

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

COMPLAINT NO. 73/2013

BETWEEN	ADOLPH FOWLER	COMPLAINANT
A N D	ARLEAN BECKFORD	RESPONDENT

PANEL:

Walter H. Scott, Q.C. Chairman

Charles E.Piper, Q.C.

Michael Thomas

HEARING DATES

07 December 2013, 17 May 2014, 08 November 2014, and 15 January 2015.

On 7 December 2013, both the Complainant and the Attorney were absent. The matter was adjourned for Hearing on 25 January 2014.

On 17 May 2014 both parties were absent. The matter was adjourned to 8 November 2014 for a final Hearing. The Attorney arrived at 11:10 a.m and was advised of the new date.

On 8 November 2014, only the Complainant was present. The Attorney sent an email on 7 November 2014 stating that she was ill. No Medical Certificate or other explanation was attached. In the exercise of its discretion, under Rule 8 of the Legal Profession (Disciplinary Proceedings) Rules, the panel decided to proceed with the Hearing in the absence of the Attorney. The panel took the Complainant's evidence-in-chief. The matter was treated as part-heard and adjourned to 15 January 2015 for the Attorney to cross-examine the Complainant.

On 15 January 2015, the Complainant was present. The Respondent Attorney-at-Law was absent. The Panel noted the following: (i) that a letter dated 23 December 2014 was sent to the Attorney advising of the 15 January 2014 Hearing date; (ii) a letter dated 29 December 2014 was sent to the Attorney enclosing the Notes of Evidence ; (iii) Air Pack mail No. 38913 forwarding letter dated 29 December 2014, letter and Notes of Evidence sent to Attorney; (iv) Notice of Hearing dated 17 December 2014 with registered slip No. B8341 sent to the Attorney. Judgment was reserved to be delivered.

BACKGROUND TO THE COMPLAINT

1. The Complaint against the Attorney-at-Law Arlean Beckford (hereinafter referred to as **"the Attorney"**) was filed by Form of Affidavit sworn to on 4 April 2013.

2. Adolf Fowler (hereinafter referred to as “**the Complainant**”) alleges that sometime in February 2011 he received a call from the Attorney stating that she needed to talk to him. She subsequently visited his office at 54 Seaward Drive, Kingston 20 where she explained that she really needed his help. She confided that she had sold a house on behalf of one of her clients and had lent the proceeds of the sale to a friend and that she did not expect the client to want the money “so early”. She asked the Complainant if she could borrow the sum of Four Million Dollars (\$4,000,000.00) so she could repay the client.
3. The Complainant tried to get a loan from the bank to assist her but was unsuccessful. He therefore took monies from his church in the sum of Two Million Six Hundred Thousand Dollars (\$2,600,000.00) and loaned it to her. He also borrowed the sum of One Million Four Hundred Thousand Dollars from a friend and loaned it to the Attorney. The total sum loaned to the Attorney was Four Million Dollars (\$4,000,000.00).
4. The Complainant further alleges that the parties entered into an agreement that the Attorney would repay \$1,400,000.00 first, then repay the balance of \$2,600,000.00 by 18 February 2011. The Attorney signed a Promissory Note dated 8 February 2011.
5. The Attorney had still not repaid the monies at the time of these proceedings.

Complainant

6. The Complainant gave evidence that he is a Businessman and Transport Operator with a Saint Andrew address.
7. He stated that he knew the Attorney as she had been his Attorney for about 6-7 years.
8. He alleged that he loaned the Attorney the total sum of \$4,000,000.00 of which she repaid \$1,400,000.00 approximately six months after he loaned her the money. As at the time of these proceedings she had not repaid the \$2,600,000.00.
9. He stated that he had made demands for the repayment of the money owed. Her response has been that she doesn't have any money as she is not working.
10. He presented the Promissory Note signed by the Attorney and same was entered into evidence. This was the only document he received from her.
11. He further stated that she did not advise him to get advice from another lawyer because of the relationship they had. She also did not advise him to seek advice on the Promissory Note.

12. EXHIBITS

The following documents were entered into evidence during the course of the Complainant testifying.

- Exhibit 1 – Letter dated 4 March 2013
- Exhibit 2 – Promissory Note dated 8 February 2011 signed by Arlean Beckford.

Respondent

13. The Attorney did not attend the Hearing despite Notices being sent to her. The matter was therefore heard and concluded in her absence pursuant to Rule 8 of the Legal Profession (Disciplinary Proceedings) Rules.

FINDINGS OF FACTS

14. Having heard the evidence of the Complainant and the Attorney having not appeared to challenge same we find that the following facts have been proven.

(a) The Attorney borrowed \$4,000,000.00 from the Complainant. This sum was made by two payments one for \$2,600,000.00 which was evidenced by the Promissory Note and the sum of \$1,400,000.00. Of this sum, the Attorney repaid \$1,400,000.00 to the Complainant about six months after he lent her the money.

(b) The Promissory Note signed by the Attorney on 8 February 2011 speaks to a sum of \$2,600,000.00 to be repaid on or before 18th February 2011. We find that of the sum of \$4,000,000.00 borrowed from the Complainant, \$2600,000.00 remains unpaid.

(c) We also find that the Attorney failed to advise the Complainant to seek independent legal advice either in respect of him lending her the money or the effect of the Promissory Note.

(d) In the circumstances we find that the Attorney acted in contravention of Canon 1(b)

(e) In arriving at our decision, we referred to and considered Canon VIII(b) which states that:

“Where in any particular matter explicit ethical guidance does not exist, an Attorney shall determine his conduct by acting in a manner that promotes public confidence in the integrity and efficiency of the legal system and the legal profession.”

(f) The Attorney’s act of borrowing money from a client was an abuse of the Attorney-client relationship. We rely on the decision of this Committee in **Luneth Oram and Rasford Oram v Lorraine Earle Complaint 87/2003**. The Panel found that:

“The Attorney ought not to have borrowed money from her clients while she was still representing them and, in any event, ought to have ensured that the clients obtained independent legal advice and that their interests were properly protected. The Attorney obviously took advantage of the

relationship she had with the Complainants and got them to give her money which she promised to repay within seven (7) days which she failed to do. Indeed for a few years after lending the Attorney the money, the Complainants could not find her. This conduct the Committee finds reprehensible and a breach of Canons I (b) and VIII (b).


(g) We agree with the sentiments expressed and hold the same to be true for the instant matter. An Attorney ought not to conduct himself to the detriment of his client. Doing so would be in gross contravention of the Canons.

CONCLUSION

15. We find that the Attorney did not conduct herself in a manner that maintains the honour and dignity of the profession.
16. Though the Complainant did not state that she was conducting current matters on his behalf when she borrowed the money, it was the relationship built off the confidence he had in the Attorney as his lawyer had influenced the decision of the Complainant to lend her the money.
17. Further, it was scandalously negligent of the Attorney not to advise the Complainant to seek independent legal advice before lending her the money and executing the Promissory Note. This failure on her part is indicative of her overall reprehensible impropriety.
18. The Panel finds the Attorney-at-Law guilty of professional misconduct.
19. In accordance with the Decision of the Court of Appeal in Owen Clunie v the General Legal Council, the secretary will fix a date for a Sanction Hearing.

DATED THE 27th DAY OF NOVEMBER, 2019.


WALTER H. SCOTT, Q.C.


CHARLES E. PIPER, Q.C.


MICHAEL THOMAS