

**DECISION OF THE DISCIPLINARY COMMITTEE OF THE
GENERAL LEGAL COUNCIL AT SANCTION HEARING**

**IN THE MATTER OF BERCHELL MELBOURNE
VS. LEROY EQUIANO**

COMPLAINT NO. 28/2016

PANEL: MR: PETER CHAMPAGNIE
MISS KATHERINE FRANCIS
MISS ANNALIESA LINDSAY

SANCTION HEARING 4TH MAY 2019

This matter is a complaint brought by Berchell Melbourne against Leroy Equiano, Attorney-at-Law, and on the 13th of April 2019 this Panel, having heard the evidence in this matter, found the Attorney-at-Law guilty of professional misconduct.

Without going through the evidence, the Panel reminds itself that this was a case essentially where the complaint was that the Attorney withdrew an appeal that was before the Court of Appeal, in which the Complainant was the appellant, without the consent of the Complainant.

In keeping with the principle of law which states that a Respondent is entitled to be heard on mitigation in such circumstances where there is a finding of guilt, that is to say, the case of Owen Clunie v The General Legal Council, [2014] JMCA Civ 31., the Panel adjourned to today for the Attorney-at-Law to present his mitigating arguments. Before completing his arguments, the Panel indicated to the Attorney that having regard to all the circumstances, the Panel was not inclined at all to consider striking off or suspension. The options available for consideration were reprimand or fining.

In essence, the Panel takes note of the fact that:

1. The Attorney has taken note that it is the first time in his career that he has been found guilty of professional misconduct.
2. The Attorney indicated that the Complainant has not lost anything and in so stating, made reference to the history of his matter, which included a situation where the Complainant was the subject of an order of the court, to pay certain sums touching the appeal matter.
3. The Attorney indicated that he has been involved in various community activities and enjoyed a good relationship with Mr. Melbourne, the Complainant, and has gone beyond the call of duty in seeking to assist the Complainant.

The Panel takes into account all of these and as a consequence the Panel, having found the Attorney-at-Law guilty of professional misconduct on the basis that he withdrew the appeal without the consent of the Complainant, is minded to impose a fine upon the Respondent Attorney.

Whilst it may be true that the prospect of any chance of success on the appeal filed on behalf of the Complainant would have been next to nil, it still behoves an Attorney-at-Law to, along the way in handling the affair, have his clients written instructions, especially at critical stages where a professional judgement is made that the case should be withdrawn. It is absolutely necessary to have written instructions.

Bearing in mind the history of the matter and the finding, the Panel imposes:

1. A fine of \$100,000 to be paid to the Complainant
2. Costs to the General Legal Council in the sum of \$50,000.

The Panel is minded in the circumstances to allow for time for the orders to be complied with, which is on or before July 12, 2019.

DATED THE 16TH DAY OF MAY 2019



PETER CHAMPAGNIE



KATHERINE FRANCIS



ANNALIESA LINDSAY