

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

**COMPLAINT NO. 10/OF 2016**

<b>BETWEEN</b>	<b>THE VICTORIA MUTUAL BUILDING SOCIETY (RICHARD POWELL)</b>	<b>COMPLAINANT</b>
<b>AND</b>	<b>WILLIAM ANTHONY PEARSON</b>	<b>RESPONDENT</b>

**Panel**

**Walter H. Scott, Q.C.  
Charles Piper, Q.C.  
Michael Thomas**

**Hearing Dates**

**27 November 2019  
5 December 2019 (postponed)  
18 December 2019  
23 January 2020  
7 March 2020**

**Representation**

The Complainant was represented by Mr. Emile Leiba & Mr. Jonathan Morgan instructed by DunnCox.

The Respondent was represented by Mr. Garth McBean QC.

## Background

1. By its Decision dated 12<sup>th</sup> October 2019 the Disciplinary Committee made the following Findings:

*(a) " We find that the Attorney is guilty of professional misconduct in that he has failed to return the monies overpaid to him for which neither his client nor himself had any bona fide claim of right.*

*(b) The Attorney has caused the Complainant to suffer prejudice and loss as a result of his failure to repay the sums mistakenly paid to him.*

*(c) The conduct of the Attorney was reprehensible and dishonourable and has brought a shame unto both himself and the profession. "*

2. At the Sanctions Hearing over the course of several days, the respondent adduced character evidence from The Hon. Mr. Justice Seymour Panton OJ, the retired President of the Court of Appeal and Dr. Aggrey Irons CD, Consultant Psychiatrist. It is not an over statement to state briefly that both distinguished gentlemen gave glowing and powerful character evidence on behalf of the respondent. Both were equally surprised as to the finding of culpability on the part of the Respondent.

3. Mr Garth McBean QC, made the following Submissions on behalf of Mr. Pearson.

*It is submitted that a sanction of striking off or suspension ought not to be imposed upon the Respondent Attorney-at-Law. It is so submitted for the following reasons: -*

*(a) There was no finding of proven dishonesty*

*(b) The Respondent Attorney at Law has so far repaid a substantial sum of over \$7 million.*

*(c) The Complainant has pursued and obtained a civil remedy in a civil suit in the Supreme Court of a final charging order against Respondent's residential property which was his family home in relation to the amount which is the subject and part of the complaint and therefore they will suffer no more prejudice as there is a real likelihood that they will recover the sum with interest.*

*The Respondent allowed the complainant's valuator to visit and value the property and to present their valuation to the Court to facilitate a sale of the property to settle his indebtedness. The Respondent's ex-wife, who is co-owner, intervened and this has delayed the sale.*

*However, since the last hearing on March 7<sup>th</sup>, 2020 the Attorneys- at- Law for his ex-wife has sent to Mr. Pearson an Agreement for Sale executed by the prospective purchaser and a copy of which was sent in a letter to the Secretary of the Disciplinary Committee on March 20<sup>th</sup>, 2020. A copy was also sent to the Attorneys-at-Law for the Complainant. Further, the Complainant has obtained charging orders against all of Mr. Pearson's motor vehicles and bank accounts.*

*Adopting the words of Sir Thomas Bingham in the Bolton case where after he referred to situations where the order is not punitive, he said "The Solicitor has paid his debt to society". Although the learned Judge referred to a criminal case where a criminal penalty had been imposed and satisfied it is submitted that in the instant case the Respondent has paid his debt to society and therefore striking off and suspension ought not to be imposed..*

*(d) The evidence of the Honourable Mr. Justice Panton was to the effect that the Respondent has been of good character. His evidence was that, inter alia, the Respondent is a good criminal lawyer to whom he had referred clients who were satisfied with his work, that the Respondent is a good advocate, hardworking, devoted to his children and reliable. The Honourable Mr. Justice Panton also asked the panel for leniency.*

*(e) Dr. Aggrey Irons, Consultant Psychiatrist, gave evidence on March 7<sup>th</sup>, 2020 and the salient parts of his evidence are outlined below: -*

- Dr. Irons stated that he knew Mr. Pearson for almost all his life and interacted with him while he was a student at St. Georges College and when he became head boy there.*
- Dr. Irons stated that Mr. Pearson's honesty and integrity is impeccable and that he has interacted closely with Mr. Pearson since he left St. Georges College to date and has had no reason to doubt his integrity.*
- Dr. Irons stated that Mr. Pearson consulted him in his professional capacity as a psychiatrist and noted that two particular stresses affected him, namely, problems with his marriage and the work load he had.*

- *Dr. Irons stated that Mr. Pearson developed a drinking problem and that after he was able to convince him that he needed help he referred him to Dr. Jackie Martin.*
- *Dr. Irons stated that the alcohol abuse has not affected Mr. Pearson's intellect, but it has affected his judgment.*
- *In his evidence, Dr. Irons also stated that the issues which Mr. Pearson faced resulted in a unfortunate break up of his family in 2002, with part of his family in Canada and part in Jamaica and that his daughter and sister have supported him throughout.*

4. In these very erudite submissions Queens Counsel has set out in a diligent manner his appeal to the Panel not to apply the maximum sanction available to it under the Legal Profession Act.

5. Regrettably, that neither the evidence of previous good character nor the powerful Submissions of Counsel could counteract or over-ride in any material manner the following findings of fact made by this Panel, viz:

- (1) *"The Complainant is Victoria Mutual Building Society, a Building Society duly incorporated under the Building Societies Act with registered office at 8-10 Duke Street in the Parish of Kingston (the Society).*
- (2) *Mr. William Anthony Pearson is an Attorney-at-Law and trades as Pearson & Company Attorneys-at-Law. The Respondent has failed, refused and/or neglected to repay sums paid by the Society to Pearson & company by mistake and in excess of what was due to his client despite several requests by the Society and its Attorneys-at-Law, DunnCox for the repayment of the same.*
- (3) *The Respondent represented the vendors in an Agreement for Sale dated the 23<sup>rd</sup> of July 2012 between Cedric Everton Perue and Cedric Sheldon Perue (hereinafter referred to collectively as "the Vendors", and Purchasers, Virginia Mae Johnson and Carvian Co-Randle Ranglin, for the sum of Eighteen Million Dollars (\$18,000,000.00).*
- (4) *At the signing of the Agreement for Sale, the Society was the holder of a legal mortgage #1454315 over the property registered on the 23<sup>rd</sup> of April 2007 in the sum of Eight Million, Five Hundred and Fifty Thousand Dollars (\$8,550,000.00) with interest to secure the said sum loaned to the Vendors.*

- (5) *The Purchasers were granted a loan from the Society in the sum of Thirteen Million Dollar (\$13,000,000.00) in order to purchase the property.*
  - (6) *It was agreed between the parties that the proceeds of the mortgage to the Purchasers would first be applied to discharge the vendors' mortgage with the Society and subsequently the net proceeds of mortgage would be paid to the Vendors.*
  - (7) *In January 2013, the Society granted a mortgage in the sum of Thirteen Million Dollars (\$13,000,000.00) to the Purchasers.*
  - (8) *In February 2013 the Vendors' mortgage was discharged by the Society.*
  - (9) *On March 27, 2013, Thirteen Million Dollars (\$13,000,000.00) was wire transferred by the Society to the account of Pearson & Company.*
  - (10) *The payment of Thirteen Million Dollars (\$13,000,000.00) by the Society to Pearson & Company was made as a result of a mistake by DunnCox.*
  - (11) *The Respondent received an amount of \$9,972,979.53 that was not due to either his clients or himself.*
  - (12) *The Respondent Attorney-at-law has failed and/or refused to repay the full sum of \$9,972,979.53 to the Complainant or its attorneys-at-law Dunn Cox."*
6. A submission was made by the Respondent's Counsel, that there has been no finding of dishonesty. With the greatest of respect to Counsel, this is sophistry. The finding of the Panel was that the Respondent was mistakenly over paid millions of dollars. He had no claim of right to this sum. He was aware that the money was not his and that it was to be returned. He failed to do so. In fact, he failed to do so for such an extended period of time that he had to be sued for the money. A judgment was obtained against him for the money. Yet still he failed to pay the money. A charging order has now been obtained against his residence. There is no doubt to this Panel that the retention of the money by the respondent was dishonestly done. The fact that the word "dishonest" was not used in the Decision on liability to describe the conduct of the Respondent does not make it any less dishonest.

7. The Panel is reminded of the Judgment in **Bolton v Law Society (1994) 2 All ER 486.**

*“it is required of Lawyers practicing in this country that they should discharge their professional duties with integrity, probity and complete trustworthiness. That requirement applies as much to barristers as it does to solicitors. If I make no further reference to barristers it is because this appeal concerns a solicitor, and where a client’s moneys have been misappropriated the complaint is inevitably made against a solicitor, since solicitors receive and handle clients’ moneys and barristers do not.*

*Any solicitor who is shown to have discharged his professional duties with anything less than complete integrity, probity and trustworthiness must expect severe sanctions to be imposed upon him by the Solicitors Disciplinary Tribunal. Lapses from the required high standard may, of course, take different forms and be of varying degrees. The most serious involves proven dishonesty, whether or not leading to criminal proceedings and criminal penalties. In such cases the tribunal has almost invariably, no matter how strong the mitigation advanced for the solicitor, ordered that he be struck off the Roll of Solicitors. It is important that there should be full understanding of the reasons why the tribunal makes orders which might otherwise seem harsh. There is, in some of these orders, a punitive element; a penalty may be visited on a solicitor who has fallen below the standards required of his profession in order to punish him for what he has done and to deter any other solicitor tempted to behave in the same way. Those are traditional objects of punishment. But often the order is not punitive in intention. Particularly is this so where a criminal penalty has been imposed and satisfied. The solicitor has paid his debt to society. There is no need, and it would be unjust, to punish him again. In most cases the order of the tribunal will be primarily directed to one or other or both of two other purposes. One is to be sure that the offender does not have the opportunity to repeat the offence. This purpose is achieved for a limited period by an order of suspension; plainly it is hope that experience of suspension will make the offender meticulous in his further compliance with the required standards. The purpose is achieved for a longer period,*

*and quite possibly indefinitely, by an order of striking off. The second purpose is the most fundamental of all; to maintain the reputation of the solicitors' profession as one in which every member, of whatever standing, may be trusted to the ends of the earth. To maintain this reputation and sustain public confidence in the integrity of the profession it is often necessary that those guilty of serious lapse are not only expelled but denied re-admission. If a member of the public sells his house, very often his largest asset, and entrusts the proceeds to his solicitor, pending re-investment in another house, he is ordinarily entitled to expect that the solicitor will be a person whose trustworthiness is not, and never has been, seriously in question. Otherwise, the whole profession, and the public as a whole, is injured. A profession's most valuable asset is its collective reputation and the confidence which that inspires".*

8. This has been a very difficult case for the members of the Panel. It is clear to us that the Respondent had a hitherto unblemished career at the Bar.
9. This Panel cannot excuse the conduct and behavior of the Respondent just because he was of hitherto good character.
10. The Panel is aware of the duty of the General Legal Council to maintain the reputation of the profession and to sustain public confidence in the integrity of the members of the profession.
11. This Panel is obliged to act in the interest of the profession to ensure that the collective reputation of the profession is maintained. In these circumstances it cannot accede to the submission of the Respondent through his Attorney-at-Law.
12. It should be observed that in the case of **Georgette Scott v The General Legal Council SCCA No. 118/2008 (judgment delivered on July 30, 2009)** submissions were made in favour of the appellant that she had repaid a part

of the sum that was due to the complainant and that her judgment may have been affected by interference by external circumstances. It was also contended that the fact that arrangements had been made to repay to the complainant the outstanding sum that was due to him should have influenced the outcome of the complaint as well as the sanction. These submissions were similarly based upon evidence given in mitigation, as in this case. The Court of Appeal did not accept those submissions.

13. Taking all the circumstances of the case into account, along with the evidence of good character and the submissions in mitigation, it is the Decision and Order of the Panel that the Respondent Attorney-at-Law, WILLIAM ANTHONY PEARSON, be struck from the roll of Attorneys-at-law entitled to practice in the several Courts of the Island in Jamaica. Additionally, he is to pay costs of J\$400,000.00 of which J\$200,000.00 is to be paid to the Attorneys-at-law for the Complainant and J\$200,000.00 to the General Legal Council.

DATED THE 18<sup>TH</sup> DAY OF JUNE, 2020.



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WALTER H. SCOTT, Q.C.



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CHARLES PIPER Q.C.



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MICHAEL THOMAS