

DECISION OF THE DISCIPLINARY COMMITTEE
OF THE GENERAL LEGAL COUNCIL

COMPLAINT NO: 122/2014

BETWEEN
AND

BARBARA SASSO
ROBERT RAMSEY

COMPLAINANT
RESPONDENT

PANEL:

Walter Scott, Q.C.
Michael Thomas
Debra McDonald

HEARING DATES: 18th July 2015, 30th January 2016, 24th May 2016, 21st September 2016, 17th November 2016, 25th January 2017, 30th May 2017. Submissions were received from the Complainant on 30 October 2017 and from the Respondent on 01 December 2017.

The Complainant was represented at the hearing by Kent Gammon and the Attorney-at-law was represented by Abraham Dabdoub and Zavia Mayne.

BACKGROUND TO THE COMPLAINT

1. The complaint against Attorney-at-Law Robert Ramsey (hereinafter referred to as "***the Attorney***") was originally filed by retired Banker Ronald Sasso (hereinafter called the "***deceased***") by way of letter dated 26th July, 2013 to the General Legal Council. Unfortunately Mr. Sasso died on 27th November 2013 and as such his wife, Barbara Sasso (hereinafter referred to as "***the Complainant***") continued the complaint by refiling the complaint in her own name.
2. In 2012 the Attorney represented the deceased in a conveyancing transaction namely, the sale of 12 Parkhurst Drive, Kingston 6 (hereinafter referred to as "12 Parkhurst Drive"), and Mr. & Mrs. Sasso (hereinafter called "***the Sassos***") in the purchase of 11 Waterworks Road, Kingston 8 (otherwise known as Lot 20 part of Coco Palm or No.1 Broadway Road and hereinafter referred to as "***11 Waterworks Road***"), both in the parish of Saint Andrew.
3. By Agreement dated 25th September 2012 Mr. and Mrs. Sasso agreed to pay to the Attorney legal fees at 1.75% of the sale price in the transaction for the purchase of 11 Waterworks Road, to be paid from the proceeds of sale from 12 Parkhurst Drive or directly by them to the Attorney. The Attorney's legal fees for the 12 Parkhurst

Drive transaction were fixed fees of 1.75% of the purchase price for the said property.

4. In the purchase of 11 Waterworks Road, the Sassos instructed the Attorney that they wished to use a **“special joint tenant clause”** which would enable the property to be transferred by joint tenancy to Mr. and Mrs. Sasso and Mr. Sasso’s two children (who were not Mrs. Sasso’s children). However, this clause would also empower either Mr. or Mrs. Sasso to sell the property during their respective lifetimes without having to seek consent from the children or to account to them for the proceeds of sale of the property.
5. The Attorney charged the Complainant Four Thousand United States dollars (US\$4,000.00) for the researching and drafting of this clause. The Complainant believes that this charge is exorbitant, unfair, and unreasonable especially since the clause was never in fact included on the title of 11 Waterworks Road. Additionally, the Sassos had instructed the Attorney that a similar clause had been used by Mr. Sassos parents in acquiring their home many decades before and all that was required by the Respondent was for it to be copied by him. The Complainant also alleges that the Attorney has not accounted for all moneys which he had on account for the Complainant.
6. The complaint against the Attorney is that:
 - i. He has charged fees that are not fair and reasonable,*
 - ii. He has not accounted for all monies in his hands for the client’s account or credit, although he has been reasonably asked to do so,*
 - iii. 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.”*

HEARING

7. This matter first came on for hearing on 18th July 2015 at which time Mrs. Sasso was present and represented by her Attorney-at-Law, Mr. Kent Gammon. Mr. Ramsey was absent and unrepresented. The matter was adjourned to 30th January 2016. On that date while Mr. Ramsey was present, his Attorney-at-Law Mr. Zavia Mayne was absent. On the Application of the Respondent, the matter was adjourned to 14th May 2016 and costs of \$35,000.00 were awarded to the Complainant.
8. On 14th May 2016 the Complainant and her Attorney-at-Law, Mr. Gammon were present. Mr. Ramsey was absent and a medical certificate from a doctor stating that Mr. Ramsey had suffered a stroke was tendered. An Application for

adjournment was made on his behalf and the matter was adjourned to 21st September 2016.

9. On 21st September neither Mr. Ramsey nor his Attorney-at-Law were present. Upon the Committee being satisfied that the Mr. Ramsey and his Attorney-at-Law had been duly served with Notice of the Hearing pursuant to **Rules 5 and 21** of the **Legal Profession (Disciplinary Proceedings) Rules** as set out under the 4th schedule to the **Legal Profession Act** on 7 September 2016, and in exercise of its discretion to proceed with the hearing in the absence of the Attorney, which is provided for under **Rule 8** of the **Legal Profession (Disciplinary Proceedings) Rules**, the Committee commenced the hearing of this matter on the 21st September 2016 with the taking of evidence of the Complainant.
10. The matter was part-heard and thereafter adjourned to 17th November 2016. Notes of evidence were sent to the respective parties. On the 17th November 2016 when the matter came on for hearing Mr. Ramsey was present and Mr. Mayne appeared on his behalf. Mr. Mayne informed the panel that, Mr. Abe Dabdoub, Attorney-at-law was the lead Counsel in the matter and, was in a part-heard matter in the Corporate Area Parish Court at Half Way Tree and as such an adjournment was being sought. Mr. Mayne also indicated that he had not had sight of the Notes of Evidence though Mr. Ramsey had been served with the same.
11. The Panel was reluctant to grant an adjournment as this was the 5th hearing date set in the matter. The matter was therefore stood down to allow Mr. Mayne to review the Notes of Evidence. When the matter was revisited, Mr. Mayne began his cross-examination of the Complainant. The matter was again part-heard and adjourned to 25th January 2017.
12. On the 25th January 2017 Mrs. Sasso and her Attorney were present and Mr. Ramsey and both his Counsel were present. Mr. Dabdoub conducted his cross-examination of the Complaint and then sought an adjournment as he had another engagement.
13. The matter was adjourned to 30th May 2017. The taking of evidence was concluded on this date.

THE EVIDENCE

The Complainant's Case

14. The following documents from the Complainant were admitted into evidence.
 - 26th July 2013 letter from Ronald Sasso to the General Legal Council
 - Form of Application dated 22nd July 2014
 - Undated and unsworn Affidavit of Barbara Sasso attached to Form of

Application

- 12th February 2014 letter from Barbara Sasso to the General Legal Council
- Copy title for 11 Waterworks Road
- Copy title for 3 Chester Road or Avenue
- 1st April 2014 letter from Barbara Sasso to Robert Ramsey
- 1st April 2014 letter from Barbara Sasso to the General Legal Council
- 25th April 2014 letter from Barbara Sasso to the General Legal Council
- Affidavit sworn on 9th May 2016

15. Mrs. Sasso gave evidence that Mr. Ramsey represented her husband in the sale of 12 Parkhurst Drive and both her husband and herself in the purchase of 11 Waterworks Road, which was at the time of the hearing, her home. She stated that while she was not a party to the negotiations of the 12 Parkhurst Drive transaction, she was present for and involved in the discussions regarding the 11 Waterworks Road transaction. In cross-examination, she agreed that there may have been phone calls between her husband and Mr. Ramsey to which she may not have been privy.
16. According to Mrs. Sasso, Mr. Ramsey was instructed to insert a special clause on the title of 11 Waterworks Road. This clause was similar to that used by Mr. Sasso's father on the title of property owned by him at 3 Chester Avenue or Road, Kingston 6. This clause would transfer the property jointly to Mr. and Mrs. Sasso and Mr. Sasso's children, but would reserve Mr. and Mrs. Sasso's right to sell the property in their respective lifetimes without having to seek consent from the children or having to account to them for the proceeds of sale. The Complainant alleges that Mr. Ramsey was provided with the information for 3 Chester Avenue to enable him to do a title search for that property which was then to be relied on as the precedent. She stated that he was provided with this information in or about late September to early October 2012.
17. Mr. Ramsey charged a sum of US\$4,000.00 for the drafting of the special clause which was to appear on the 11 Waterworks Road title.
18. When asked by Mr. Sasso to explain this charge, it was Mrs. Sasso's testimony that Mr. Ramsey alleged that he could not find the 3 Chester Avenue title at the Titles Office and as such he had to conduct extensive legal research and drafting for approximately 21 hours in order to construct a clause as desirable and suitable pursuant to his instructions. Mrs. Sasso stated that Mr. Ramsey never informed them that constructing the clause would cost US\$4,000.00 and it was only when the invoice was rendered that they became aware of the charge. She stated that the only agreement with respect to legal fees was the agreed fixed percentage of 1.75% of the sale price of the property pursuant to the 25 September 2012 Agreement.

19. When asked whether they were informed by Mr. Ramsey that the clause was novel and complex, Mrs. Sasso stated that she did not recall his exact words but that he did say that it was "**most unusual**".
20. The Complainant further testified that although the deceased and herself were charged the cost of researching and drafting the clause, it did not appear on the title for the 11 Waterworks property. It appears only on the Instrument of Transfer and bears a stark resemblance to the clause that appears on the 3 Chester Avenue title, though Mr. Ramsey said he could not find the title for the 3 Chester Avenue property.
21. In addition to the charge of US\$4,000.00 the Complainant challenges the invoice rendered by the Attorney as unreasonable, particularly with respect to bearer and taxi charges.
22. Another issue of contention between the parties was that of the \$10,000.00 which was doubled paid to the National Water Commission (NWC). Mrs. Sasso gave evidence that though it was known by Mr. Ramsey that both her husband and the real estate agent paid this sum to the NWC with respect to the same bill, Mr. Ramsey has failed to obtain a refund from NWC and pay over same to her.

The Respondent's Case

23. In addition to his letter dated 12th November 2013 to the General Legal Council, the Attorney has filed several Affidavits and Supplemental Affidavits along with exhibits in response to the complaint. These Affidavits and exhibits were all admitted with evidence. These are:
 - 16th April 2014 letter to Barbara Sasso
 - Affidavit sworn 8th November 2014
 - Affidavit sworn 11th November 2014
 - Supplemental Affidavit sworn 7th January 2016
 - Supplemental Affidavit sworn 11th February 2016
24. The Attorney has gone at lengths to explain his dealings with and instructions from the Complainant and the deceased. Some of the material is not deemed relevant to this complaint and thus will not be considered.
25. The case for the Attorneys is that the fee of US \$4,000.00 was reasonable, fair and just given the amount of time and work he put into drafting the clause as instructed by the Complainant. He stated that his original instructions were that Mr. and Mrs. Sasso were the purchasers of 11 Waterworks as joint tenants; his original instructions did not contemplate the children and the complications of the special clause.

26. Further, he alleges that the requirement for the special joint tenancy clause was so unusual and unique that he had to spend 21 hours to research and draft a clause that reflected his instructions. In acknowledging the Fee Agreement signed on 25 September 2012, he stated this Agreement only contemplated the cost for his original instructions and that he informed the Complainant and her late husband that he could not yet say what the cost of drafting this new clause would be as it would take him time to research and finalise.
27. The Attorney claims that he was only told about the 3 Chester Avenue title after he had done all the work and charged his fee. Further, he stated that the information provided by Mr. Sasso to conduct the title search was incorrect thus the correct title was never found by him.

THE LAW

28. The Panel reminds itself that the burden of proof to establish the complaint rests solely and entirely on the Complainant. The Panel also reminds itself that the standard of proof which is required from the complaint is proof beyond a reasonable doubt. (**Wilston Campbell v David Hamlet (as executrix of Simon Alexander) Privy Council Appeal No. 73 of 2001.**)
29. The main issue before this Panel is an issue of fact, as to whether the Complainant or the Attorney is speaking the truth about the circumstances leading up to the inclusion of the Special Clause.
30. The legal issues in the case arise from Canon No. IV(F)
- “F. The fees that an Attorney may charge shall be fair and reasonable and in determining the fairness and reasonableness of a fee any of the following factors may be taken into account:-***
- (i). The time and labour required, the novelty and difficulty of the questions involved and the skill required to perform the legal service properly;***
 - (ii) The likelihood that the acceptance of the particular employment will preclude other employment by the Attorney;***
 - (iii) the fee customarily charged in the locality for similar legal services;***
 - (iv) the amount, if any, involved***
 - (v) the time limitations imposed by the client or by the circumstances.***
 - (vi) the nature and length of the professional relationship with the client;***

(vii) the experience, reputation and ability of the Attorney concerned.

(viii) whether the fee is fixed or contingent “

31. The Panel has carefully reviewed the several Affidavits, the exhibits, and the Notes of Evidence of the cross examinations of both the Complainant and the Attorney.
32. The Panel has found the Complainant to be an honest, forthright, truthful and reliable witness and accepts her evidence.

FINDINGS OF FACT

33. Having heard the evidence of both the Complainant and the Attorney, and having reviewed the exhibits we find that the following has been established beyond a reasonable doubt:
- a) The deceased retained the Attorney to act as his Attorney-at-Law in the sale of 12 Parkhurst Drive.
 - b) The deceased and the complainant retained the Attorney to represent them in the purchase of 11 Waterworks Road.
 - c) The Agreement of 25 September 2012 between the Sassos and the Attorney represents the only written fee Agreement between the Sassos and the Attorney.
 - d) Both the sale of 12 Parkhurst Drive and the purchase of 11 Waterworks Road were completed by the Attorney and fees of 1.75% of the sale price of both properties were charged by the Attorney.
 - e) Additionally, the Attorney charged the sum of US\$4,000.00 for the extensive legal research into and the drafting of the Special Joint Tenancy Clause.
 - f) The Complainant and the deceased instructed the Attorney to draft the Special Joint Tenant Clause and further instructed him of the “**Special Joint Tenancy Clause**” in the deceased’s father’s Title for 3 Chester Avenue.
 - g) The Attorney drafted a Special Joint Tenant Clause on the Instrument of Transfer.

- h) Transfer No. 86727 on the Duplicate Certificate of Title recorded at Volume 492 Folio 53 “Transfer by way of gift dated the 4th day of July and registered on the 7th of August 1950 from the abovenamed David Jacob Sasso and Margaret Potts his wife of all their estate in the land comprised in this certificate to themselves the said David Jacob Sasso, Margaret Potts his wife, Phyllis Joy Khan the wife of Martin Wolfgang Kahn of Kingston, Clerk, Noel Gabrin Sasso and Ronald St. Aubyn Sasso of Kingston, Clerk as Joint Tenants, with power nevertheless to themselves the said David Jacob Sasso and Margaret Potts Sasso during their joint lives and the life of the survivor mortgage, charge, lease, sell or otherwise dispose of the fee simple in the lands as if they were the sole registered proprietors thereof” is the exact type of wording which the Sassos instructed the Attorney that they wished to have endorsed on the Title for Waterworks Road.
- i) The Transfer of 11 Waterworks Road was effected to the Sassos without the Special Joint Tenancy Clause.
- j) The Panel finds as a fact that the Sassos instructed the Attorney of the 3 Chester Avenue Title with the Special Joint Tenancy Clause early in the process of providing instructions to the Attorney.

CONCLUSION

i. Whether the Attorney charged fees that were unreasonable

34. Section 21 of the Legal Professions Act provides that:

(1) An attorney may, subject to any regulations made by the Council under subsection (7), in writing agree with a client as to the amount and manner of payment of fees for the whole or part of any legal business done or to be done by the attorney, either by a gross sum or percentage or otherwise; so, however, that the attorney making the agreement shall not in relation to the same matters make any further charges than those provided in the agreement.

35. The Complainant contends that the fee agreement entered into by the parties included and ought to have covered all work done by the Attorney in respect of the transaction. The Attorney contends that the agreed fee was only in relation to his original instructions to regarding a “simple agreement for sale”. Based on the novelty of the joint tenancy clause the Sassos instructed they wanted – after the fee agreement was entered into – he had to charge for the work done.

36. The clause as requested by the Sasso's was a unique one.

37. There is a simple issue of fact which the Panel has to determine, that is whether the Complainant is speaking the truth when she testified that the Attorney was instructed about the wording on the Chester Avenue Title at the commencement of the transaction. The Panel finds that the complainant spoke the truth as to when the deceased husband and herself provided instructions to the Respondent on the 3 Chester Avenue Title with the Special Joint Tenancy Clause.

38. Practitioners do not engage in academic exercises. The purpose of instructions by a client is to achieve a practical outcome. That practical outcome was not obtained in this case as the 11 Waterworks Road property was transferred to the Complainant and the deceased without the Special Joint Tenancy Clause. In the circumstances, we find that the Attorney charged fees, to wit, US\$4,000.00 that were not fair and reasonable.

ii. Whether the Attorney has accounted for all monies held on account for the Complainant

39. Though this was filed as a ground of complaint, the Complainant has not pursued this ground and has admitted in evidence that all monies had been accounted for. We are therefore satisfied that the Attorney has not failed in his duty to account for monies he held on behalf of the Sassos.

iii. Whether the Attorney acted in breach of Canon 1(b)

40. Canon 1(b) provides that:

"An Attorney shall at all times maintain the honour and dignity of the profession and shall abstain from behaviour which may tend to discredit the profession of which he is a member."

41. We find that this complaint was grounded on a disagreement between the parties regarding what is deemed as "reasonable fees", which does not in itself mean that the Attorney acted improperly.

42. Canon IV(F) is not one of those Canons the breach of which ipso facto amounts to professional misconduct.

43. We have not seen any evidence before us that the Attorney has acted improperly and dishonourably in his dealings with the Complainant and the Sassos. We therefore do not find that there has been a breach of Canon 1(b) by the Attorney.

44. In accordance with the Procedure recommended by the Court of Appeal in *Owen Clunie v GLC CA03/2013*, the Panel directs that a date be fixed to give the Attorney an opportunity to be heard in mitigation before a sanction is imposed.

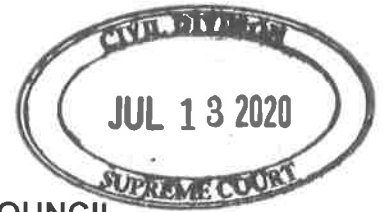
DATED THIS DAY OF 2018

WALTER H. SCOTT

MICHAEL A. THOMAS

DEBRA McDONALD

SU2020CV02496



FORMAL ORDER

OF THE DISCIPLINARY COMMITTEE OF THE GENERAL LEGAL COUNCIL

COMPLAINT NO: 122/2014

IN THE MATTER OF BARBARA SASSO VS ROBERT
RAMSEY

AND

IN THE MATTER OF THE LEGAL PROFESSION ACT 1971

PANEL: MR. WALTER SCOTT, Q.C.
MR. MICHAEL THOMAS
MRS. DEBRA McDONALD

DECISION DELIVERED 15TH JUNE, 2020

UPON THE APPLICATION made under section 12 (1) (a) of the Legal Profession Act and dated the 22nd July, 2014 and coming on for hearing before the Disciplinary Committee on the 18th July, 2015, 30th January, 2016, 14th May 2016, 21st September 2016, 17th November, 2016, 25th January, 2017, 26th July 2017, 11th November 2017, 14th February 2019, 13th March 2019 and 12th October 2019,

AND UPON the Complainant Mrs. Barbara Sasso appearing with Counsel Mr. Kent Gammon and having given evidence on oath,

AND UPON the Respondent Attorney-at-law Mr. Robert Ramsey appearing with Counsel Mr. Abraham Dabdoub and having given evidence on oath,

AND UPON DUE CONSIDERATION of the sworn evidence of both the Complainant and the Attorney coupled with the submissions of Mr. Kent Gammon, Counsel for the Complainant and the submissions of Mr. Abraham Dabdoub, Counsel for the Attorney,

AND UPON the Committee having found the Attorney-at-law Robert Ramsey guilty of professional misconduct on the 14th February 2019,

AND UPON the Attorney having been given the opportunity to make submissions in mitigation of sanction,

THE COMMITTEE FINDS THAT:

The Attorney Robert Ramsey was retained to act on behalf of the Complainant's deceased husband Ronald Sasso in the sale of 12 Parkhurst Drive. The Attorney also was retained to act on behalf of the Complainant and her deceased husband in the purchase of 11 Waterworks Road. The Complainant and the deceased instructed the Attorney to include in the Instrument of Transfer Special Joint Tenant Clause and further instructed him on the wording of the "Special Joint Tenancy Clause" in the deceased's father's title for 3 Chester Avenue. Both the sale of 12 Parkhurst Drive and the purchase of 11 Waterworks Road were completed by the Attorney and fees of 1.75% of the sale price of both properties were charged by the Attorney. Additionally, the Attorney charged the sum of US\$4,000.00 for the extensive legal research into and the drafting of Special Joint Tenancy Clause. The Transfer of 11 Waterworks Road was effected to the Sassos without the special Joint Tenancy Clause.

In the circumstances the panel finds that the Respondent Attorney-at-law charged fees, to wit, US4000.00 that were not fair and reasonable. Taking all the circumstances of the case into account together with the fact that the Respondent has had a hitherto unblemished professional reputation, the panel agrees with the submissions of Counsel for the Respondent that there has been no finding of dishonesty.

PURSUANT TO THE FOREGOING FINDINGS THE COMMITTEE UNANIMOUSLY HEREBY ORDERS THAT: -

Pursuant to section 12 (4) (a) of the Legal Profession Act as amended:

1. The Respondent Attorney, Robert Ramsey pay a fine of US4,000.00;
2. Such fine to be paid within 90 days of the date hereof;
3. That the fine will be paid to the Complainant
4. Additionally, the Attorney is to pay costs of \$300,000.00 of which J\$150,000 is to be paid to the Attorneys-at-law for the Complainant and J\$150,000.00 to the General Legal Council.
5. The costs are to be paid within 180 days of the date hereof.


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CHAIRMAN OF PANEL

Dated 15th June, 2020

