

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

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**COMPLAINT NO. 1/2015**

In the Matter of PAUL BLACK and  
GREGORY M.D. LOPEZ, an Attorney-at-  
Law.

AND

In the Matter of the Legal Profession Act,  
1971

Panel: Walter Scott, Q.C. - Chairman  
Daniella Gentles-Silvera  
John Graham

Appearances: Paul Black  
Gregory M.D. Lopez

Hearing: 24<sup>th</sup> September, 2016, 8<sup>th</sup> December, 2016, 13<sup>th</sup> January, 2017 and 4<sup>th</sup>  
February, 2017.

**COMPLAINT**

1. The complaint against the Attorney-at-Law, Gregory M.D. Lopez, (hereinafter called “the Attorney”) as contained in the Form of Affidavit sworn to on the 6<sup>th</sup> November, 2014 by Paul Black (hereinafter called “the Complainant”) is that:

- (a) “He has not dealt with my business with all due expedition.
- (b) He has acted with inexcusable or deplorable negligence in the performance of his duties.
- (c) He has not accounted to me for all monies in his hands for my account or credit, although I have reasonably required him to do so.

- (d) He is in breach of Canon I (b) which states that ‘An Attorney shall at all times maintain the honour and dignity of the profession and shall abstain from behaviour which may tend to discredit the profession of which he is a member.’”

## **EVIDENCE**

2. The evidence was given by both the Complainant and the Attorney.
  
3. According to the Complainant, in or around 2006, the Attorney represented him, in the sale of property known as lot 198 Mermaid Crescent, Prospect in the parish of St. Thomas comprised in Certificate of Title registered at Volume 1014 Folio 49 of the Register Book of Titles (hereinafter called “the Property”) for the sum of One Million Six Hundred and Fifty Thousand Dollars (\$1,650,000.00). The property belonged to the Complainant’s mother from whom he had a Power of Attorney.
  
4. The Complainant’s evidence was that the sale was completed in January, 2014 with a balance of One Million Five and Four Thousand Dollars (\$1,504,000.00) owed to him by the Attorney who received full payment for the Property. The Complainant was subsequently paid portions of the outstanding amount leaving a balance. Over the years he called the Attorney for his money but would get excuses and then from July, 2014 the Attorney closed his office, Lopez & Lopez at 2 Melmac Avenue, Kingston 5 leaving no forwarding address. By the date of the first hearing of this complaint the balance of Six Hundred and Fifty Four Thousand Dollars (\$654,000.00) was outstanding.

5. The Attorney elected not to cross examine the Complainant. The Complainant's evidence was therefore not challenged. Indeed it was confirmed by the Attorney who swore to an affidavit in these proceedings dated the 25<sup>th</sup> November, 2015 which was admitted and tendered into evidence as Exhibit 4. For the most part the affidavit of the Attorney contained admissions the most important ones being:

- (a) His brother, Peter Lopez, had inheritance money for the Attorney and had promised to pay the Complainant out of these funds.
- (b) He, the Attorney did not have the ability to pay the Complainant "the funds owed or any part thereof to date."
- (c) By December, 2015 "I will be able to pay Mr. Black a substantial part of the funds owed to him and it is hoped that I will be able to settle the entire amount plus "interest" before the end of the year."

### **FINDINGS OF FACT**

6. Having seen and heard the Complainant's evidence, read the affidavit of the Attorney and having perused the exhibits we accept the evidence of the Complainant as a witness of truth and find that the following has been established beyond reasonable doubt:

- a) The Attorney represented the Complainant in the sale of the Property at a sale price of One Million Six Hundred and Fifty Thousand Dollars (\$1,650,000.00).
- b) The sale was completed in January, 2014 at which time the balance owing to the Complainant was One Million Five Hundred and Four Thousand Dollars (\$1,504,000.00).

- c) The Attorney misappropriated the Complainant's money which ought to have been paid over to him.
- d) The Attorney made repeated promises to the Complainant to pay over the said sums being the net proceeds of the sale of the Property to him but failed to do so.
- e) At the time when this complaint was lodged the net proceeds of sale outstanding and owed by the Attorney to the Complainant was Six Hundred and Fifty Four Thousand Dollars (\$654,000.00).
- f) The Attorney has acted dishonestly and thereby failed to maintain the honour and dignity of the profession and his behaviour has discredited the profession of which he is a member in breach of Canon I (b) of **the Legal Profession (Canons of Professional Ethics) Rules**.

## CANONS

7. We find that the Attorney has breached **Canons I (b) and VII (b) of the Legal Profession (Canons of Professional Ethics) Rules** in that the Attorney received the purchase price from the sale of the property and kept it and failed to account to the Complainant for these monies paid to him for the sale of the said premises notwithstanding that the moneys had been collected. In these circumstances it is reasonable to infer that the Attorney misappropriated the monies paid to him being the net proceeds of sale.
8. For ease of reference we set out below the aforesaid Canons.

**Canon I (b)** provides that:

*“An Attorney shall at all times maintain the honour and dignity of the profession and shall abstain from behaviour which may tend to discredit the profession of which he is a member”.*

**Canon VII (b)** provides that:

*“An Attorney shall-*

- i. ...*
- ii. account to his client for all monies in the hands of the Attorney for the account or credit of the client, whenever reasonable required to do so; and he shall for these purposes keep the said accounts in conformity with the regulations which may from time to time be prescribed by the General Legal Council.”*

9. The Complainant placed all his trust and confidence in the Attorney in retaining him to protect his interest in the sale of the Property and in allowing him to collect the purchase price. This trust and confidence has been betrayed by the Attorney who collected the purchase price and yet failed to account to his client for the balance purchase price. To compound this breach the Attorney made no attempt to repay these moneys until the hearing of the complaint commenced and it is only on the day of the hearings or the day before were payments made specifically:

\$200,000.00 on the 24<sup>th</sup> September, 2016;

\$200,000.00 on the 8<sup>th</sup> December, 2016; and

\$254,000.00 on the 12<sup>th</sup> January, 2017.

10. We find the conduct of the Attorney reprehensible. Not only has the conduct of the Attorney caused loss to his client having been deprived of his money since January, 2014 but it has placed a stain on the reputation of Attorneys in general. This Panel cannot excuse the behaviour of the Attorney just because he eventually repaid the money to the Complainant. Indeed all that serves to demonstrate is an admission by the Attorney that he misappropriated his client's funds and that if the hearing of the matter had not commenced the moneys would not have been repaid, as although the complaint was laid from November, 2014 and the matter came up for hearing on the 10<sup>th</sup> October, 2015, 25<sup>th</sup> November, 2015, 9<sup>th</sup> January, 2016, 27<sup>th</sup> February, 2016, 16<sup>th</sup> April, 2016 and 28<sup>th</sup> May, 2016 it was not until the actual commencement of the hearing on the 24<sup>th</sup> September, 2016 that the Attorney started to repay the sum of Six Hundred and Fifty Four Thousand Dollars (\$654,000.00). This Panel must therefore act in the interest of the public to ensure that such conduct is never repeated and that the collective reputation of the profession is maintained.

11. In the circumstances of this case what comes to mind is the judgment of the court in **Bolton v Law Society [1994] 2 All ER, 486** and in particular the judgment of Sir Thomas Bingham, MR:

*"It is required of lawyers practicing in this country that they should discharge their professional duties with integrity, probity and complete trustworthiness. That requirement applies as much to barristers as it does to solicitors. If I make no further reference to barristers it is because this appeal concerns a solicitor,*

*and where a client's moneys have been misappropriated the complaint is inevitably made against a solicitor, since solicitors receive and handle clients' moneys and barristers do not.*

*Any solicitor who is shown to have discharged his professional duties with anything less than complete integrity, probity and trustworthiness must expect severe sanctions to be imposed upon him by the Solicitors Disciplinary Tribunal.*

*Lapses from the required high standard may, of course, take different forms and be of varying degrees. The most serious involves proven dishonesty, whether or not leading to criminal proceedings and criminal penalties. In such cases the tribunal has almost invariably, no matter how strong the mitigation advanced for the solicitor, ordered that he be struck off the Roll of Solicitors... 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 in order to punish him for what he has done and to deter any other solicitor tempted to behave in the same way. Those are traditional objects of punishment. But often the order is not punitive in intention. Particularly is this so where a criminal penalty has been imposed and satisfied. The solicitor has paid his debt to society. There is no need, and it would be unjust, to punish him again. In most cases the order of the tribunal will be primarily directed to one or other or both of two other purposes. One is to be sure that the offender does not have the opportunity to repeat the offence. This purpose is achieved for a limited period by an order of suspension; plainly it is hoped that*

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*experience of suspension will make the offender meticulous in his figure compliance with the required standards. The purpose is achieved for a longer period, and quite possibly indefinitely, by an order of striking off. 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. To maintain this reputation and sustain public confidence in the integrity of the profession it is often necessary that those guilty of serious lapses are not only expelled but denied re-admission. If a member of the public sells his house, very often his largest asset, and entrusts the proceeds to his solicitor, pending re-investment in another house, he is ordinarily entitled to expect that the solicitor will be a person whose trustworthiness is not, and never has been, seriously in question. Otherwise, the whole profession, and the public as a whole, is injured. A profession's most valuable asset is its collective reputation and the confidence which that inspires."*

(pages 491 – 492)  
(Emphasis Ours)

12. In **Georgette Scott v The General Legal Council (Exp. Errol Cunningham) SCCA 118/2008** the Court of Appeal in upholding the General Legal Council's decision to strike off the Attorney off the Roll of Attorneys stated in paragraphs 49 and 50:

*"49. It is abundantly clear that the Committee has a duty under section 3(1) of the Act to uphold the standards of professional conduct of attorneys at law.*



Barwick CJ stated in *Harvey v Law Society of New South Wales* (1975) 49 ALJ 362 at page 364:

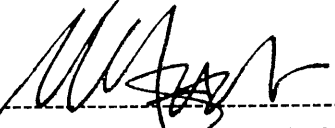
*'The court's duty is to ensure that those standards of the profession are fully maintained particularly in relation to the proper relationship of practitioner with practitioner, practitioner with the court and practitioner with the members of the public who find need to use the services of the profession.'*

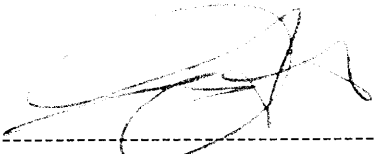
50. The Court ought to bear in mind also what Lord Parker CJ said *In re A Solicitor* (*supra*):

*'...A case shortage of this nature inevitably meant that a solicitor had spent a client's money for the purposes other than those of the client. Public confidence in the profession would be shaken if such conduct were tolerated.'*

13. We find that the applicable standard of proof in these disciplinary proceedings which is that of the criminal standard being beyond all reasonable doubt, (**Wilston Campbell v Davida Hamlet (as executrix of Simon Alexander) Privy Council appeal No. 73 of 2001**) has been established and the Attorney is guilty of professional misconduct as per Canon VIII (d) in that he has breached Canon I (b) and Canon VII (b) of **the Legal Profession (Canon of Professional Ethics)**.

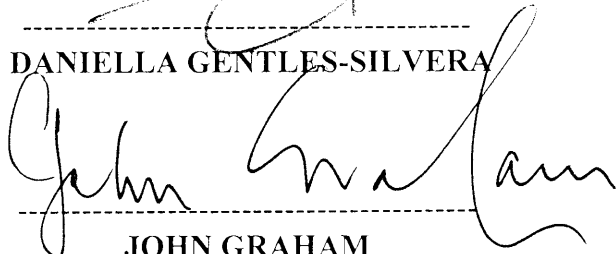
Dated the 4<sup>th</sup> day of February, 2017

  
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WALTER SCOTT, Q.C.



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DANIELLA GENTLES-SILVERA



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JOHN GRAHAM