

**DECISION OF THE DISCIPLINARY COMMITTEE
OF THE GENERAL LEGAL COUNCIL
COMPLAINT NO: 151/2018**

IN THE MATTER OF **ICY CAMPBELL** and **MR. RICHARD BONNER**, an
Attorney-at-Law

AND

IN THE MATTER OF THE LEGAL PROFESSION ACT, 1971

BETWEEN ICY CAMPBELL COMPLAINANT

AND RICHARD BONNER RESPONDENT

Panel:

Mrs. Ursula Khan - Chairman
Mrs. Tana'ania Small Davis
Mr. Kevin Powell

Hearing Dates:

4 May 2019, 21 May 2019, 10 July 2019, 27 July 2019

COMPLAINT

1. Before the Panel is a complaint against Attorney-at-Law, Richard Bonner, (hereinafter called "the Attorney") laid by Ms. Icy Campbell (hereinafter called "the Complainant"). The Complaint against the Attorney is that:
 - (a) he has not provided the Complainant with any information as to her parent's matter;
 - (b) He has acted with inexcusable negligence in the performance of his duties; and
 - (c) he has not acted with due expedition in the performance of his duties.

2. The Panel having been satisfied that the Attorney was properly notified of the hearing date by registered post to his address for service, proceeded in his absence on 4 May 2019. The Complainant's evidence was taken and the Panel directed that notes of evidence be sent to the Attorney and the matter was adjourned to 21 May 2019 to give the Attorney an

opportunity to attend and cross examine the Complainant. The Attorney appeared on 21 May 2019. He declined to cross examine the Complainant. He informed the Panel that he recognized the name of the client (the Complainant's parents) and that his office in Saint Elizabeth was closed and all files were brought to his Saint Thomas Office. He said that he would retrieve the file to deliver it to the Complainant. The matter was adjourned to 10 July 2019.

3. On 10 July 2019 when the matter was called the Attorney was not present. The Panel proceeded to deliver its judgment.

EVIDENCE

4. The Complainant said that the Attorney was retained in 2009 by her parents Phillip and Myrtle Brooks to obtain letters of administration in the estate of Ida Brooks and to get a splinter title in her father's name for lands at Melsham, St. Elizabeth registered at Volume 988 Folio 449 ("the Certificate of Title). To the present day, the Attorney has not produced the splinter title, the grant of administration or returned any of the original documents which he was given as part of his instructions. In the intervening period, her father Phillip Brooks died in 2014 and her mother Myrtle Brooks died in 2017. Neither of them had a will.
5. The Complainant is one of the beneficiaries of her parents' estates. She explained that she and her siblings have been trying to retrieve the Certificate of Title and other documents from the Attorney without success. The Attorney's office in Norman's Plaza, Junction, Saint Elizabeth is closed.
6. The Forms of Application and Affidavit sworn to by the Complainant dated 22 June 2018 were admitted as **Exhibits 1 and 2**. The Complainant's letter to the General Legal Council dated 23 April 2019 submitting 23 documents and 9 receipts was admitted as **Exhibit 3**.
7. The Complainant said she received the documents forming Exhibit 3 from her mother prior to her death. Among the documents were copies of the Certificate of Title, receipts for property tax payments, transfer tax certificate issued 10 August 2007, a letter from the Saint Elizabeth Parish Council informing Mr. Phillip Brooks of subdivision approval and stamped and recorded Deed of Indenture dated 30 June 2007. Also included is a

receipt issued by Richard Bonner & Associates dated 7 May 2009 acknowledging receipt of the originals of the aforementioned documents.

8. The other receipts issued by Richard Bonner & Associates to Mr. Phillip Brooks are for cash payments totaling \$130,000 for fees for obtaining letters of administration for estate of Ida Brooks and title for Melsham District, Red Bank, Saint Elizabeth and \$55,000 for stamp duty and fees and valuation report.
9. The Complainant produced her birth certificate and the death certificates of each of her parents.

FINDINGS OF FACT

10. Having seen the Complainant and hearing her evidence and having reviewed the exhibits we accept her evidence and find that the following has been established beyond reasonable doubt:
 - a. The Attorney was retained by the Complainant's parents to administer the estate of Ida Brooks and obtain a splinter title in the names of Phillip and Myrtle Brooks pursuant to the Deed of Indenture.
 - b. The Complainant is a beneficiary of the estates of Phillip Brooks and Myrtle Brooks.
 - c. The Attorney received documentation to conduct the business for which he was retained by the Complainant's parents in 2009 but to date he has not obtained the grant of administration for the estate of Ida Brooks nor the splinter title for land in Melsham District, Red Bank, Saint Elizabeth in the names of Phillip Brooks and Myrtle Brooks.
 - d. The Attorney remains in possession of the original documents given to him by the Complainant's deceased parents and has failed to turn them over to the Complainant.

CANONS

11. Canon IV provides:
 - (r) "An Attorney shall deal with his client's business with all due expedition and shall whenever reasonably so required by the client provide him with all information as to the progress of the client's business with due expedition.
 - (s) In the performance of his duties an Attorney shall not act with inexcusable or deplorable negligence or neglect."
12. The standard required by Canon IV (r) and (s) was addressed by Carey JA in Witter v Forbes (1989) 26 JLR 129, -

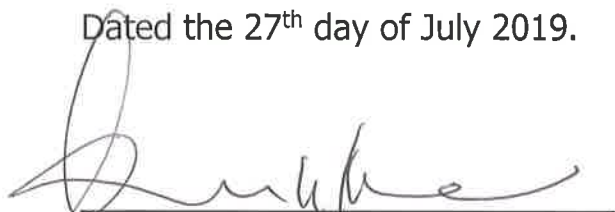
"We are not in this appeal dealing with professional misconduct involving an element of deceit or moral turpitude. Both rules of which the appellant was found guilty are concerned with the proper performance of the duties of an Attorney to his client. The Canon under which these rules fall, prescribes the standard of professional etiquette and professional conduct for Attorneys-at-Law, vis-a-vis their clients. It requires that an Attorney shall act in the best interest of his client and represent him honestly, competently and zealously within the bounds of the Law. He shall preserve the confidence of his client and avoid conflict of interest. The violated rules, both involved an element of wrong-doing, in the sense that the Attorney knows and, as a reasonable competent lawyer, must know that he is not acting in the best interests of his client. As to rule (r) it is not mere delay that constitutes the breach, but the failure to deal with the client's business in a business-like manner. With respect to rule (s) it is not inadvertence or carelessness that is being made punishable but culpable non-performance. This is plain from the language used in the rules."
13. The Complainant's father, who was proposed as the administrator of his father's estate died in 2014. The Estate of Ida Brooks remains without a legal personal representative 10 years after the Attorney was retained to see about the estate. Both of the Complainant's parents have died without obtaining their registered title.
14. We find that the Attorney is guilty of professional misconduct as per Canon VIII (d) in that he has breached **Canons IV (r) and (s) of the Legal Profession (Canons of Professional Ethics) Rules.**

SANCTION

15. The sanction hearing was conducted on 27 July 2019. The Attorney sought an adjournment of the hearing to permit him further time to locate his file.
16. The Attorney said that he had since found the paralegal who worked in his Saint Elizabeth office and she informed him that the documents for application for administration of the estate of Ida Brooks had been prepared and filed in the Black River Magistrates Court but that the valuation of the estate had been rejected. The Attorney admitted that he was unaware of these facts from his own knowledge and submitted that if he were given an opportunity to locate the file and review same, he would possibly be in a position to make submissions that showed that he had done some work on the matter which would mitigate the sanction.
17. The Panel declined to adjourn the sanction hearing. The Attorney had been notified of the Complaint since August 2018 and had an opportunity since that time to conduct a thorough search for the file. Furthermore, even if the file revealed that the application for administration of the estate had in fact been filed, the Attorney would still have to deal with the failure to take any steps since that event.
18. When considering the length of time that had passed since then, the act of filing an application, without achieving its end would not mitigate the Attorney's failure to deal with his clients' business with all due expedition or his deplorable neglect in conducting their business.
19. The Panel having carefully considered the facts and circumstances makes the following orders in sanction of the Attorney:
 1. The Attorney shall deliver all the documents in his possession relating to the Complainant's deceased parents' business to the office of the General Legal Council on or before 31 August 2019.
 2. The Attorney shall reimburse the Complainant the sum of \$130,000 which was paid to him as fees on or before 31 August 2019.
 3. The Attorney shall pay a fine of \$200,000.00, of which \$100,000 shall be payable to the Complainant on or before 31 October 2019.

4. The attorney shall pay costs of \$100,000, being \$50,000 to the General Legal Council and \$50,000 to the Complainant, on or before 31 October 2019.

Dated the 27th day of July 2019.



Mrs. Ursula Khan - Chairman



Mrs. Tana'ania Small Davis



Mr. Kevin Powell