

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

**COMPLAINT NO. 255 of 2017**

**IN THE MATTER OF DAMIAN BARRETT vs JEROME  
DIXON, an Attorney-at-Law.**

**AND**

**IN THE MATTER OF THE LEGAL PROFESSION ACT,  
1971**

PANEL: Mrs. Daniella Gentles-Silvera - Chairperson  
Mrs. Debra McDonald  
Mr. Kevin Powell

APPEARANCES: Mr. Damian Barrett  
Mr. CJ Mitchell appearing for Mr Jerome Dixon  
Mr. Jerome Dixon  
Mrs. Khadine Dixon

HEARING DATES: October 9, 18 and 27, 2018

**Introduction**

1. On October 1, 2018, the Panel found Jerome Dixon (“the Attorney”) guilty of misconduct in a professional respect arising from a complaint laid before the Disciplinary Committee by Damian Barrett (“the Complainant”).
2. The Panel subsequently fixed two hearing dates on which it would consider any evidence or submissions the parties wished to make in relation to the sanction to be applied.
3. The first hearing date was October 9, 2018 but due to an administrative error the Attorney’s attorney, Damian Heslop, was given notice that the hearing was at 10:00 a.m. when it was fixed for 1:00 p.m. Mr Heslop having arrived at 10:00 a.m. was unable to return for 1:00 p.m. The Panel therefore adjourned

the hearing to October 18. The Complainant, who was present on October 9, was excused from attending on October 18.

4. When the Panel reconvened on October 18 neither the Attorney nor Mr Heslop was present and the Panel did not receive an excuse or other communication from either one. The Panel is satisfied that sufficient notice of the hearing on October 18 was given to the Attorney.

### **The Application for a Rehearing**

5. On October 24, 2018 the Attorney filed an application for a rehearing of the trial of the Complaint. The Complainant opposes this application. The Panel having had an opportunity to consider the application and the affidavits filed in support of it and taking into account the submissions of the Attorney and of the Complainant, refuses the application for a rehearing.
6. Rule 9 of the 4<sup>th</sup> Schedule to The Legal Profession (Disciplinary Proceedings) Rules ("The Rules") provides for a rehearing were the Committee hears a matter in the absence of the parties. In such circumstances any such party may within one month of getting the decision apply for a rehearing. Under rule 9(2) of the Rules the Committee may grant the rehearing upon terms such as costs or otherwise as it thinks fit if the Committee is satisfied that it is just that the case should be reheard. The Committee therefore has a discretion whether or not to grant a rehearing.
7. We find that the Attorney has not placed before us any material which persuades us to exercise our discretion to grant a rehearing.
8. No good reason has been given for the Attorney's non-attendance at the hearings fixed July 4 and 26 and October 1, 9 and 18. On July 14, 2018 the Attorney sent a letter to the Committee saying that he sprained his ankle and could not attend. The Attorney undertook to provide a medical report by the Monday (July 16). In any event no one attended for or on behalf of the Attorney on July 14 and no medical report was sent to the Committee in

accordance with the undertaking given by the Attorney. The first time a medical report was provided was when it was exhibited to the Attorney's affidavit filed with the General Legal Council on October 24, 2018.

9. On July 26, 2018 the Attorney was again absent and no one appeared for or on his behalf. The Attorney did not give any explanation for his absence. All he says now is that he was "unable to attend". His attorney, Damien Heslop, now says that he "mixed up and missed that date". The Committee observes that Mr Heslop confirms this in his affidavit which we note is undated but sworn to and filed in support of the Attorney's application for a rehearing. Further Mr. Heslop in his affidavit refers to speaking to someone at the GLC but he does not refer to the person by name.
10. On October 1, 2018, when the decision of professional misconduct was scheduled to be and was delivered, neither the Attorney nor Mr Heslop was present, and no explanation was given for their absence.
11. The matter was then adjourned to October 9, 2018 for a sanction hearing. On that day Mr. Heslop attended at 10:00 am but the matter had to be adjourned as it was actually fixed for 1:00 pm but due to an administrative error the Attorney had been notified the hearing had been fixed for 10:00 am. Although Mr. Heslop was present at 10:00 a.m., the Attorney was absent.
12. The next hearing date was October 18, 2018. Again, neither the Attorney nor Mr. Heslop was present, and no explanation was given for their absence. According to the Attorney and Mr. Heslop, Mr. Heslop had a medical emergency on that date. They both say that Mr. Heslop "called on the morning humbly requesting a rescheduled date" but that this was refused. The Panel takes judicial notice that on October 18, 2018 it made enquiries of the secretariat as to whether any communication was received from the Attorney or Mr Heslop and was informed that no such communication was received and in any event no decision was made by the Panel to refuse an application for adjournment since no such application was made to it.

13. Canon I(f) of the Legal Profession (Canons of Professional Ethics) Rules states that “An attorney shall ensure his attendance at Disciplinary Committee proceedings when requested by the Disciplinary Committee”. The Panel finds that the Attorney was given every opportunity to be heard but failed to attend.
14. The Attorney has filed no affidavit in response the Complaint or a list of documents upon which the Attorney intends to rely in breach of rules 4(2) & 6 of the Rules. The first time the Attorney filed any affidavit evidence is the affidavit filed on October 24, 2018 and it does not really address the Complaint.
15. As to the substance of the Complaint, the Attorney’s affidavit evidence does not assist him. From the Attorney’s evidence, it is clear that the Attorney gave the proceeds of sale of the property registered at Volume 1102 Folio 997 of the Register Book of Titles (“the Property”) to Ms. Qualis in breach of the undertaking given in his letter to the Complainant dated August 31, 2016. That letter unambiguously provides that title to the Property was being requested “for the sole purpose” of facilitating Ms. Qualis to obtain a loan from which \$2,500,000.00 was to be paid to the Complainant, failing which the title to the Property would be returned to the Complainant. The property was instead transferred by way of gift and the proceeds of sale the Attorney now confirms, were paid over to Ms Qualis.
16. The Attorney now says that the debt owed by Ms Qualis to the Complainant’s clients will be satisfied in December 2018. Further the Attorney’s understanding of the undertaking and the express words of the undertaking are different. The Attorney seems to be saying that the Property was to be sold but the professional undertaking he gave does not say that. Nothing the Attorney has stated demonstrates that he has not breached the undertaking and therefore he is guilty of professional misconduct.
17. It is for these reasons that the Panel dismisses the Attorney’s application for a rehearing.

### **Other Matter**

18. The Attorney has raised in his affidavit certain assertions in relation to the media. The Panel can dispose of this issue now. Neither the Committee nor the General Legal Council issued a release to the media that the Attorney was struck from the roll of attorneys. The decision which found the Attorney guilty of professional misconduct is public and the Committee has no control over anyone providing it to the media and in any event the Committee is not aware of this.

### **Sanction Ruling**

19. Having dismissed the Attorney's application for a rehearing, Mr CJ Mitchell who appears for the Attorney was allowed to make submissions in mitigation on the Attorney's behalf. The Panel has also allowed the Attorney to personally address it on his behalf.
20. We are fully mindful of all the submissions made by Mr Mitchell and by the Attorney on his behalf. The substance of their submissions is that the Attorney breached his professional undertaking by paying over the proceeds from the sale of the Property to his client instead of to the Complainant. They have sought to assure the Panel and the Complainant that the funds would now be paid to the Complainant in the middle of December 2018.
21. Both Mr Mitchell and the Attorney have submitted that this is the Attorney's first finding of professional misconduct, the Attorney has an unblemished record and that no criminal or quasi-criminal offence arises from his conduct. Mr Mitchell has also submitted that a sanction of striking off would be a punishment which does not fit the crime.
22. The Attorney further sought to assure the Panel that he had learned his lesson and will not repeat the offence which he admits he committed.

## The Legal Considerations

23. The giving of a professional undertaking by an attorney-at-law is very significant in the legal profession.
24. In Sylvester Morris v General Legal Council (1985) 22 JLR 1 at page 7 Carey, J.A. observed:

**...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.**

25. Bolton v Law Society [1994] 1 WLR 512, a decision of the English Court of Appeal, is often cited in cases such as the present, but the following dicta said at page 518 is worth repeating and is expressly adopted by the Panel:

**It is required of lawyers practising 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 dishonesty, whether or not leading to criminal proceedings and criminal penalties. In such cases the tribunal has almost invariably, no matter how strong the mitigation advanced for the solicitor, ordered that he be struck off the Roll of Solicitors...**

26. The dicta continue in this way:

**In most cases the order of the tribunal will be primarily directed to one or other or both of two other purposes. One is to be sure that the offender does not have the opportunity to repeat the offence. —The second purpose is the most fundamental of all to maintain the reputation of the solicitors' 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...A profession's most valuable asset is its collective reputation and the confidence which that inspires.**

27. In **Georgette Scott v The General Legal Council (Exp. Errol Cunningham) SCCA 118/2008 delivered July 30, 2009** the Court of Appeal upheld the General Legal Council's decision to strike the appellant from the Roll of Attorneys. In delivering her decision Harrison, J.A. expressed the following view at paragraph 49:

**It is abundantly clear that the Committee has a duty under section 3(1) of the Act to uphold the standards of professional conduct of attorneys at law. Barwick CJ stated in Harvey v Law Society of New South Wales (1975) 49 ALJ 362 at page 364:**

***'The court's duty is to ensure that those standards of the profession are fully maintained particularly in relation to the proper relationship of practitioner with practitioner, practitioner with the court and practitioner with the members of the public who find need to use the services of the profession.'***

## Disposition

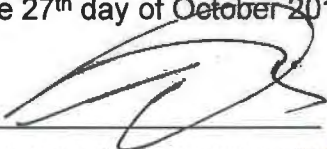
28. The Panel is mindful only of the evidence in this matter before it and has considered all the available sanctions. This evidence includes the fact that the undertaking given involved the not insignificant sum \$2,500,000.00; the Complainant's repeated attempts to contact the Attorney about his professional undertaking, all of which the Attorney ignored; and the willful and deliberate steps taken by the Attorney to transfer the certificate of title in clear breach of his professional undertaking.
29. The Attorney has breached his professional undertaking in inexcusable and egregious circumstances, a breach he admits. This conduct cannot and should not be countenanced by the Disciplinary Committee charged with the responsibility of protecting the public and the profession generally.
30. The continued existence and viability of the profession rests on the integrity, honesty and trustworthiness of its members. An act of this nature and in the circumstances in which the Attorney has committed it threatens the very profession of which he is a member. The Attorney's conduct demands the highest degree of censure. The confidence in the profession would be eroded if this conduct were to be tolerated.
31. The Attorney failed to discharge his professional duty with integrity, probity and complete trustworthiness.
32. In all the circumstances, it is the decision of this Panel that pursuant to Section 12(4) of the Legal Profession Act:
  - i. The name of the Attorney, Jerome Dixon, shall be struck from the Record of Attorneys-at Law entitled to practice in the several courts of the island of Jamaica;
  - ii. By way of restitution the Attorney is ordered to pay to the Complainant the sum of \$2,500,000.00 and the Complainant shall apply this sum in



the same manner as it would have been applied as if the Attorney had fulfilled his professional undertaking; and

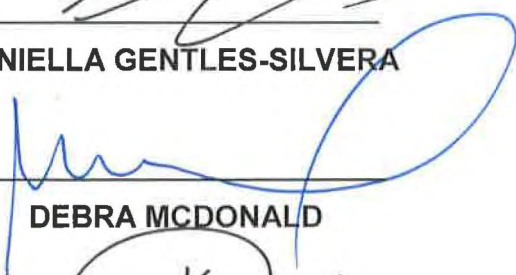
- iii. The Attorney is ordered to immediately pay costs in the sum of \$300,000.00 of which \$200,000.00 is to be paid to the Complainant and \$100,000.00 is to be paid to the General Legal Council.

Dated the 27<sup>th</sup> day of October 2018



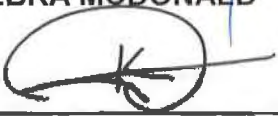
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**DANIELLA GENTLES-SILVERA**



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**DEBRA MCDONALD**



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**KEVIN O. POWELL**