

4. On 8th May 2000 on a visit to the Island, the Complainant met the Respondent and he gave her two cheques dated 9th May 2000 for \$400,000.00, and 18th May 2000 for \$600,000.00. Both cheques were dishonoured and the Respondent has made no further payments since that date.
5. The balance of the purchase price which remains due from the Respondent amounts to J\$1,131,109.40

The Complaint against the Respondent has, in our view, been established by the evidence beyond reasonable doubt, and the Respondent has committed the following breaches: -

- i. In breach of Canon VII (b)(ii) of the Legal Profession (Canons of Professional Ethics) Rules, the Respondent, Audley Foster has failed to account to the Complainant for all moneys in his hands for her account or credit although she has reasonably required him to do so;
- ii. In breach of Canon III (k)(ii) of the Legal Profession (Canons of Professional Ethics) Rules, the Respondent, Audley Foster has acted dishonourably and dishonestly in that he has fraudulently converted and misappropriated to his own use the sums which were received by him for the account of the Complainant, being the balance of the proceeds of the sale of the Complainant's premises at 13 Fairfield Drive, May Pen, Clarendon;
- iii. In breach of Canon I (b) of the Legal Profession (Canons of Professional Ethics) Rules, the Respondent Audley Foster has behaved dishonourably and his behaviour has discredited the profession of which he is a member.

In a number of its previous decisions the Disciplinary Committee has commented upon the frequency with which persons who reside abroad have been defrauded by dishonest members of the legal profession. Those decisions, with which we are in complete agreement, have underscored that in

addition to making orders for restitution, it is inappropriate for attorneys who conduct themselves in such a disreputable manner to remain on the Roll as members of the Legal Profession (see: *Barrington Robinson v Dahlia Allison B. Allen, Complaint 197 of 1999, Decision dated 9th March 2003; and Jacqueline Grant & Gertude Keene v Nancy Darby-Tulloch, Complaint 94 of 2000, Decision dated 29th November 2001*).

We accordingly order as follows: -

1. Pursuant to section 12 (4)(a) of the Legal Profession Act, Audley Foster is struck off the Roll of Attorneys-at-law entitled to practice in the several courts in the Island of Jamaica;
2. Pursuant to section 12 (4)(c) of the Legal Profession Act, Audley Foster is to pay to the Complainant \$1,131,109.40 together with interest thereon at the rate of 12 per cent per annum computed from 1st January 1999 until the date of payment;
3. Costs in the sum of \$ **25,000.00** are to be paid to the Complainant by Audley Foster.






