

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

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

COMPLAINT NO. 234/2017

COMPLAINANT: HYACINTH SMITH ASHMEAD

RESPONDENT ATTORNEY: LORRAINE L. RAMSON

**PANEL: MR. TREVOR HO LYN, MS. MARJORIE SHAW and MISS
KATHERINE P.C. FRANCIS**

HEARD: SEPTEMBER 15 & NOVEMBER 10 2018

JUDGMENT: JANUARY 26 2019

SANCTION: MARCH 23rd 2019

PRESENT: HYACINTH SMITH ASHMEAD

ABSENT: LORRAINE L. RAMSON

A. The Complaint

1. The Complainant, Hyacinth A. Smith Ashmead filed a complaint on July 6, 2017¹ with the General Legal Council against Ms. Lorraine L. Ramson (“the Respondent”). The Form of Application stated that the matters of fact stated in the accompanying affidavit constituted conduct unbecoming her profession on the part of the Respondent Attorney.

¹ Exhibit 10

2. The Form of Affidavit by the Applicant² sworn to on the 29th of June 2017 stated that the Respondent was engaged by the Complainant on or about October 13, 2013, that the Respondent was paid certain sums of money to represent the Complainant in a breach of covenant matter for the Complainant's residence.
3. Specifically, the grounds of the Complaint are as follows that the :
 - a. Respondent has not dealt with her business with all due expedition (Canon IV (r)); and
 - b. Respondent has acted with inexcusable and deplorable negligence in the performance of her duties (Canon IV (s)).

B. The Evidence

4. In addition to her viva voce evidence, the documentary evidence tendered are as follows:
 - a. Receipt dated October 7 2014 for \$18,000 – Exhibit 1
 - b. Receipt dated June 5 2014 for \$15000 – Exhibit 2
 - c. Receipt dated September 30 2013 – Exhibit 3
 - d. Receipt dated October 10th – Exhibit 4
 - e. Receipt dated June 12th 2015 Exhibit 5
 - f. Receipt dated August 5th 2014 – Exhibit 6
 - g. Receipt dated September 11 2016 – Exhibit 7

² Exhibit 11

- h. Letter dated June 24 2016 – Exhibit 8
- i. Letter dated February 9th 2016 – Exhibit 9a
- j. Letter dated July 13th 2016 – Exhibit 9b
- k. Form of Complaint – Exhibit 10
- l. Form of Affidavit – Exhibit 11
- m. Letter dated August 29th 2018 – Exhibit 12

5. Regulation 8 of the Fourth Schedule to the Legal Profession Act provides that “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 Panel having satisfied itself that the Attorney was properly served with Notice of Hearing in keeping with Regulation 5 of the Fourth Schedule of the Legal Profession Act the panel commenced the trial on September 15 2018 by taking the evidence of the Complainant. At the end of her evidence, the Panel directed that a copy of the notes of evidence, and the exhibits tendered, should be sent to the Attorney and set a further trial date of November 18, 2018 for continuation.

6. **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.

7. **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 which must be applied by the panel in evaluating the evidence adduced before it.
8. The unchallenged oral evidence coupled with the documentary evidence in support thereof do not disclose any material dispute of facts and accordingly the panel accepts the evidence of the Complainant in its entirety.

C. Findings of Fact

9. The Panel having considered the evidence before it makes the following findings of fact:
 - a. The Complainant is a supervisor at Courts Jamaica Limited.
 - b. The Complainer owns and resides in an apartment at 10 Devon Road which she purchased in 1993 which she extended by adding a small kitchenette. Subsequently she received a letter from Mr. Cecil J. Mitchell, Attorney-at-Law contending that she had breached a covenant on her title.

- c. In or about 2013 the Complainant consulted with the Respondent and she engaged the services of the Respondent to represent her, paid her a sum of money and requested from the Respondent an estimate of fees for representing the Complainant in the matter.
- d. The Complainant also paid the Respondent \$18000.00 on October 7, 2014 for the purposes of having a survey conducted as evidenced by Exhibit 1.
- e. The documentary evidence disclosed that the Complainant paid the Respondent the following amounts:

DATE PAID	AMOUNT PAID	EXHIBIT NO.
Sept 30 2013	\$1500.00	3
Oct 10 2013	\$5000.00	4
Oct 7 2014	\$18000.00	1
June 6 2014	\$15000.00	2
June 12 2015	\$15000.00	5
August 8 20	\$20000.00	6
Sept 11 2016	\$5000.00	7
TOTAL	\$79500.00	

- f. The Respondent commenced an action in the Supreme Court to apply for a modification of restrictive covenant and since that time there is no evidence that she took any further step in furtherance of the matter.
- g. The Respondent has not communicated with the Complainant in a timely manner or at all and has not handled the Complainant's matter with due expedition.
- h. The Respondent has acted with inexcusable and deplorable negligence in her duties.

The Legal Profession (Canons of Professional Ethics) Rules

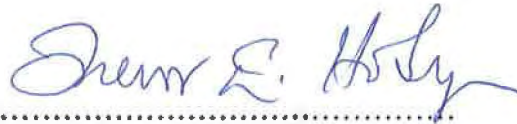
10. From the foregoing findings of fact it is clear that the breaches of the Cannons as complained of have met the requisite standard as required by law, that is, of proof beyond a reasonable doubt and accordingly the Respondent attorney is guilty of professional misconduct in respect to each of the specified Canons; namely, that:
- a. The Respondent has not dealt with the Complainant's business with all due expedition and has not 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 IV (r))
 - b. The Respondent is in breach of Canon IV (s) in that in the performance of her duties she has acted with inexcusable or deplorable negligence.
11. The panel will now afford the Respondent attorney the opportunity to address it on the sanction to be imposed against that the Respondent Attorney.

SANCTION

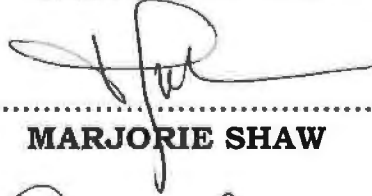
HEARING MARCH 23RD 2019

12. Having found the Respondent guilty of professional misconduct the following sanctions are hereby made against the Respondent pursuant to the section 12 (5) (a) of the Legal Profession Act that:

- a. The Respondent shall make restitution to the Complainant in the sum of \$79,500.00 together with interest on the said sum at the rate of 3% on or before April 30, 2019.
- b. The Respondent shall pay costs of \$60,000.00 to the General Legal Council.
- c. The Respondent shall return all documents including the Complainant's file given to her by the Complainant on or before April 30, 2019.
- d. All cost orders are to be complied with on or before April 30, 2019.
- e. The Attorney shall be suspended from the practice of law for a period of twelve (12) months or to the date of compliance, whichever is earlier.



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TREVOR HO LYN



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MARJORIE SHAW



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KATHERINE P.C. FRANCIS