

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

COMPLAINT NO. 41 OF 2013

BETWEEN	LYDIA PEDLEY WEBER	COMPLAINANT
A N D	IVOR PEYNADO	RESPONDENT

Panel: Mr. Walter H. Scott, Q.C. - Chairman
Mr. Michael Thomas
Mr. Dane Marsh

Representation: Mr. Krishna Desai, Attorney-at-Law for the Complainant
Mr. Leonard Green, Attorney-at-Law for the Respondent

HEARING DATES:

Background

1. By its Decision dated 24 July 2017 the Disciplinary Committee made the following Findings.

“The Panel is obliged by Section 15 of the Legal Profession Act to make Findings of Facts. In this regard, the Panel finds as follows:

- a. At all material times whilst he was alive, the attorney was the Attorney-at-Law for Leopold Pedley.***
- b. At all material times the Attorney was the Attorney-at-Law for Estate Leopold Pedley***
- c. After the death of Leopold Pedley, the Attorney inserted dates on Instruments of Transfers (the said Transfers) signed by Leopold Pedley prior to his death.***
- d. The said Transfers were used or uttered by the Attorney.***

2. Additionally, in the said Decision of 24 July 2017, the Disciplinary Committee found as follows:

- i. 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.***

- ii. *An Attorney shall observe these Canons and shall maintain his integrity and encourage other Attorneys to act similarly. He shall not counsel or assist anyone to act in any way which is detrimental to the Legal Profession.*
- iii. *An Attorney shall not act contrary to the laws of the land, or aid, counsel or assist any man to break those laws.*
- iv. *An Attorney shall not counsel or assist his client or witness, in conduct that the Attorney knows to be illegal or fraudulent, and where he is satisfied that his client has in the course of the particular representation perpetrated a fraud upon a person or tribunal, he shall promptly call upon him to rectify same.*
- v. *An Attorney shall not knowingly make a false statement of fact or law.*

3. At a Sanctions Hearing on 26 September 2018 Ms. Thelma Benjamin gave sworn character testimony of behalf of the Respondent Attorney-at-Law. Ms. Thelma Benjamin is the mother of Debby Pedley, a daughter of the late Leopold Pedley. The Complainant in this matter is also a daughter of Leopold Pedley. The impact of her testimony is that she thought Mr. Peynado to be a very caring person because he had the interest of her daughter at hand.

4. Major Kerron Burrell also testified on behalf of the Respondent Attorney-at-Law. He knew the Respondent for over 10 years and they lived at the same apartment complex. He testified as follows:

“To the best of my knowledge, he is a decent individual.....he is helpful. He likes to help persons. He is always asking me to assist persons and persons who he carries to me are poor persons who need help. So persons who want help, he tries to help them in getting a job and the only way I can help is help them to get a job or facilitate them getting a job.”

5. Pastor Wilmer Jackson of the Church of God in Jamaica also testified on behalf of the Respondent Attorney-at-Law. He has known the Respondent since 1987 when they were both Probation and After Care Officers. He testified that,

“I have found him to be a decent and very honest, reliable and trustworthy person”

6. Mr. Leonard Green, Attorney-at-Law, in a very powerful, eloquent, well structured plea in mitigation asked that the Panel *“view the lower end of the spectrum to find what is most filling”*. He submitted that *“a warning and admonition as the most appropriate sanction in these proceedings”*.

7. The Panel is reminded of the Judgment in **Bolton v Law Society (1994) 2 All ER 486**.

“it is required of Lawyers practicing in this country that they should discharge their professional duties with integrity, probity and complete trustworthiness. That requirement applies as much to barristers as it does to solicitors. If I make no further reference to barristers it is because this appeal concerns a solicitor, and where a client’s moneys have been misappropriated the complaint is inevitably made against a solicitor, since solicitors receive and handle clients’ moneys and barristers do not. 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. It is important that there should be full understanding of the reasons why the tribunal makes orders which might otherwise seem harsh. There is, in some of these orders, a punitive element; a penalty may be visited on a solicitor who has fallen below the standards required of his profession in order to punish him for what he has done and to deter any other solicitor tempted to behave in the same way. Those are traditional objects of punishment. But often the order is not punitive in intention. Particularly is this so where a criminal penalty has been imposed and satisfied. The solicitor has paid his debt to society. There is no need, and it would be unjust, to punish him again. 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. This purpose is achieved for a limited period by an order of suspension; plainly it is hope that experience of suspension will make the offender meticulous in his further compliance with the required standards. The purpose is achieved for a longer period, and quite possibly indefinitely, by an order of striking off. 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 lapse 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 is 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”.

8. This has been a very difficult case for the members of the Panel. It is clear to us that the Respondent did what he thought was in the best interest of his deceased client and his instructions to the Respondent before he died.
9. In pursuing these instructions, he inserted dates on the Instruments of Transfer after the death of his client. This was plainly not only wrong but illegal.
10. This Panel cannot excuse the conduct and behavior of the Respondent just because he thought that he was carrying out the instructions of his deceased client.
11. The Panel has taken careful note of the evidence of the witnesses as to the good character of the Respondent, all of which has been very highly complimentary.
12. The Panel is aware of the duty of the General Legal Council to maintain the reputation of the profession and to sustain public confidence in the integrity of the members of the profession.
13. This Panel is obliged to act in the interest of the profession to ensure that the collective reputation of the profession is maintained. In these circumstances it cannot accede to the submission of the Respondent through his Attorney-at-Law.
14. Taking all the circumstances of the case into account, along with the evidence of good character and the submissions in mitigation, it is the Decision and Order of the Panel that the Respondent Attorney-at-Law, IVOR PEYNADO, be suspended from practicing in the several Courts of the Island in Jamaica for a period of two (2) years from the date hereof.

DATED THE 17th DAY OF APRIL, 2019.



WALTER H. SCOTT, Q.C.



MICHAEL THOMAS



DANE MARSH