GENERAL LEGAL COUNCIL

ANNUAL REPORT

 1^{ST} APRIL, $2007 - 31^{ST}$ MARCH, 2008

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INTRODUCTION

The General Legal Council was established in January 1972 by the Legal Profession Act. Its statutory function is concerned with the legal profession and in particular the organization of legal education and the upholding of standards of professional conduct. By virtue of the Legal Education Act the General Legal Council's function as the Legal Education Authority is vested in the Council of Legal Education which is established by Agreement among several Commonwealth Caribbean countries.

Apart from Law Officers of the Crown and legal officers of Government who are ex officio entitled to practise as such, no person can lawfully practise as an attorney who does not hold a practising certificate issued by the General Legal Council. Practising Certificates are issued annually on payment of an annual fee.

The General Legal Council is required to appoint from among its members or former members, Judges or retired Judges and attorneys of not less than 10 years standing to the Disciplinary Committee which adjudicates on complaints of misconduct by attorneys in any professional respect.

The General Legal Council is authorized to make rules prescribing the standards of professional etiquette and professional conduct for attorneys and to direct that any specified breaches of such rules constitute misconduct in a professional respect.

The following is a report on the activities of the General Legal Council and the Disciplinary Committee during the twelve months ended on March 31, 2008.

1. <u>MEMBERSHIP</u>

Dr. Lloyd Barnett - Chairman

Miss Hilary Phillips, Q.C.

Mr. Michael Hylton, Q.C., Solicitor-General

Mrs. Pamela Benka-Coker, Q.C.

Mr. C. Dennis Morrison, Q.C.

Miss Norma Linton, Q.C.

Dr. Eileen Boxill, Q.C.

Senator Dorothy Lightbourne

Mr. Justice Lloyd Hibbert

Mr. Richard Donaldson

Mr. Allan Wood

Mr. Crafton Miller

Mr. Ransford Braham

Mrs. Donna Scott-Mottley

Dr. Adolph Edwards

Mrs. Kay Reuben

Mr. George Soutar

The term of office of the members of the General Legal Council ended February 15, 2007 and they were reappointed for a new term from February 16, 2007 to February 15, 2010. Dr. Lloyd Barnett was reelected as Chairman and agreed to serve in this position as from February, 2007.

2. MEETINGS

During the period April 1, 2007 March 31, 2008, a total of thirteen (13) meetings were held as follows:-

2007: 18th April, 22nd May, 27th June, 25th July, 26th September, 24th October, 6th & 28th November & 12th December.

2008: 23rd January, 27th February, 13th & 26th March

ATTENDANCE OF MEMBERS AT MONTHLY MEETINGS

	TIMES	TIMES	TIMES
NAMES	POSSIBLE	PRESENT	EXCUSED
Dr. Lloyd Barnett, O.J	13	11	2
Miss Hilary Phillips, Q.C.	13	11	2
Mr. Michael Hylton, Q.C.	13	2	1
Mrs. P. Benka-Coker, Q.C.	13	11	1
Mr. C.D. Morrison, Q.C.	13	6	5
Miss Norma Linton, Q.C.	13	10	2
Miss Eileen Boxill, Q.C.	13	5	5
Mrs. Donna Scott-Mottley	13	7	4
Mr. Allan Wood	13	10	1
Senator Dorothy Lightbourne	13	5	4
Mr. Crafton Miller	13	3	9
Mr. Ransford Braham	13	8	-
Mr. Justice Lloyd Hibbert	13	6	5
Dr. Adolph Edwards	13	12	-
Mr. Richard Donaldson	13	8	3
Mr. George Soutar	13	7	5
Ms. Kay Reuben	13	3	8

3. <u>STAFF</u>

As at the end March 31, 2008 the employees of the Council were:

Miss Althea Richards	Secretary
Mrs. Jeanne Barnes	Attorney-at-law
Miss Dahlia Davis	Administrative Officer
Miss Jeanie McLeod	Records Clerk/Typist
Mrs. Janet Francis-Wright	Filing Clerk/Typist
Miss Fay Williams	Receptionist/Typist
Miss Cecile Johnson	Receptionist/Typist
Miss Tanya Ferril	Ckerk/Typist

Miss Donette McLean

Receptionist

Mr. Eric Riley

Office Attendant

Miss Eulalee Steele

Office Help

4. <u>EMPLOYMENT OF PART-TIME ATTORNEY</u>

Mrs. Jeanne Barnes was employed to the position of Legal Consultant to assist with complaints and complainants, with effect from April 16, 2007 for a period of one year in the first instance.

5. LORRAINE RAMSON'S APPEAL

The appeal of Mrs. Lorraine Ramson against the decision of the General Legal Council not to approve her application for enrolment, was dismissed by the Court of Appeal.

6. TRUSTEES FOR STAFF PENSION PLAN

Mrs. P. Benka-Coker, Q.C., Mr. C. Dennis Morrison, Q.C. and Miss Althea Richards were re-appointed as Trustees for the pension plan and the appointment of Mrs. Jeanie McLeod as the staff representative was ratified.

7. REVISION OF STAFF SALARIES/BUDGET

Staff salaries were increased by approximately 10%.

8. SIGNING OFFICERS OF THE GENERAL LEGAL COUNCIL

The tenure of Messrs. C. Bovell and Donald Scharschmidt, Q.C. having expired, Mrs. Pamela Benka-Coker, Q.C. and Miss Norma Linton, Q.C. were appointed as additional signing officers for the Council.

9. <u>COMPLIANCE WITH ACCOUNTING REGULATION</u>

The decision by the Court of Appeal in the matter of Antoinette Haughton-Cardenas vs General Legal Council was made on the 20th December, 2007 wherein the Court declared that the General Legal Council did not have the power to require the filing of declarations or accountant's reports by attorneys under the existing accounting regulations has resulted in the suspension of this requirement.

A decision was taken by the Council to pursue an Appeal against this decision to the Privy Council pending which the Council would suspend any action relating to those provisions of the regulation.

Below are the number of complaints which were dealt with for the period under review, prior to the above decision being taken.

Matters completed and fines and cost imposed	12
Matters in which Judgments were reserved	3
Matters dismissed on January 19, 2008 in light of the Court of Appeal's decision re Antoinette Haughton-Cardenas' appeal	3
Matters postponed in light of the Court of Appeal's decision Regarding Antoinette Haughton-Cardenas' appeal	4
Matters adjourned to another date	<u>16</u>
TOTAL	38

10. BARRY FRANKSON - PRIVY COUNCIL APPEAL

Mr. C. Dennis Morrison, Q.C. advised that the hearing of the Barry Frankson in the Court of Appeal had been fixed for 7th May, 2007. The General Legal Council's costs were taxed and collected.

11. <u>CONTINUING LEGAL EDUCATION</u>

The General Legal Council as it seeks to maintain adequate ethical and professional standards has formulated a submission to the Ministry of Justice for its recommendation regarding its proposal that compulsory Continuing Legal Education be instituted.

12. REFORM OF THE LEGAL PROFESSION ACT AND CANONS

On April 23, 2007 an amendment to the Legal Profession Act was brought into force. This Amendment declares that practising without having paid practising certificate fees after written notice, constitutes professional misconduct.

It also provides that where admissions to practise has been gained by fraudulent misrepresentation, the qualifying certificate of practising certificate granted as a result may be revoked by the Supreme Court on application of the Council and the name of the guilty attorney may be struck from the roll.

The Amendment also gives the Disciplinary Committee greater flexibility in selecting sanctions for disciplinary offences.

Provision was also made for the making of regulations with respect to the charging of contingency fees by attorneys.

13. ACCOUNTS OF THE GENERAL LEGAL COUNCIL

The Council's accounts have now been audited up to year 2006-2007.

14. <u>COMPENSATION FUND</u>

By reason of the seriousness of the complaints received, and as agreed, representations have been made to the Minister that the Council be granted the power to establish a compensation fund and to regulate and administer it to assist complainants who have been defrauded by attorneys.

15. MEDIATION SERVICE

The Chief Justice was advised of the Council's willingness to assist in the establishment of qualifying standards and appropriate procedure for dealing with the applications of persons seeking to be certified as mediators and that there should be published criteria for any alternative agency.

16. WEBSITE

The Council has agreed to offer financial assistance to the Bar Council for the establishment and maintenance of a website provided that in return the Council's material is accommodated.

The specific terms of this arrangement have not yet been agreed.

17. APPOINTMENT OF THE JUDICIAL SERVICES COMMISSION

The tenure of Ambassador Don Mills and Rev. Dr. Roy Henry having expired, Mr. David Muirhead, Q.C. was appointed and Rev. Dr. Roy Henry reappointed on the nomination of the Council to the Judicial Services Committee.

18. GENERAL LEGAL COUNCIL'S DISCARDED COMPUTERS

The old computers having been written off the Council's books through depreciation, they were given to the members of staff free of cost.

19. NOMINATIONS FOR PRIVATE SECURITY REGULATION BOARD

The following persons were nominated for service on the Private Security Regulations Authority:

Miss Norma Linton, Q.C.

Mr. Crafton Miller

Mr. Dennis Goffe, O.C.

Mr. Maurice Saunders

Mr. George Soutar

20. RENTAL OF ADDITIONAL OFFICES FOR THE GENERAL LEGAL COUNCIL

Due to the need for additional space, the Council has leased from Jambar Holdings Ltd. the section of the complex on Duke Street. The Legal Officer is being accommodated in this annex.

21. PRACTISING CERTIFICATE FEES

The following fee structure remained in effect on January 1, 2007:

0 - 2 years \$ 3000.00 3 -5 years \$ 5000.00 6 -10 years \$ 8000.00 11 - 14 years \$11000.00 15 years & over \$15000.00

22. NON-PAYMENT OF PRACTISING CERTIFICATE FEES

It was determined that the Council should do investigative work in order to ascertain which attorneys are practising without paying the practising certificate fees.

23. <u>APPLICATIONS FOR ENROLMENT</u>

The following applications were received and approved.

Michael Cole

Keachea Nicole Dixon

Percival A. Clarke
Franklin E. Halliburton

Racquel Alyssa Halliburton

Nathan Geddes Morrison

Patrick Hylton

Tyrone Marcus

Daimian J. T. Masters

Alexis Leigh Robinson

Thamani Roxanne Smith

Annett Eleanor Whyte-Sealy

Jacqueline N. Wilcott-Thompson

Stacy-Ann Latoya Young

Wilwood L.M. Adams

Bertram A. Anderson

Barbara A. Barnaby

Avirine A. Bernard

Ayodejio D. Bernard

Cecila Ray Barclay

Janice E. Buchanan Rose Marie Cameron Simone Nichola Codner Marjorie Dianne Clarke Tracey-Ann Alecia Dobson Gail Nicole Mitchell Marcia Andrea McFarlane Craig Lloyd Neil Ayisha Raquel Robb Paula Ann-Marie Robinson Kerri-Gaye A. Rushton Denise Tracey-Ann Samuels Tamara Marina Dickens Jullie-Ann Keneisha Ellis Dameta Crystal Gayle Shawna-Kaye Amoy Hanson William Ashbel Hines Michelle Jaqueline Jones Yolanda Abigail Kiffin Grace Angella Lindo Vanessa Marie Morgan Jeanne Olivia Slowe Heather Mae Sutherland Greg George Wacolm Simone Millicent Walker Jaqueline Andrea Whitely Maria Saint Theresa Wilson Camika Ihisha Facey Philbert Smith Andrew Morrison

Keri Christine Burton Lesley Therston Cargill Keita-Marie S. Chamberlain Natallie Amelia Creary Glenroy Wilington Mellish Margaret Elizabeth Myers Andrea McKenzie-Howell Nicholene Althea Nelson Monique A. Robinson Carmelita Octavia Riley Karen Olivia Russell Deborah Nicole Lee Shung Adley George Duncan Michelle Nata Fife Simone Nicolene Gentles Tova Tene Hamilton Viviene Angella Johnson Meisha-Ann Melissa Kelly Zara Mekeisha Lewis Yvette Albertha Miller Carol Marie Simpson Bradrick Hugh Smith Garth O'Neil Taylor Clive Lloyd A. Walker Coleen Tramaine Weise Courtney Markel Williams Dawn Dianna Wilson-Rhule Christine Marchall McNeil Richard Edward Nevers

Motheba Rakuoane Linton

24. MR. RICHARD LEWIN

Dawn Yearwood Stewart

Mr. Richard Lewin the first Secretary of the General Legal Council died on 22nd June, 2007.

25. REPORT ON THE DISCIPLINARY COMMITTEE OF THE GENERAL LEGAL COUNCIL

The Disciplinary Committee of the General Legal Council has specific responsibility for the maintenance and enforcement of discipline in the Legal Profession by the examining and hearing of complaints laid against attorneys-at-law.

26. <u>MEMBERSHIP OF THE DISCIPLINARY COMMITTEE</u>

During the year under review, the total number of members as at April1, 2007 stood at twenty four (24). The members were:

Mrs. Pamela Benka-Coker, Q.C. - Chairman

Mr. Christopher Bovell

Senator Dorothy Lightbourne

Miss Hilary Phillips, Q.C.

Miss Norma Linton, Q.C.

Mr. Donald Scharschmidt, Q.C.

Dr. Adolph Edwards

Mrs. Merlin Bassie

Mr. Richard Donaldson

Mr. Lincoln Eatmon

Mr. Crafton Miller

Miss Beryl Ennis

Mr. Stephen Shelton

Mrs Gloria Langrin

Mr. Jerome Lee

Mr. George Magnus

Mrs. Margarette Macaulay

Miss Daniella Gentles

Mr. Charles Piper

Mrs. Jeanne Robinson-Foster

Miss Lilieth Deacon

Mr. David Batts

Mr. Allan Wood

Mr. David Johnson

27. MEETINGS

There were ten (10) monthly meetings of the Disciplinary Committee for the year. These were held on the following dates:

2007: 28th April, 26th May, 23rd June, 28th July, 22nd September, 26th October, 24th November

2008: 26th January, 23rd February, 29th March

28. ATTENDANCE OF MEMBERS OF MONTHLY MEETINGS

	TIMES POSSIBLE	TIMES PRESENT	TIMES EXCUSED
Mrs. P. Benka-Coker, Q.C.	10	10	-
Senator Dorothy Lightbourne	10	100	4
Mrs. Merlin Bassie	10	6	3
Mr. Christopher Bovell	10	3	75
Mr. Richard Donaldson	10	2	-
Mr. Lincoln Eatmon	10	-	2
Dr. Adolph Edwards	10	-	1
Miss Berly Ennis	10	5	1
Mr. George Magnus	10	2	-
Mrs. Gloria Langrin	10	6	-
Mr. Jerome Lee	10	3	-
Miss Norma Linton, Q.C.	10	4	-
Miss Daniella Gentles	10	6	1
Miss Hilary Phillips, Q.C.	10	4	4
Mrs. Margarette Macaulay	10	4	6
Mr. Donald Scharschmidt, Q.C.	10	6	3
Mr. Crafton Miller	10	3	4
Mr. Charles Piper	10	7	3
Mrs. Jeanne Robinson-Foster	10	-	-
Miss Lilieth Deacon	10	6	3
Mr. David Batts	10	7	1
Mr. Allan Wood	10	6	3
Mr. David Johnson	10	4	1
Mr. Stephen Shelton	10	5	5

29. <u>SEMINARS</u>

During the year under review one seminar was held by the Disciplinary Committee of the General Legal Council at the Medallion Hall Hotel on 24th November, 2007.

The following topics were discussed:

- (1) An Overview of the Legislation Relevant to the Functions of the Disciplinary Committee
- (2) A Review of the Legal Profession (Amendment Act) 2007
- 30. ORDERS MADE AGAINST ATTORNEYS

Orders made against attorneys found guilty of professional misconduct were as follows:

- (1) Mr. Leighton Miller was found guilty of professional misconduct for his failure to pursue an action for the complainant Alvin Hyatt in the Resident Magistrate's Court after he was paid the sum of \$25,000.00 in Fees. The attorney withdrew from the complainant's business and failed to refund fees paid to him contrary to the Legal Profession (Canons of Professional Ethics) Rules Canon IV (p). The attorney was also found to be in breach of Canon IV (o). The complainant had however obtained a judgment from the Resident Magistrate's Court for recovery of the said fees. The attorney was found guilty of professional misconduct in respect of Canon 1 (c) and (f) which requires an attorney to respond to the complaint pursuant to Section 12(4) of the Legal Profession Act. The attorney was reprimanded and ordered to pay costs to the Complainant in the sum of \$15,000.00 in addition to costs of \$10,000 which was ordered on the 10th March, 2007. (The order was made on the 10th April, 2007)
- (2) Mr. Michael Williams was found guilty of professional misconduct for his failure to represent the Complainant Enid Abrahams in an accident case in which she lost her husband. The attorney had failed to pursue the Claim against the National Water Commission. The attorney was found to be in breach of Canon IV(r) of the Legal Profession (Cannons of Professional Ethics) Rules and was ordered to pay the sum of \$100,000.00 pursuant to Section 12(4) of the Legal Profession Act. The attorney was also ordered to pay costs to the complainant in the amount of \$10,000.00. (The order was made on the 4th May, 2007)
- (3) **Mr. Derrick Darby** was found guilty of professional misconduct for his failure to account to his client **Doreen Matthews** for proceeds of sale in premises 47 Coral Way, Harbour View, Kingston Pursuant to Section 12 (4) (f) of the Legal Profession Act. The attorney was ordered to pay to the Complainant by way of restitution the sum of J\$552,739.00 and US\$4,600 with interest on the Jamaican dollars amount at the rate of 8% per annum and the rate of 4% on the United States Dollars amount computed from the 24th February, 2003 to date of payment. (The order was made on the 20th June, 2007)

- (9) Mr. Rudolph Francis was found guilty of professional misconduct for having committed breaches of the Legal Profession (Accounts and Records) Regulations for the years 1999, 2000, 2001 2002, 2003 and 2004 contrary to Sections 16(1) and 17 of the said Regulations1999. The Attorney was ordered to pay costs of \$20,000.00 for each year he was found to be in breach plus costs of \$20,000.00 to the General Legal Council. (The order was made on the 6th October, 2007)
- (10) **Mr. Clark Cousins** was found guilty of professional misconduct for having committed breaches of the Legal Profession (Accounts and Records) Regulations for the years 2001, 2002, and 2003, contrary to Sections 16(1) and 17 of the said Regulations 1999. The Attorney was ordered to pay fine of \$10,000.00 to the General Legal Council for each year he was found to be in breach plus costs of \$10,000 to the General Legal Council by the 2nd November, 2007. (The order was made on the 27th October, 2007)
- (11) Mr. Berriston Bryan was found guilty of professional misconduct in respect of a complaint brought by Errol Hammond regarding a dispute concerning the ownership of a coffee farm at Mavis Bank in the Parish of St. Andrew. After collecting a retainer of \$30,000.00, the attorney withdrew from the complainant's employment and had not refunded such part of the fees as was fair and reasonable. Having failed to undertake the work for which he was retained, the attorney was found to be in breach of Canon IV (p) of the Legal Profession (Canons of Professional Ethics) Rules) and also Canon IV for having charged the complainant fees that were not fair or reasonable. He was also found in breach of Canon I(b) for his refusal to refund such fees. The attorney was ordered within 30 days to pay to Mr. Hammond by way of restitution the sum of \$30,000.00 together with interest at the rate of 8% per annum computed from the 22nd July, 2003 to the date of payment, together with costs of \$40,000.00 (The order was made on the 8th March, 2008).
- (12) Mr. Howard Lettman was found guilty of professional misconduct for his failure to obtain title after he was retained and paid \$65,000.00 for his services to execute carriage of sale and process the land title for the complainants Algie & Andrea Bailey. The attorney was found to be in breach of Canon IV (r) and (s) of the Legal Profession (Canons of Professional Ethics) Rules. Pursuant to Section 12(4) a fine \$300,000.00 was imposed on the attorney of which the complainants are to be paid \$150,000.00. Costs of \$50,000.00 was awarded against the attorney of which \$10,000.00, were to be paid to the Complainants. The fine and costs were to be paid within 30 days of the 3rd November, 2007. (The order was made on the 3rd November, 2007).

- (13) Ms. Fernanne Chin Yee was found guilty of professional misconduct for having committed breaches of the Legal Profession (Accounts and Records) Regulations for the years 1999, 2000, 2001 2002, 2003 and 2004 contrary to Sections 16(1) and 17 of the said Regulations1999. The Attorney was reprimanded and ordered to pay costs of \$15,000.00 to the General Legal Council on the 8th October, 2007 (The order was made on the 6th October, 2007)
- (14) Clarke Cousins was found guilty of professional misconduct for having committed breaches of the Legal Profession (Accounts and Records) Regulations for the years, 2001 2002, 2003 and 2004 contrary to Sections 16(1) and 17 of the said Regulations1999. The Attorney was ordered to pay a fine of \$10,000.00 for each year that he was found to be in breach plus costs of \$10,000.00 to the General Legal Council. (The order was made on the 27th October, 2007)
- (15) Mr. Ronald Koathes was found guilty of professional misconduct for having committed breaches of the Legal Profession (Accounts and Rules) Regulations 1999, for the years, 1999, 2000, 2002 and 2003 contrary to Sections 16(1) and 17 of the said Regulations. The Attorney was ordered to pay a fine of \$15,000.00 for each year that he was found to be in breach plus costs of \$15,000.00 to the General Legal Council. The costs were to be paid on or before the 23rd November, 2007 (The order was made on the 29th September, 2007)
- (16) Mrs. Kalean Mills Bellamy was found guilty of professional misconduct for filing her declarations late for 2003 and 2004. The attorney was found to be in breach of the Legal Profession (Accounts and Rules) Regulations 1999, contrary to Sections 16 and 17 of the said Regulations. The Attorney was ordered to pay a fine of \$10,000.00 to the General Legal Council. (The order was made on the 5th May, 2007)
- (17) Carole Stephens-Excell was found guilty of professional misconduct for having committed breaches of the Legal Profession (Accounts and Rules) Regulations 1999, for the years, 1999, 2000, 2001, 2002 and 2004 contrary to Sections 16(1) and 17 of the said Regulations. However declarations having been filed for the years mentioned the Attorney was reprimanded with no order as to costs. (The order was made on the 29th September, 2007

31. SUMMARY OF COMPLAINTS

a.	Number of complaints pending at the commencement of the year	344
	Number of complaints filed	228
C.	Number of complaints with prima facie case	120
d.	Number of complaints with no prima facie	49
e.	Number of complaints withdrawn at hearings	46
f.	Number of complaints dismissed at hearings	42
g.	Number of complaints struck out for want of prosecution	7
h.	Number of complainants upheld and sanctions imposed	19
i.	Number of decisions appealed to the court	
j.	Number of complaints pending at the end of the year	409

32. INCOME AND EXPENDITURE

An unaudited statement of the Council's Income and Expenditure for the period 1st April, 2007 to 31st March, 2008 is set out below:

	<u>2008</u>
INCOME	\$
Practising Certificate Fees	12,087,364.89
Interest on Deposit	1,853,981.79
Fines	456,000.00
Miscellaneous	<u>730,473.77</u>
	15,127,820.45
Administrative and general	(13,734,677.39)
Surplus from operations	1,393,143.06
Finance cost	(163,103.60)
Net surplus for the year	1,230,039.46

EXPENDITURE

	<u>2008</u>
Advertising	159,152.00
Audit and accounting fees	17,500.00
Depreciation	299,318.47
Donation	29,609.00
Electricity	435,310.74

Insurance	31,910.00
Legal and professional fees	456,000.00
Meeting expenses	149,060.00
Office expenses	244,947.65
Office rent	1,321,237.92
Printing, stationery and postage	551,948.67
Repairs and maintenance	90,070.00
Salaries, wages and related costs	7,082,587.25
Statutory Deductions	459,909.46
Security	141,828.90
Seminar expenses.	67,098.62
Staff welfare	898,684.75
Telephone	255,525.73
Travel and accommodation	666,118.05
Equipment	376,864.18
	13,734,677.39
Finance cost:	15
Bank charges	<u>163,103.60</u>

CONCLUSION

The General Legal Council has by the promulgation of the Accounting Rules established an essential mechanism for monitoring the treatment by attorneys of their clients' money as well as providing a means by which attorneys can uniformly comply with proper standards in the exercise of their fiduciary responsibilities. The challenges which now face the General Legal Council and the Disciplinary Committee are to expedite the actual processes of dealing with complaints, commence the actual checking of the manner in which clients' accounts are being kept and extend the offerings for continued professional development.

CHAIRMAN

SECRETARY

May 5, 2009

DATE