

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

COMPLAINT NO. 141/2018

In the matter of **ANDEL BAILEY** and
HUMPHREY MCPHERSON an Attorney-at-
Law.

AND

In the Matter of the Legal Profession Act, 1971

Panel: Mr. Jerome Lee (Chairman)
Mrs. Nadine Guy
Mr. Kevin Powell

Appearances: No answer for Humphrey McPherson
Mr. Andel Bailey
Mrs. Salome Bailey

Hearing Dates: 13th November 2019 and 29th January 2020

The Complaint

1. By way of Form of Application Against an Attorney-at-Law dated the 12th June 2018 and Affidavit in support thereof sworn to on the 12th June 2018 **ANDEL BAILEY** by virtue of Power of Attorney dated the 25th May 2018 of **SALOME BAILEY** (the “Complainant”) alleged that **HUMPHREY MCPHERSON** (“the Respondent”) is in breach of the following Canons contained in the Legal Profession (Canons of Professional Ethics) Rules, as amended, namely:-
 - a. “He has not dealt with my business with all due expedition.
 - b. He has not accounted to the Complainant for all moneys in his hand although I reasonably required him to do so.
 - c. He is in breach of Canon 1(b) which states that 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.”

2. The hearing of this complaint took place on the 13th November 2019 at the Office of the General Legal Council. The Respondent was absent and failed to file an Affidavit

- in Response although required to do so pursuant to Rule 4 of the Legal Profession (Disciplinary Proceedings) Amendment Rules, 2014.
3. The Panel having been satisfied as to the service of the Notice of the Proceedings commenced the hearing pursuant to Rules 5 and 21 of the Legal Profession (Disciplinary Proceedings) Rules set out under the Fourth Schedule to the Legal Profession Act and in exercise of its discretion to proceed with the hearing in the absence of the Respondent as permitted by Rule 8 of the Fourth Schedule of the Legal Profession Act which governs the procedure at the hearings.
 4. Having taken the evidence of the Complainant, the Panel adjourned to 29th January 2020 and directed that the notes of the hearing on 13th November 2019 be served on the Respondent to allow him a further opportunity to be heard.
 5. Having been duly served, the Respondent did not attend the hearing on 29th January and did not file any affidavit in response or provide any reply to the complaint against him.

Findings of Facts


6. The Panel has considered the matter taking into account the viva voce and documentary evidence of the Complainant and makes the following findings of fact:
 - a. The Respondent was retained to file a suit on the Complainant's behalf.
 - b. The Respondent did so and on May 8, 2009 he obtained judgment in the sum of \$3,119,958.77 together with interest at 3% per annum from January 1, 1993 to June 30, 1999 and 6% per annum from July 1, 1999 to December 31, 2002. The judgment was against the Attorney General of Jamaica.
 - c. The Respondent was retained by the Complainant under a contingency fee arrangement which provided for the Respondent to receive 25% of any sum to be paid to the Complainant.
 - d. The Attorney General paid out \$6,410,612.11 to the Respondent in satisfaction of the judgment debt and interest. The sum was paid over a period starting in October 2008 and concluding on August 10, 2010.

- e. The Complainant was only paid \$2,287,500.00 by the Respondent leaving a balance of \$2,520,459.08 (taking into account the 25% contingency due to him)
- f. Despite demand the Respondent has not paid over or accounted to the Complainant for the balance of the judgment debt due.


Conclusion

- 7. The allegations in the complaint have been made out to the requisite standard of proof of beyond a reasonable doubt and accordingly the Respondent is guilty of professional misconduct in respect of the specified Canons.
- 8. The Panel adjourns to 6th March 2020 to deliver its sanction and affords the Respondent the opportunity to address it on the sanction to be imposed.


Dated the *29th* day of *January* 2020



JEROME LEE



NADINE GUY



KEVIN POWELL