

6/2004

DECISION OF THE DISCIPLINARY COMMITTEE

In the matter of EILEEN BOXILL a member of
The General Legal Council of 78 Harbour Street,
Kingston and SHARON JOY McDANIEL, an
Attorney-at-Law

A N D

In the matter of the Legal Profession Act

Before: Hilary Phillips, Q.C.
Merlin Bassie
David Batts

This matter commenced on the 15th January, 2005. The attorney attended and was represented by Mr. Ian Wilkinson.

Evidence was taken from Dr. Eileen Boxill and Althea Richards, Secretary of the General Legal Council by way of Affidavit. The Deponents were not cross examined.

This unchallenged evidence established that the attorney had been in practice since 1989. That she had failed to deliver Accountant's Report or Declaration in respect of the years 1999, 2000, 2001 and 2002 contrary to Rule 16 (1) of the Legal Profession (Accounts and Records) Regulations 1999. That an appropriate Declaration was filed on or about the 30th April, 2004 in respect of the said years of default.

The attorney gave oral evidence in her defence. She explained that she had always worked with institutions, General Accident Insurance Company, Axis Jamaica Limited, Thomas Howell Insurance Loss Adjusters. She is now Managing Director of Axis Jamaica. She is not a member of the Jamaican Bar Association. She has had difficulty receiving mail and other communication from the General Legal Council as her name she said "seemed to have fallen off the mailing list due to error in the spelling of the name".

In consequence, she was largely unaware of the details of the new accounts rules and assumed that as she did not deal with clients or their funds, they did not apply to her. The Committee reserved to consider its verdict and promised to deliver judgment at a later date. This we now do.

We note that this is the second attorney appearing before us who expressed the belief that as she handled no clients' money she assumed the rules had no application to her.

This Committee wishes to affirm that all legal practitioners in Jamaica called to the Bar as attorney-at-law have a Professional responsibility to abide the rules of the profession and to ensure they remain familiar with these rules. An attorney-at-law still has professional responsibilities even if employed with an institution.

The Committee is mindful however that these rules are relatively new and the steps to enforce them were somewhat delayed. We also bear in mind that in other jurisdictions fines of the order of £4,000.00 have been imposed for similar offences.

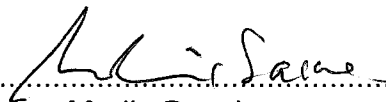
In all the circumstances therefore we will in this case impose a fine of \$5,000.00 with costs of \$2,000.00.

Attorneys are to be assured that in the future the Rules will not be new and the explanation of ignorance is not likely to be entertained.

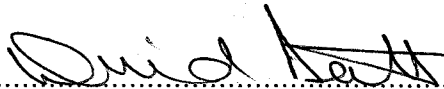
Dated the 17th day of April 2005



Hilary Phillips, Q.C.



Merlin Bassie



David Batts