

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

COMPLAINT NO.7/2017

ONIEL WRIGHT VS HOWARD LETTMAN

PANEL: JEROME LEE (Chairman),

TREVOR HO-LYN

PETER CHAMPAGNIE.

HEARING DATES: 27 MAY 2017*, 11 NOVEMBER 2017. (*Evidence taken)

BACKGROUND HISTORY.

Oniel Wright (hereinafter called “the Complainant”) pursuant to a power of attorney from his sister Marcia Wright obtained the services of Howard Lettman (hereinafter called “the Attorney”) to represent him in the sale of property being 1020.057 square meters of land situated at Montpelier in the parish of Manchester registered at Volume 1480 Folio 532 to Lloyd Swaby . The purchase price was Six Million Five Hundred Thousand Dollars (\$6,500,000.00) .). The Agreement for sale was dated the 17th August 2016 and the Duplicate copy Certificate of Title registered at Volume 1480 Folio 532 of the Register Book of Titles has an entry dated the 7th October 2016 transferring the land to Lloyd Swaby for the consideration of Six Million Five Hundred Thousand Dollars (\$6,500,000.00). The Complainant has to date not received his proceeds from the sale which amount to Five Million Eight Hundred and Seventy Three Thousand Seven Hundred and Fifty Dollars (\$5,873,750.00).The Complainant reported the matter to the police but the matter is not presently before the Court.

THE COMPLAINT.

By way of Form of Application Against an Attorney dated 9th November 2016 and Affidavit in support thereof dated the 16th November 2016 the Complainant alleged that

The Attorney is in breach of the following Canons contained in the Legal Profession (Canons of Professional Ethics) Rules, as amended, namely :-

1. He has not provided me with all information as to the progress of my business with due expedition although I have reasonably required him to do so. (Canon 4(r))

2. He has not dealt with my business with all due expedition (Canon 4 (r)r))
3. He has acted with inexcusable or deplorable negligence in the performance of his duties (Canon 4 (s))
4. He has not accounted to me for all moneys in his hands for my account or credit although I have reasonably required him to do so. (Canon 7 b (ii))
5. He is in breach of Canon 1(b) which states that an Attorney shall at all times maintain the honour and dignity of the profession and shall abstain from behavior which may tend to discredit the profession of which he is a member.

THE EVIDENCE.

The hearing of this complaint commenced on the 27th May 2017 at the Office of the General Legal Council before the Panel of Jerome Lee (Chairman), Peter Champagnie and Trevor Ho-Lyn and present was the Complainant. The Attorney was absent and the tribunal records indicated that the Attorney had been served with notice of the proceedings by way of registered post dated the 27th April 2017 directed to the address of the Attorney being Office 2, Grove Court Complex, P.O. Box 716, Park Crescent, Mandeville P.O. Manchester. The Panel having been satisfied as to the service of the notice commenced the hearing in the absence of the Attorney as permitted by the regulation 8 of the Fourth Schedule of the Legal Profession Act which governs the procedure at the hearings.

1. The Complaint and Affidavit in support were tendered and admitted into evidence as exhibits 1A & 1B respectively. The Complainant gave evidence that he presently resided at Southfield in the parish of Saint Elizabeth and worked as a Deputy Superintendent at the Saint Elizabeth Parish Council. In the matter of the complaint he was acting on behalf of his sister Marcia Wright by virtue of a Power of Attorney appointing him to be her attorney dated the 26th October 2016 and recorded at Liber new Series 761 Folio 31 on the 10th December 2016 the Power of Attorney was tendered and admitted in evidence as exhibit 4.
2. By an Agreement for Sale dated the 17th August 2016 Marcia Wright contracted to sell property in Montpelier in the parish of Manchester registered at Volume 1480 Folio 532 to Lloyd Swaby for the sum of Six Million Five Hundred Thousand Dollars. In support of this evidence a copy of the said stamped Agreement was tendered and admitted in evidence as Exhibit 2.

3. The Complainant further tendered into evidence as exhibit 3 a copy of the title for the property registered at Volume 1480 Folio 532. On this title there is an entry showing that by transfer # 2024904 registered on the 7th October 2016 the title was transferred to Lloyd Swaby for the sum of Six Million Five Hundred Thousand Dollars.

4. The Complainant further tendered in evidence a copy of the receipt received from the Attorney for the title registered at Volume 1480 Folio 532 upon its being given to the Attorney to facilitate the transfer. This was admitted as exhibit 5.

5. To date the Complainant has received none of the proceeds of the sale at all. He estimated that he was due the sum of Five Million Eight Hundred and Seventy Three Thousand Seven Hundred and Fifty Dollars although he had received no statement of account from the Attorney , his estimation was arrived at as follows:

Sale Price	\$6,500,000
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LESS

5% Transfer Tax	\$325,000
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2% Stamp Duty	\$130,000
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2% Attorney Fee	\$130,000
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Agreement Fee	\$ 25,000
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¼% Registration Fee	\$ 16,250
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Total Deductions	\$625,250
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Balance due to him	\$5,873,750
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6. Following many and varied conversations with the Attorney and receiving none of the proceeds of the sale the Complainant reported the matter to the police and subsequently the Vendor obtained a letter from the Attorney dated the 8th March 2017 signed by the Attorney acknowledging that the sum of Five Million Seven Hundred and Fifty Four Thousand Nine Hundred and Seventy Five Dollars was owing and would be paid by the 10th March 2017 this document was tendered and admitted in evidence as exhibit 6. Up to the date of the hearing this sum had not been paid.

7. The hearing then adjourned to the 11th November 2017 for continuation with the Attorney to be advised and supplied with a copy of the notes of evidence and to cross examine the Complainant if he wished.

8. On the 11th November 2017 the hearing resumed. The Attorney did not attend and again the records indicated that he had been properly served with the notice of the hearing and the notes of evidence. The Complainant was also absent. Given the circumstances the Panel adjourned the matter without a further date for a Judgment to be written.

RULING

Regulation 8 of the Fourth Schedule to the Legal Profession Act provides that :-

8. If either or both of the parties fail to appear at the hearing the Committee may, upon proof of service of the notice of hearing, proceed to hear and determine the application in his or their absence.

THE BURDEN OF PROOF: the Panel recognizes that in law the burden of proof is on the Complainant to prove his complaint to the standard of proof required in law. It is immaterial that the Attorney never attended any of the hearings at which evidence was taken, the legal responsibility remains on the Panel to evaluate the evidence it has before it to the standard of proof required, before it makes any findings that may be adverse to the Attorney.

THE STANDARD OF PROOF: The Panel reminds itself that in law, the standard of proof in cases of professional misconduct is that of beyond reasonable doubt. This is the standard that must be applied by the Panel in evaluating the evidence adduced before it.

The unchallenged oral evidence coupled with the documentary evidence in support thereof do not disclose any internal inconsistencies or discrepancies in the facts presented in the evidence outlined above accordingly the Panel accepts the evidence of the Complainant in its entirety.

FINDINGS OF FACT

The following therefore are the findings of fact by the Panel.

(a) The Attorney was retained by the Complainant to act for his sister with regard to the sale of her property contained in Title registered at Volume 1480 Folio 532 from April 2016 when the Attorney received the title from her.

(b) The Agreement for Sale dated the 17th August 2016 was stamped and the transfer # 2024904 to Lloyd Swaby effected from the 7th October 2016 as evidenced by the entry on the Title.

(c) The Attorney acknowledged that the sum of Five Million Seven Hundred and Fifty Four Thousand Nine Hundred and Seventy Five Dollars was owing and would be paid by the 10th March 2017.

(d) Up to the 11th November 2017 the Vendor has not been paid the net proceeds of the sale or any part thereof.

It follows from the above findings of fact that the breaches of the various Canons set out in the complaint which assert that:-

1. He has not provided me with all information as to the progress of my business with due expedition although I have reasonably required him to do so contrary to Canon 4(r)
2. He has not dealt with my business with all due expedition also contrary to Canon 4 (r)
3. He has acted with inexcusable or deplorable negligence in the performance of his duties contrary to Canon 4 (s).
- 4.. He has not accounted to me for all moneys in his hands for my account or credit although I have reasonably required him to do so contrary to Canon 7 (b) (ii).
5. He is in breach of Canon 1(b) which states that an Attorney shall at all times maintain the honour and dignity of the profession and shall abstain from behavior which may tend to discredit the profession of which he is a member.

These breaches have been made out to the requisite standard as required by law, of proof beyond reasonable doubt and accordingly the Attorney is therefore guilty of professional misconduct in respect to each of the specified Canons.

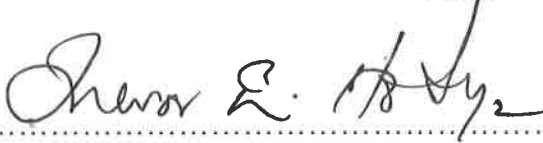
DATED THE 24th DAY OF March 2018



JEROME LEE



PETER CHAMPAGNIE



TREVOR HO-LYN