

SU2022W01482

FORMAL ORDER OF THE DISCIPLINARY COMMITTEE OF  
THE GENERAL LEGAL COUNCIL MADE ON COMPLAINT  
NO. 190 OF 2020

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IN THE MATTER OF YHOHAN ERROL DAVIDSON VS SEAN KINGHORN, AN  
ATTORNEY-AT-LAW

AND

IN THE MATTER OF THE LEGAL PROFESSION ACT 1971

PANEL: MRS. TANA'ANIA SMALL DAVIS, QC - CHAIRMAN  
MISS LILIETH DEACON  
MISS ANNA GRACIE

DECISION DELIVERED ON THE 13<sup>TH</sup> APRIL 2022

UPON THE APPLICATION made under section 12 (1) (a) of the Legal Profession Act and dated the 18<sup>th</sup> November, 2020 along with supporting Affidavit sworn to on the 18<sup>th</sup> November 2020 and coming on for hearing before the Disciplinary Committee on the 24<sup>th</sup> April 2021, 12<sup>th</sup> June 2021, 16<sup>th</sup> November 2021, 29<sup>th</sup> January 2022, and 12<sup>th</sup> February 2022,

AND UPON the Complainant Yhohan Errol Davidson, (hereinafter called "the Complainant") appearing and having given evidence on oath,

AND UPON the Attorney-at-law Sean Kinghorn, (herein-after called "the Attorney") appearing and having given evidence on oath,

AND UPON DUE CONSIDERATION of the sworn evidence of the Complainant and the Attorney coupled with documentary evidence,

AND UPON the Committee finding the Attorney guilty of professional misconduct pursuant to section 12(1) (a) of the Legal Profession Act on 16<sup>th</sup> November 2021,

AND UPON the Attorney and Complainant making submissions to the Panel in mitigation,

**THE COMMITTEE FINDS THAT:**

- a) The Complainant was involved in a motor vehicle accident on 16 February 2008.
- b) The Complainant retained the Firm, Kinghorn & Kinghorn of which the Attorney is a partner in or around March 2008.

- c) The Attorney notified Victoria Mutual Insurance Company Limited of the Complainant's claim by letter dated 22<sup>nd</sup> February 2008, who responded requesting details of the claim by letter dated 14 April 2008.
- d) The Firm wrote to Dr. Mark Minott ( 7<sup>th</sup> April 2008) and to Spanish Town Hospital (7<sup>th</sup> June 2012) to secure medical reports.
- e) Both the Complainant and the Attorney made several attempts to secure the medical report from the Spanish Town Hospital.
- f) The Complainant's personal efforts to obtain the medical report from the hospital intensified in 2015 following a meeting with the Attorney.
- g) That in the absence of a medical report from the hospital at which the Complainant was initially seen and treated following the accident, the Attorney did not have complete details of the Complainant's claim for personal injuries.
- h) The Complainant's claim became statute barred on 16 February 2014.
- i) The medical report from the Spanish Town Hospital was only received in late 2016 as the hospital had lost the Complainant's records.
- j) The Panel finds that the Attorney did not advise the Complainant prior to the 16<sup>th</sup> February 2014 that his claim was about to become statute barred or advise of the date that it would take effect.
- k) The Panel therefore finds that the Attorney has breached Canons IV (r) and IV ( s) of the Legal Profession Act (Canons of Professional Ethics) Rules.

**THE COMMITTEE UNANIMOUSLY HEREBY ORDERS THAT: -**

Pursuant to Section 12 (4) of the Legal Profession Act:

1. The Attorney, Sean Kinghorn, is fined the sum of Two Million Dollars (\$2,000,000.00), to be paid to the General Legal Council on or before 15 December 2022.
2. Pursuant to Section 12 (5) of The Legal Profession Act, it is directed that the aforesaid fine shall be paid to the Complainant when collected by the General Legal Council in satisfaction of any damage caused to him by the Attorney's misconduct.

3. The Attorney, Sean Kinghorn, must pay cost of these proceedings in the amount of \$100,000.00 to the General Legal Council on or before 1 June 2022.

A handwritten signature in blue ink, consisting of several fluid, connected strokes, positioned above a horizontal line.

CHAIRMAN OF PANEL

Dated 19<sup>th</sup> April, 2022