

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

**COMPLAINT NO 9/2009**

**IN THE MATTER OF LLOYD BARNETT O.J.  
AND DEXTER WADSWORTH ATTORNEY-AT-LAW**

**AND**

**IN THE MATTER OF THE LEGAL PROFESSION ACT**

**PANEL: PAMELA BENKA-COKER Q.C.**

**CHARLES PIPER Q.C.**

**URSULA KHAN**

Hearing dates: March 20th, June 2nd, July 11th, & November 21st 2009,  
November 20th, May 8th, June 3rd & November 20th 2010, and October  
8th 2011.

**HISTORY**

The hearing of this complaint was scheduled for a number of dates but the complaint was adjourned without any evidence having been taken on many of these dates.

In the initial stages of the complaint Donald Scharschmidt Q.C. appeared for the complainant and Howard Hamilton Q.C. appeared for the respondent attorney.

During the period of the progression of the hearing of the complaint, the respondent attorney determined the retainer of Howard Hamilton Q.C. and retained the services of Paul Beswick. The panel was advised of this change on the 11th July 2009.

THE COMPLAINT: This is a complaint initiated by Lloyd Barnett {hereinafter referred to as complainant} who was then a member of the General Legal Council, and Dexter Wadsworth {hereinafter referred to as the respondent} At time of the initiation of the complaint the respondent had been struck from the Roll of attorneys of New York with effect from the 14th March 2008, and the proceedings instituted against the respondent by Lloyd Barnett were as a consequence of and based on the evidence adduced at those proceedings. The attorney was at the time enrolled on the Roll of Attorneys entitled to practise at the Jamaican Bar.

The substance of the complaint is incorporated in the formal document dated the 15th December 2009. It is signed by the complainant and alleges after the recitals that the facts stated in the affidavit in support of the complaint constitute "conduct unbecoming his profession on the part of Dexter Wadsworth in his capacity as an attorney-at-law."

In the affidavit in support of the complaint, the complainant states as follows in paragraph 2 "That Dexter C Wadsworth was admitted to the Bar of New York and licensed to practise law in the State of New York ,USA on August 22nd 1988. On the basis of that qualification he was admitted to the Norman Manley Law School for the six month course and was awarded a Legal Education Certificate by the Council of Legal Education on September 19th 2001.

In paragraph 3 "In 2001 he applied to the General Legal Council for and was granted a Qualifying Certificate and a Certificate of Qualification for Enrolment and thereby obtained his enrolment as an attorney-at -law in Jamaica on July 18,2002.

Paragraph 4 follows” on May 1, 2008, the said Dexter Wadsworth's resignation from the practice of law in New York was accepted on a Motion made by the Departmental Disciplinary Committee for the First Judicial Department ,New York, and his name stricken from the Roll of attorneys of New York with effect from March 14,2008, by the Supreme Court of New York, Appellate Division, First Department”.A copy of the Decision of New York Court is attached hereto and marked L.G.B.1.

Paragraph 5 states “ in the said New York proceedings the said Dexter C Wadsworth filed an affidavit sworn to by him on May 14,2008 in which he admitted that he converted large amounts of client's funds, and aided and abetted a fraudulent financial scheme , did not maintain proper clients' accounts or account for clients' money and failed to return unearned legal fees in disregard of a court order. A copy of the said affidavit is attached hereto and marked LGB2.

Paragraph 6 states “ That the complaint I make against the attorney-at-law is that on these facts he

- (i) has committed acts of misconduct, in a professional respect within the meaning of section 12(1) of the Legal Profession Act ; and
- (ii) has not maintained the honour and dignity of the profession but has indulged in behaviour which tends to discredit the profession of which he is a member contrary to Canon 1(b) of the Legal Profession( Canons of Professional Ethics) Rules.

Attached to and forming part of the affidavit of the complainant is exhibit LGB1. This is a judgment of the Supreme Court of New York dated May 1 2008. The substance of this judgment is that disciplinary proceedings were commenced against the respondent by the Department Disciplinary Committee for the first Judicial Department ( New York.)

In the recited Overview in the judgment, very serious allegations of professional misconduct were made against the respondent. The judgment is referred to for its content. The respondent voluntarily admitted every single allegation and submitted his resignation.

In his resignation the attorney said that he had submitted the resignation freely, voluntarily, and without coercion or duress and acknowledged that he could not successfully defend himself on the merits in the Committee's investigation of allegations of egregious professional misconduct.

As a consequence of his resignation the Departmental Disciplinary Committee for the First Judicial Department ( New York) moved a Motion before the court seeking an order to remove the name of the respondent attorney from the Roll of attorneys entitled to practise in that state.

The court granted the Committee's motion, accepted the attorney's resignation from the practise of law and struck the attorney's name from the roll of attorneys. The effective date of the order was May 1 2008.

The affidavit of resignation of the respondent, exhibit LGB 2, sets out in detail the essence of his professional misconduct. The respondent in clear and unequivocal terms admits everything that he was charged with having done. He states that he is making the resignation freely and voluntarily. He says that he has not been the subject of coercion or duress.

Further he says that he is aware of the implications of submitting his resignation and that he cannot successfully defend himself on the merits against the allegations. The above is a replication of the background and evidence in the complaint and is the genesis of the complaint.

**THE EVIDENCE:** evidence in the complaint was heard on one date, the 27th June 2009. On that date the hearing commenced. Present were the complainant, the respondent, Donald Scharschmidt Q.C. representing the complainant and Howard Hamilton Q. C. representing the respondent.

The complainant was sworn and gave evidence. The complainant identified the formal complaint signed by him and dated the 15th December 2008. This was admitted in evidence as exhibit 1. He also identified his affidavit in support dated the 15th December 2008. This was admitted in evidence as exhibit 1A.

Attached to this affidavit and exhibited herewith were the judgement of the Supreme Court of New York dated May 1 2008 and the resignation of the respondent attorney dated March 14 2008.

The complainant also identified the affidavit of one James T Shed who was the Executive Secretary attached to the Character and Fitness Committee of the Supreme Court Appellate Division, First Judicial Department of New York U.S.A. This affidavit dated March 18 2009 was tendered in evidence as exhibit 2. Exhibited with this affidavit were the affidavit of resignation of the respondent, a copy of the proceedings before the Supreme Court, Appellate Division and the order made by the said court.

There was no objection from counsel for the respondent to any part of the proceedings. In spite of being given the opportunity to cross examine the complainant, counsel for the respondent declined to do so.

Counsel for the complainant then closed his case.

Counsel for the respondent sought to make submissions without the respondent having given evidence and indicated that the respondent was not giving evidence. Counsel sought to put in exhibits for the panel's consideration. He was advised by the panel that the procedure he was seeking to adopt was not appropriate and that those documents would have to come in through a witness and then he would be allowed to make submissions on them or that he should produce an affidavit with the documents exhibited.

Counsel for the respondent then said that the respondent would give evidence. It is important to note that in the exchange between counsel for the respondent and the panel counsel had indicated that he wished to make

it abundantly clear that the respondent accepted that he swore to the affidavit of March 18 2008 There were further exchanges between the panel and counsel for the respondent.

After consultation with the respondent, counsel for the respondent said he would give evidence. The respondent was sworn and commenced his evidence. He said that he had seen the affidavit sworn to by the complainant and that in his affidavit the complainant had referenced acts of misconduct committed by the respondent in the State of New York.

When asked if he agreed with the allegations raised by the complainant, he did not agree that they were correct. The respondent went on to say " with respect to the statement contained in my sworn affidavit submitted to the state of New York Supreme Court, I now confirm the true accuracy but now add that said affidavit is incomplete and omits to reveal the full context under which it was made."

The respondent stated that he, working in consultation with his counsel prepared a document that sets forth the reasoning and rationale behind the giving of the affidavit to the state of New York. The respondent confirmed that this document is referred to as the written submission and that this written submission refers to further documents.

Counsel for the complainant remarked that the procedure being pursued by the respondent was very extraordinary and said that such a document would be inadmissible. He said that the document should be attached to an affidavit to permit its admissibility.

The panel adjourned the hearing of the complaint to July 11 2009 and instructed the respondent to file this affidavit by Friday of this week. The respondent never filed this affidavit and no such affidavit was presented to the panel.

On the 11th July 2009 Howard Hamilton Q. C. withdrew as counsel for the respondent and was replaced by Paul Beswick. No evidence was heard on that date.

On the 21st November 2009, on the date scheduled for the continuation of the hearing, neither of the parties was present. Both sought an adjournment of the hearing of the complaint. The hearing of the complaint was adjourned to March 20 2010.

On the 20th March 2010, neither the complainant nor his counsel was present. When the complaint was called the respondent was present but Paul Beswick was not. He arrived at 11.15a.m. He asked the panel about a letter he had written to it asking that the panel recuse itself. The panel advised Paul Beswick that he would have to make formal submissions to the panel that it should recuse itself. Further, that these submissions would have to be made in the presence of the complainant and his counsel so the complaint would have to be adjourned to permit that.

The panel asked Paul Beswick to put his submissions in writing and directed the secretary to send all documents that had been admitted in evidence to Paul Beswick and the notes of evidence. The hearing of the complaint was then scheduled to continue on the 8th May 2010.

On the 8th May 2010, the respondent and his counsel Paul Beswick were present. Counsel for the respondent indicated that he would not be filing any affidavits as that would be premature. He indicated that he would be presenting written submissions to the panel when the hearing of the complaint resumed. The hearing of the complaint was adjourned to the 3rd July 2010 as both the complainant and his counsel were absent.

Between the 3rd July 2010 and the 8th October 2011 the complaint was scheduled for hearing on four occasions. On no occasion were both the complainant and the respondent and their counsel ever present at one and the same time. The records disclose that the 8th October 2011 was the last scheduled hearing date.

Paul Beswick never presented any written submissions to the panel and made no submissions relative to the panel recusing itself from hearing the complaint. The panel cannot adjudicate and rule on submissions it never received.

The above is a recounting of the evidence taken in the complaint and history of its progress before the panel.

The panel reminds itself of the following important rules of law. Namely that the burden of proof is on the complainant to prove to the required standard of proof beyond reasonable doubt the allegations made in the complaint.

**ANALYSIS:** The complainant gave evidence and closed his case. The complainant was not cross-examined by Howard Hamilton, the then counsel for the respondent. Counsel specifically indicated that he did not intend to do so.

This means that the complainant's evidence was not challenged. Further, no evidence was presented by the respondent. Paul Beswick never presented any submissions alleging any bias in the panel.

The only evidence before the panel was that adduced by the complainant. This evidence has been cited earlier in this judgment. In the circumstances the only evidence on which the panel could rely was the evidence introduced by the complainant.

The panel makes the following findings pursuant to section 15 of the Legal Profession Act.

**FINDINGS:**

1. The respondent attorney Dexter Charles Wadsworth was admitted to the New York Bar and licensed to practise law in the State of New York U.S.A. on the 22nd August 1988.



2. The respondent, relying on the above qualification applied to the General Legal Council for and was granted a Qualifying Certificate and a Certificate of Qualification for Enrolment and thereby obtained his enrolment as an attorney-at-law in Jamaica.
3. On May 1st 2008 the respondent resigned from the practice of law in the state of New York.
4. This resignation was effected as a consequence of professional disciplinary proceedings having been instituted against the respondent in New York.
5. In his affidavit of resignation the respondent voluntarily admitted the following:
  6. That he converted large amounts of clients' funds, and aided and abetted a fraudulent financial scheme, did not maintain proper clients' accounts or account for clients' money and failed to return legal fees in disregard of a court order.
  7. The said affidavit details the facts which support the respondent's admissions.
  8. These admissions by the respondent disclose egregious professional misconduct on his part.
  9. The respondent was struck from the roll of attorneys-at-law entitled to practise in the state of New York on May 1st 1988.
  10. The complainant has established on the evidence, beyond a reasonable doubt that the respondent is guilty of very grave professional misconduct.

**CONCLUSIONS:** The panel concludes that the respondent has


- (a) committed acts of misconduct in a professional respect within the meaning of section 12(1) of the Legal Profession Act
- (b) has not maintained the honour and dignity of the profession but has indulged in behaviour which tends to discredit the legal profession of which he is a member contrary to Canon 1(b) of the Legal Profession ( Canons of Professional Ethics ) Rules.

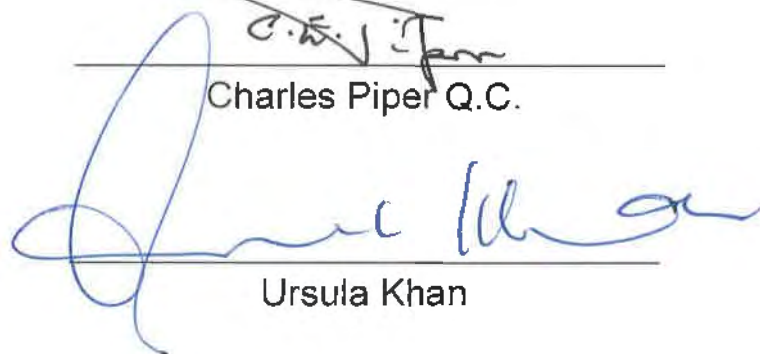
The panel regrets the delay in the delivery of this judgment but this was due to a confluence of circumstances including inadvertence in rescheduling the complaint.

The panel will now schedule a date for the delivery of the sanction in this complaint.

Dated the 24<sup>th</sup> day of November, 2021

  
Pamela E Benka-Coker Q. C.

  
Charles Piper Q.C.

  
Ursula Khan