

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

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**COMPLAINT NOS. 171/2022 & 172/2022**

**IN THE MATTER OF** Burnett Linton &  
Moreen Linton v Debby-Ann Samuels

**AND**

**IN THE MATTER OF** the Legal  
Profession Act 1971

**Panel:**       **Mr. Peter Champagnie, K.C. (Chairman)**  
                  **Miss Katherine P. C. Francis**  
                  **Mrs. Nadine Guy**

Hearing dates: 30<sup>th</sup> June 2023, 28<sup>th</sup> July 2023, 3<sup>rd</sup> November 2023 & 9<sup>th</sup> February 2024

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The rules as they are now, is to merge both complaints having regard to the fact that they arise from similar allegations against the Respondent Attorney. In brief, the allegations against the Attorney were that the Lintons engaged the Attorney, Debby-Ann Samuels in or around February of 2013, as it related to the purchase of a property from one Norma Linton.

It is the assertion of the Complainants that the Respondent Attorney at the time acted for both themselves and the vendor. Along the way in terms of the transaction, the Complainant testified that she provided a number of funds directly to the vendor and/or gave a number of funds to the Respondent Attorney.

But before we go to that, during the evidence the Complainant asserted that she had made a complaint arising from this transaction between her husband and herself and the Respondent Attorney; and, as a consequence of that, both applications against the Attorney was tendered into evidence as Exhibit 1, dated the 5<sup>th</sup> November 2022. Also tendered into evidence was a Form of Affidavit which outlined the assertions and allegations against the Respondent Attorney; tendered into evidence as Exhibit 2. There was also a Supplemental Affidavit dated 20<sup>th</sup> March 2023 filed by the Complainant which was tendered into evidence as Exhibit 3. The Panel noted that in respect of the Affidavits that were just mentioned, all were tendered with no objections from the Respondent Attorney. At the heart of this complaint was an Agreement for Sale and that was tendered into evidence as Exhibit 4. Now reference was made just now to funds that were paid

over. As the evidence went on it was revealed that the sum of \$1,050,000.00 was paid on the 19<sup>th</sup> February 2023 to the vendor, Exhibit 5 and a receipt dated the 19<sup>th</sup> of February in the amount of \$25,000.00, was admitted into evidence as Exhibit 6. Also tendered into evidence were receipts dated the 21<sup>st</sup> of May 2013 in the amount of \$500,000.00. Tendered into evidence also were receipts for the amounts of US \$509.90, f \$100,000.00, also for US \$6037.00, and finally a receipt in payment of \$30,000.00. All of these moneys were paid it is said over to the Respondent for the completion of this conveyancing matter.

That was the evidence in relation to the Complainant. The Complainant asserts that the transaction was never completed and as a consequence the Complainant filed this complaint which listed a host of alleged breaches; and which breaches were in respect of not providing information, not dealing with the work or business with due expedition, inexcusable delay or negligence, not accounting for moneys and therefore there would be according to the Complainant breach of Canon 6(d) which states that, an Attorney shall not give a professional understanding which he cannot fulfil". There is also the assertion that there was breach in terms of disclosure and professional misconduct in the way of conflict of interest and also that the Respondent Attorney breached the regulations in terms of the Accounts and Records Regulations of 1999. And finally an alleged breach of Canon 1B which states that, "an Attorney should at all times maintain the honour and dignity of the profession".

The Complainant was cross-examined by the Respondent Attorney at length and a number of suggestions were put to by the Respondent which were rebuffed by the Complainant. Reference was made to an issue in terms of court and that the matter went to court concerning the property and certain tenants that were there. It was also suggested that there was an issue with getting in touch with the vendor in the circumstances. It was put to the Complainant that the agreement essentially did not come to fruition because the Complainant was the one who breached the terms of the Agreement for Sale and as a consequence and all blame in relation to how this matter turned out must be laid at the feet of the Complainant. That essentially was the nature of the evidence and cross-examination by the Respondent Attorney.

In coming to a decision, the Panel reminds itself always that the burden of proof is on any Complainant in these parts to prove their case and also that in seeking to prove his or her case it must be one beyond a reasonable doubt, the criminal standard that is, nothing else will suffice. We are also minded of the fact that in the circumstances a Respondent is obliged to prove his or her case but of course if they choose to give evidence and present evidence we are of course entitled to look and examine what it is that has been presented before, but there is no burden on the Respondent to prove his or her case.

Now in examining the evidence in totality, it came out that there was an assertion by the Complainant that the Respondent failed to keep in touch with her and failed to keep the lines of communication open. The Respondent suggested otherwise that emails were sent, calls were made. However, we note that in the circumstances no emails were tendered into evidence to deal with this. We also noted that the Agreement for Sale was prepared and the Respondent Attorney had carriage of sale. We also note that at one stage the Respondent in her evidence said that "technically she acted for both the vendor and purchaser", but when pressed further she indicated that she really was representing the purchasers and all that she really did was draft the Agreement for Sale and that does not mean that in those circumstances that she would be representing the vendor. We also noted that there was an admission that the Respondent Attorney had in her possession still up to this date the sum of \$6,037.00, USD.

The Panel wishes to indicate that we have examined all of the exhibits in this particular case, the Affidavits that were presented and we have taken careful note of the Complainant and the Respondent and in arriving at our decision. We find as a fact the following:

1. That the Complainant impressed us as a very credible witness, a witness of truth.
2. That the Agreement for Sale was prepared by and that the Respondent had carriage of sale.
3. That the sums of US\$6,037.00, is still in the possession of the Respondent Attorney.
4. That in the absence of any documentary evidence other than the vivo-voce evidence of the Respondent, that the Respondent failed to communicate in a timely manner with the Complainant.
5. We also find that in the circumstances as it relates to the Respondent not providing the Complainant with all the information as to the progress of her business, we find her guilty of that. The Attorney has not dealt with the business with all due expedition, we find her guilty of that because as we said before there was nothing to suggest otherwise than the testimony of the Respondent that she did in fact keep her informed. We found the Attorney in more than one instance whilst giving her evidence being evasive, not answering the questions directly and she fell short of what would have convinced us otherwise as to the situation.
6. We therefore find in the circumstances that the Attorney did not deal with the Complainants business with all due expedition.

The reminder was given that this is a matter that had its genesis since 2013, yet to be resolved. But that is not all, we take into consideration the attendant circumstances involved in relation to that. There was also the assertion that the Attorney had not accounted to her for all moneys in hand for her account or credit, this was a bit troubling because the Respondent did indicate at the very outset that she had funds for the

Complainant and that the funds were available and therefore in the circumstances this is not a case where there is evidence to the contrary, and where the Attorney was denying having such funds. So, in those circumstances we would not be able to find that the Respondent is guilty and therefore we find her not guilty in respect of that the charge of failing to account.

As it relates to the assertion that the Attorney breached a professional undertaking, we find this a curious charge because there was never any scintilla of evidence to suggest that there was any undertaking given by the Respondent Attorney and therefore, we find her not guilty in respect of that. As it relates to the charge of breach of Regulation 16, Regulation 16 of the Legal Profession (Accounts and Records) Regulations of 1999 because we have found her not guilty in relation to having funds in her possession and not accounted for them it follows therefore, we could not find her guilty of that charge. In relation to the Attorney breach of Canon 1B which states that an Attorney should at all times maintain the honour and the dignity of the profession and shall abstain from behavior which may tend to discredit the profession of which he is a member, we find the Attorney in all of the circumstances guilty because of course we said the delay officiation, the failure to communicate and we do find as a fact that based on the responses given by the Respondent that she had placed herself in a position of conflict of interest acting for both the vendor and purchaser at the material time and therefore the totality of the culpability would naturally lead to a situation where we find that the Attorney in this instance, is guilty in breach of Canon 1B which speaks to maintaining the honour and dignity of the profession.

It should be noted that this case really concerned the testimony of the Complainant, she was cross-examined at length and the case for the Respondent concerned the Respondent herself giving evidence and she was cross-examined, and questions were asked by the Panel. That was the sum total of the case for the respective parties in this matter, they were asked whether or not they had any other witnesses or any other matters to present and the answers was in the negative in respect of both parties.

This decision that we have arrived at is unanimous and in keeping with the decision of *Owen Clunie v General Legal Council*, we are mandated to afford the Respondent Attorney found guilty of many of the charges that have been leveled against her, afford the Attorney an opportunity to provide mitigating evidence in the way of sanction.

And now we are going to set a sanction hearing date for this matter. That is the decision of the Panel.

Dated 9<sup>th</sup> day of February 2024

A handwritten signature in black ink, appearing to be 'P. Champagnie', written over a horizontal line.

MR. PETER CHAMPAGNIE, KC

A handwritten signature in black ink, appearing to be 'K.P.C. Francis', written over a horizontal line.

MISS KATHERINE P. C. FRANCIS

A handwritten signature in black ink, appearing to be 'N. Guy', written over a horizontal line.

MRS. NADINE GUY