

**DECISION ON SANCTION**

COMPLAINT NO. 17/2016

IN THE MATTER OF THE LEGAL PROFESSION ACT 1971

<b>BETWEEN</b>	<b>C.O.K SOLIDARITY CO-OPERATION CREDIT UNION LIMITED</b>	<b>COMPLAINANT</b>
<b>A N D</b>	<b>LANCELOT A. ST. MARTIN COWAN</b>	<b>RESPONDENT</b>

Sanctions Hearing Date                      12 July 2018

**Present:**                      **Mr. Walter H. Scott, Q.C.**  
   **Mr. Michael Thomas**  
   **Mrs. Deborah E. McDonald**

**Ms. Dianne Bolton representative of the Complainant.**

**Respondent Mr. Lancelot Cowan was absent.**

1. The matter was called up at 2:33 p.m. The Complainant's representative was present and the Respondent was absent.
2. The Panel directed its attention to the Affidavit of Service of Wayne Crawford sworn to on 09 July 2018 to which is attached as an exhibit the Notice of Postponement dated 12 June 2018 and which said Notice contained a Notice of Hearing for the hearing to take place on 12 July 2018 at 2:00 p.m. The Panel also noted the Certificate of Posting No. 9782 issued by the General Post Office attesting to the posting of the registered article containing the Notice of Postponement and Notice of Hearing. The letter has not been returned to the Disciplinary Committee.
3. The Panel was satisfied that in accordance with the Rules and the Law the Notice of Hearing was properly served on the Respondent.
4. The Panel also notes the letter of 19 March 2018 from the Secretary of the Disciplinary Committee to the Respondent enclosing the Decision of the Disciplinary Committee dated 14 March 2018.

5. The Panel ordered that the Sanctions Hearing proceed in the absence of the Respondent.
6. Ms. Dianne Bolton of the Complainant Society was sworn. Her very short testimony was to the effect that to date (12 July 2018) the Respondent has neither delivered the Duplicate Certificate of Title registered at Volume 950 Folio 364 of the Register Book of Titles to the Complainant, nor has he paid the sums of \$1,500,000.00 and \$675,000.00 to the Complainant. Ms. Bolton was not cross examined.
7. The Panel noted paragraphs 43, 44 & 45 of its Decision of 14 March 2018 as follows:

***“43. We find that the attorney is guilty of professional misconduct in that he has failed to honour the undertaking to the Complainant to deliver to the Complainant, the Duplicate Certificate of Title registered at Volume 950 Folio 364 of the Register Book of Titles upon it becoming evident that he would not be in a position to settle the sums of \$1,500,000.00 and \$675,000.00 or any sum at all from the proceeds of sale.***

***44. The attorney has caused the Complainant to suffer prejudice and loss as a result of having relied upon the word of the attorney in his undertaking.***

***45. The Attorney by his own conduct, inexplicably placed himself in a position which undermined his ability to honour the professional undertaking. Further he did so at time when he was either aware that the transaction was in jeopardy or aware that it had been aborted. This was compounded by the fact that he failed to notify the Complainant of the true state of affairs.”***

8. In the absence of the Respondent or an Attorney-at-Law representing him, neither submissions nor circumstances in mitigation have been put before the Panel.
9. The Panel noted that the Respondent has failed to demonstrate any interest in addressing the Complaint save for the Hearing on 19 July 2016 when he was present, and 09 February 2017 when Mr. Leonard Green, Attorney-at-Law was present representing the Respondent. The Respondent has absented himself from the Hearing in the matter.
10. The Panel reminds itself of the words of Mr. Justice Boyd Carey JA in the Judgement in *Sylvester Morris v General Legal Council* (1985) 22 JLR1.


*“the importance of undertakings in the world of commerce and conveyancing cannot be overemphasized. The practice of attorneys giving undertakings relating to certificates of titles has been of long standing and the whole business, especially in conveyancing would be brought to a halt if parties whether they be attorneys or financial institutions could no longer rely on the word of a member of an honourable profession”.*

11. The Panel finds the conduct of the Respondent to be cavalier towards the Complainant and egregious in its complete disregard for his failure to honour his undertaking or to compensate the Complainant. Conduct such as that by the Respondent in this case cannot be entertained by the Disciplinary Committee which is charged with the responsibility of protecting the public in relation to the conduct of Attorneys-at-Law.

12. In all the circumstances of that case, the Panel is of the considered view, that the appropriate sanction is that:

- (1) The Respondent's name be struck from the Record of Attorneys-at-Law entitled to practice.
- (2) The Respondent Attorney is ordered to pay costs in the sum of \$400,000.00 of which \$250,000.00 is to be paid to the Complainant and \$150,000.00 is to be paid to the General Legal Council.

DATED THE 20<sup>th</sup> DAY OF September 2018.

  
WALTER H. SCOTT, Q.C.

  
MICHAEL THOMAS

  
DEBRA E. McDONALD