

**SANCTION DECISION OF THE DISCIPLINARY COMMITTEE OF
THE GENERAL LEGAL COUNCIL
COMPLAINT NO: Complaint No. 56/2020**

IN THE MATTER OF JUDITH PANTRY, an Attorney-at-Law
AND
IN THE MATTER OF THE LEGAL PROFESSION ACT, 1971

BETWEEN DAWN MATTHEWS COMPLAINANT
AND JUDITH PANTRY RESPONDENT

Panel:-

Mrs. Ursula Khan- Chairman
Ms. Delrose Campbell
Ms. Sidia Smith

Appearances:

Mr Hadrian Christie, Complainant's Attorney-at-Law
Mr Kent Pantry, Respondent Attorney-at-Law

Sanction Hearing dates:

December 10, 2021; February 11, 2022 and February 25, 2022. The parties appeared by Zoom video conference on all occasions.

BACKGROUND

1. On the 10th of December 2021 we found Judith Pantry (hereinafter called "the Attorney") guilty of professional misconduct having breached Canon VII(b) (ii) of the Legal Profession(Canons of Professional Ethics) Rules. Specifically that she has failed to account to the Complainant Dawn Matthews for all the monies in her hands for her account or credit although reasonably required to do so.
2. The Decision of 10th December 2021 should be read with this Decision for full context but in summary:-

- a. The Attorney and the Complainant were friends for over 35 years. The Complainant engaged the services of the Attorney to represent her parents, Mavis Francis, and Lascelles Francis) in the sale of a property they owned.
 - b. The Attorney did not account to the Complainant or Mr. and Mrs. Francis for interest earned on the monies held on their behalf or provide them with any proof of the exchange rate used or bank charges associated with the purchase of the US Dollars for payments made to the Complainant.
3. The Attorney's Counsel addressed us on sanction. The Complainant's Counsel was invited to comment on the computation of the interest on amount to which the Complainant would be entitled as well as on the exchange rate to be applied to the sums converted to US dollars and paid to the Complainant on August 8, 2019.

ATTORNEY'S SUBMISSION

4. Mr Pantry submitted that the panel should consider certain matters in mitigation:-
- a. What he described as "the particular circumstances of this matter" that is, the type of friendship that the attorney and complainant enjoyed, that the arrangements and dealings in the matter were dealt with in an informal manner and was also the basis on which fees were discounted.
 - b. He asked the panel to consider that in normal circumstances a client would have taken the money at the end of the transaction but due to the relationship the Attorney facilitated the Complainant in disbursements in tranches while the Complainant contemplated how to get the money overseas. He said the attorney complied with whatever request was made and that in relation to how this matter proceeded the parties were not contemplating any interest being paid.
 - c. Mr Pantry urged that if any interest is to be calculated it should be the rate of interest which the Attorney received from the bank on the money held. The Panel pointed out that the rate of interest was not produced by the Attorney and Mr Pantry proposed to provide the Committee with that information by January 19, 2022. Mr Pantry

provided a letter from Sagicor Bank which confirmed the interest rate on a prime savings account in the name of Moncrieffe Pantry and Associates for the period 2018 to 2019.

COMPLAINANT'S SUBMISSIONS

5. Mr Christie submitted for the Complainant that the interest should start to run from the 1st of January 2018 due to the absence of any real evidence of when the monies were put on fixed deposit. He proposed the Bank of Jamaica Weighted Average rate of interest if the Attorney does not provide actual confirmation from the bank that speaks to the rate of the particular instrument that the money was on at the time.
6. Regarding the rate of exchange to be applied to US dollars and paid to the Complainant on August 8, 2019 Mr Christie proposed the Bank of Jamaica Weighted Average rate of exchange on the day.

LAW

7. The Legal Profession(Accounts and Records Regulations) 1999. Section 8 of these regulations reads as follows:

8-(1) Subject to Regulation 14 of these Regulations an attorney who holds money for or on account of a client shall account to the client for the interest or an equivalent sum in the following circumstances:

“(i) Where such money is held in an interest bearing trust account the attorney shall account to the client for the interest earned on that money;

(ii) Where such money is not held in an interest bearing trust account, the attorney shall, subject to Regulation 9 of these Regulations, pay to the client out of the attorney's own money a sum equivalent to the interest which would have been earned during the period it should have been so held.” It must be noted that the attorney is not protected by the provisions of Regulation 9.

Regulation 11 states

"For the purposes of regulation 8(i) of these regulations the sum payable to the client shall be calculated by reference to;

(i) the interest payable on an interest bearing trust account at the bank where the money is held"...

(iii) where contrary to the provisions of these regulations, the money is not held in a trust account, the rate of interest stated by the Bank of Jamaica as the commercial banks weighted deposit rates for one month and less than three months during the relevant period"

Regulation 3(1) of the said regulations mandates the attorney

" forthwith, to pay trust money into an account at a bank to be designated as a clients' trust account and to be kept in the attorney's name or the joint names of the attorney and the client"

8. The evidence is that the funds were to be held in a fixed deposit account. The information contained in the Sagicor Bank letter of November 18, 2022 related to a savings account is therefore not useful to the Panel. We are therefore calculating the interest to be paid using the overall deposit weighted average rate posted by the Bank of Jamaica, this is the weighted average rate across all commercial banks.
9. There are 2 periods for which interest is to be calculated; January 1 2018 to August 8, 2019 on the sum of \$24,011,946.00 held by the Attorney during that time. The Bank of Jamaica deposit weighted average of the rates over that period is 1.31%.
10. Interest is also to be calculated on the sums held by the attorney for the period after the payment to the Complainant of sums totalling US\$167,748.74; August 8, 2019, and today's date. The Bank of Jamaica deposit weighted average of the rates over that later period is 1.12%.
11. The Complainant is entitled to interest compounded at monthly rests. Compound interest was awarded by the Committee on April 26, 2017 in Olive Blake V Michael Lorne Complaint No: 182/2012, This award was not disturbed by the Court of Appeal Michael Lorne V The General Legal Council (Ex Parte Olive C Blake)[2021] JMCA CIV 17.

12. There is no evidence of the rate of exchange applied by the Attorney's bank in converting the Jamaican dollar sums to US dollars so we will apply the Bank of Jamaica weighted average rate of exchange on August 8, 2019 that is 1.00 :136.18. Using that rate of exchange the equivalent of the payment is \$22,844,023.41
13. Owed to the Complainant is \$1,755,250.29 arrived at as follows:

Amount held by Attorney		24,011,946.00
Interest earned January 1, 2018 to August 8, 2019		530,804.71
Total held by Attorney		24,542,750.71
Less Payment to Complainant on August 8, 2019		22,844,023.41
Owed to Complainant after payment on August 8, 2019		1,698,727.30
Interest August 9, 2019, to present (2.5 years)		48,213.71
Total currently owed to the Complainant		1,755,250.29

The Law

14. The Panel is guided by the Judgment in Bolton v Law Society (1994) 2 All ER 486 where Sir Thomas Bingham MR said: 'It is required of lawyers practising in this country that they should discharge their professional duties with integrity, probity and complete trustworthiness.' "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." "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 standard 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” “In most cases the order of the Tribunal will be primarily directed to one or other or both of two purposes. One is to be sure 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 hoped that experience of suspension will make the offender meticulous in his future compliance with the required standard. The purpose is achieved for a longer period, and quite possibly indefinitely, by an order for striking off. The second purpose is the most fundamental of all: to maintain the reputation of the solicitor’s profession as one in which every member, of whatever standard, may be trusted to the end of the earth. To maintain the reputation and sustain public confidence in the integrity of the profession it is often necessary that those guilty of serious lapses are not only expelled but denied readmission. If a member of the public sells his house, very often his largest asset, and entrusts the proceeds to his solicitor, pending reinvestment in an other house, he is ordinarily entitled to expect 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.”

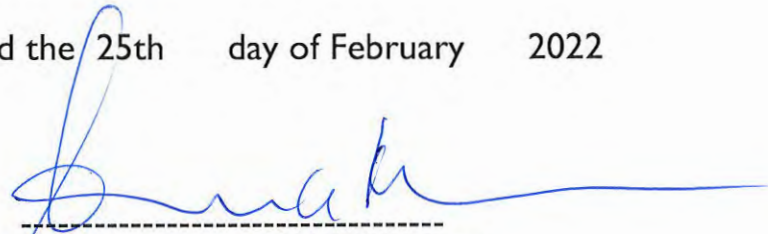
15. The Attorney is not remorseful. It is evident that the Attorney maintains the stance that the nature of her relationship with the Complainant obliterated the need for her to comply with the requirement to discharge her professional duties with integrity, probity and complete trustworthiness. We cannot excuse the conduct and behaviour of the Attorney just because she was a close friend of the Complainant. We are 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. We are compelled to act in the interest of the profession to ensure that the collective reputation of the profession is maintained.

16. Accordingly, it is the decision of this Panel that:-

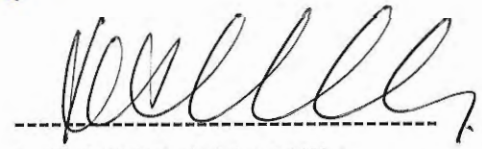
a) The Attorney, Judith Pantry is hereby reprimanded.

- b) The Attorney shall pay a fine of \$250,000.00 to the General Legal Council within thirty (30) days of the date hereof.
- c) The Attorney do pay to the Complainant, the sum of \$ 1,755,250.29 by way of restitution the same being the unaccounted-for proceeds of sale including interest.
- d) The Attorney do pay the Complainant's legal costs of \$100,000.00.
- e) Costs of these proceedings in the amount of \$30,000.00 is to be paid by the Attorney to the General Legal Council within thirty (30) days

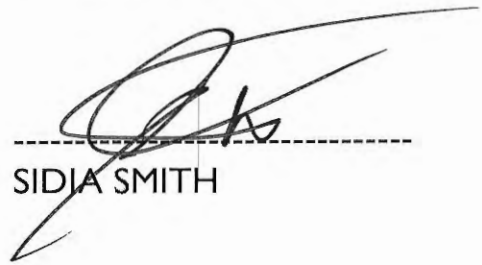
Dated the 25th day of February 2022



URSULA KHAN- CHAIRMAN



DELROSE CAMPBELL



SIDIA SMITH

