of his property and in collecting the purchase price for him. The relationship of Attorney/Client is a fiduciary one and therefore the Attorney owes a fiduciary duty to the client to act in his best interest which the Attorney has not done. The Attorney has instead betrayed this trust and confidence by collecting monies due and payable to the Complainant and misappropriating same. We find this conduct of the Attorney reprehensible.

In the circumstances we are mindful of the statement by Sir Thomas Bingham M.R. in **Bolton v Law Society [1944] 2 All E.R. 486**

"It is required of Lawyers practicing in this country that they should discharge their professional duties with integrity, probity and complete trustworthiness... 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 honesty, whether or not leading to criminal proceedings and criminal penalties."

(P. 491)

On page 492 of the Judgment Sir Thomas Bingham M.R. went on to state that:

... "to maintain the reputation of the solicitor's profession as one in which every member, of whatever standing, may be trusted to the ends of the earth. To maintain this reputation and sustain public confidence in the integrity of the profession it is often necessary that those guilty of serious lapses are not only expelled but denied re-admission. If a member of the public sells his house, very often his largest asset, and entrusts the proceeds to his solicitor, pending re-investment in another house, he is ordinarily entitled to expect that the solicitor will be a person whose trustworthiness in not, and never has been, seriously in question. Otherwise the whole profession, and the public as a whole, is injured. A profession's most valuable asset is its collective reputation and the confidence which that inspires."

In the circumstances it is therefore the decision of this Panel that pursuant to section 12(4) of the

Legal Profession Act:

1. The Attorney, Jermaine R. Simms do pay the sum of \$1,400,000.00 to the Complainant by way of restitution together with interest thereon at a rate of 6% per annum from the 30th day of January 2009 until payment.
2. The Attorney, Jermaine R. Simms, pay the costs of these proceedings in the amount of \$30,000.00.
3. Had the name of the Attorney not already been struck off the Roll of Attorneys-at-Law we would strike the name of the Attorney-at-Law, Jermaine R. Simms, off

the Roll of Attorneys-at-Law entitled to practice in the several courts of the island of Jamaica.

DATED THE 12 DAY OF October, 2017



DR. ADOLPH EDWARDS



BERYL ENNIS



DANIELLA GENTLES-SILVERA