



- (e) failed to account to her for any and all money in his hands for her account or credit (in breach of canon VII(b)(ii)); and
  - (f) failed to uphold the honor and dignity of the profession (in breach of canon I(b))
2. The essence of Ms Godschild's claim was that she instructed Mr Stewart to file a claim on her behalf and he delayed six years before doing so.
  3. After hearing *viva voce* evidence from the respective parties, this panel found Mr Stewart guilty of professional misconduct in respect of canons IV(r) and IV(s). Consistent with the guidance laid down in Owen Clunie v The General legal Council<sup>1</sup> we gave Mr Stewart the opportunity to be heard on mitigation before we decided what his sanction should be.
  4. The hearing on mitigation should have taken place on September 9, 2021 but Mr Stewart was too ill to present any submissions on that occasion. We therefore gave him additional time to do so. He then submitted an affidavit on September 22, 2021 for our consideration.

## EVIDENCE

5. In Mr Stewart's affidavit he asked the panel to consider the following evidence:
  - (a) He never received funds from Ms Godschild and in fact paid \$5,000 of his own funds to file the claim;

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<sup>1</sup> [2014] JMCA civ 31

- (b) Ms Godschild has not reimbursed the \$5,000 he expended on her behalf;
- (c) Ms Godschild's claim is not subject to a defence based on limitation; and
- (d) Ms Godschild herself delayed significantly in following up on her matter.

### SANCTION

6. We considered these factors and have determined that, save for Ms Godschild's delay in following up on the progress of the litigation, the matters Mr Stewart has raised do not make his handling of Ms Godschid's matter any less egregious. The passage of six years without following up with a client is inordinate and falls well below the standards required of members of the legal profession.
7. While there was no dishonesty on Mr Stewart's part, we believe there is a need to protect the reputation of the profession by ensuring that its members are held accountable for lapses such as those we observed in this case.
8. In reaching this conclusion, we are guided by Sir Thomas Bingham's comments in Re a solicitor<sup>2</sup> in which he discussed the primary purposes of sanctioning attorneys who are guilty of professional misconduct. He said:

**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**

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<sup>2</sup> [1994] 1 WLR 512

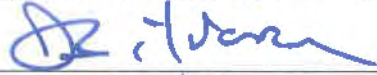
in order to punish him for what he has done and to deter any other solicitor tempted to behave in the same way.

... 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<sup>3</sup>.

9. In the present circumstances, given the extent of Mr Stewart's lapse and Ms Godschild's own delay in pursuing her claim, we sought to further these objectives by imposing the following sanctions on Mr Stewart:

- (a) A fine is imposed against the attorney Seymour Stewart for the sum \$125,000.00 of which \$75,000.00 is to be paid to the Complainant and \$50,000 to the General Legal Council
- (b) Costs in the amount of \$25,000.00 to be paid by the Attorney Seymour Stewart to the Complainant
- (c) The sums at paragraphs a and b above are to be paid on or by November 30, 2021

DATED THE <sup>3<sup>rd</sup></sup> DAY OF <sup>November</sup> 2021



DANIELLA GENTLES SILVERA



GLORIA LANGRIN



SUNDIATA GIBBS

<sup>3</sup> At page 518