

**DECISION OF THE DISCIPLINARY COMMITTEE  
OF THE GENERAL LEGAL COUNCIL  
COMPLAINT NO: 97/2014**

IN THE MATTER OF **DR. OPAL GIBSON-CORBIN** and **MR. RICHARD BONNER**, an Attorney-at-Law

AND

IN THE MATTER OF THE LEGAL PROFESSION ACT, 1971

BETWEEN OPAL GIBSON-CORBIN COMPLAINANT

AND RICHARD BONNER RESPONDENT

**Panel:**

Mr. John Graham - Chairman

Mr. Peter Champagnie

Mrs. Tana'ania Small Davis

**Appearances:**

7 February 2015

Dr. Opal Gibson-Corbin, Mr. Michael Gibson and Ms. Maxine Gibson

Mr. Richard Bonner

10 October 2015

Mr. Michael Gibson and Ms. Maxine Gibson

No appearance by or on behalf of Mr. Richard Bonner

24 October 2015

Mr. Michael Gibson, Ms. Kediann Francis, Attorney for the Complainant

No appearance by Mr. Richard Bonner

12 November 2016

Mr. Michael Gibson and Ms. Maxine Gibson, Mrs. Antonia Armstrong, Attorney for the Complainant

No appearance by Mr. Richard Bonner

25 February 2017

Mr. Michael Gibson and Ms. Fern Bishop, Ms. Antonia Armstrong, Attorney for the Complainant



No appearance by Mr. Richard Bonner

25 March 2017

Mr. Michael Gibson, Ms. Antonia Armstrong, Attorney for the Complainant.  
Mr. Neville Stewart Attorney at law representing Mr. Richard Bonner.

**Hearing dates:**

7 February 2015, 24 October 2015, 12 November 2016, 25 February 2017, 25 March 2017, 28 April 2017

Mr. Richard Bonner attended on 7 February 2015, when the evidence of the Complainant Dr. Opal Gibson-Corbin and Mr. Michael Gibson was taken. Mr. Bonner did not appear on any of the subsequent hearing dates. On each of the subsequent hearing dates, the Panel received letters by or on signed on behalf of Mr. Richard Bonner requesting adjournment on medical grounds bearing the following dates:

- 26 March 2015 enclosing medical certificate of Dr. Derrick Jarrett granting 14 days' sick leave from 25 March 2015
- 9 October 2015 attaching medical certificate of Dr. Derrick Jarrett granting 14 days' sick leave from 5 October 2015
- 21 October 2015 attaching medical report of Dr. J.V. Ford stating that Mr. Bonner was unable to attend court for the next three months
- 8 November 2016 stating that Mr. Bonner was scheduled to undergo surgical procedure on 11 November 2016 and attaching medical report of Dr. Gerald Smith dated 23 September 2016 stating that Mr. Bonner was incapable of carrying out his normal occupation and in particular unable to attend court for the next three months
- 24 February 2017 stating that he had undergone a surgical procedure on 21 February 2017 and had been put on bed rest
- 24 March 2017 enclosing medical certificate of Dr. Gerald Smith dated 27 January 2017 stating that he had undergone surgery on 3 January 2017 and was incapable of carrying out his normal occupation and in particular unable to attend court for the next three months.

The requests for adjournment made for hearing dates 12 November 2016 and 25 February 2017 were opposed by the attorney representing the Complainant and the Panel declined those requests for adjournment.



## **COMPLAINT**

1. Before the Panel is a complaint against Attorney-at-Law, Richard Bonner, (hereinafter called "the Attorney") laid by Dr. Opal Corbin-Gibson (hereinafter called "the Complainant"). The Complaint is that:
  - (a) the Attorney has not accounted for all monies in his hands for her family's account or credit, although she has reasonably required him to do so;
  - (b) 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.'
2. The Panel commenced the hearing of this matter on 7 February 2015 in the presence of the Complainant and the Attorney. Evidence was given by Dr. Opal Gibson-Corbin and Mr. Michael Gibson, both of whom were cross examined by the Attorney. The Complainant was excused from further attendance at the hearings.
3. The matter was adjourned part heard to 28 March 2015. The Attorney indicated that he intended to only lead evidence in mitigation. The Panel was not convened on the scheduled date and the matter was set for continuation on 10 October 2015. On 10 October 2015, the Attorney was absent and sent a letter enclosing a medical certificate. The Panel directed the Secretary to write to the Attorney informing him that (1) he may tender his character evidence in mitigation by way of affidavit and (2) the Statement of Account dated 8 October 2015 should be revised to set out more details including dates of receipts and payments. The matter was fixed for continuation on 24 October 2015. The Secretary of the Disciplinary Committee wrote to the Attorney as directed on 14 October 2015.
4. The Attorney was again absent on 24 October 2015 and the Panel reviewed his letter dated 21 October 2015 requesting an adjournment due to his medical condition and enclosing a medical report from Dr. J. V. Ford detailing the Attorney's medical condition and opining that the Attorney was unable to go about his normal occupation, including attendance at court, for a period of three months. The Attorney's letter also enclosed copies of receipts for the expenditures set out in the Statement of Account and indicated that he intended to finalize the affidavit for the next hearing. The Panel made an order that the Attorney should file affidavit(s) containing the evidence on which he proposes to rely on or before 5 January 2016. The matter was adjourned to 23 January 2016 for



continuation.

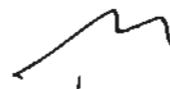
5. The Panel was not convened on the scheduled date and the matter was set for continuation on 12 November 2016.
6. At the hearing on 12 November 2016 there was no appearance by the Attorney nor was he represented and the Panel received a letter dated 8 November 2016 indicating his inability to attend due to a surgical procedure scheduled for 11 November 2016. The medical certificate enclosed with the letter was dated 23 September 2016 and did not refer to the surgical procedure. The Complainant's attorney-at-law objected to the request for adjournment, which was denied by the Panel. The Complainant's attorney-at-law informed the Panel that the Complainant's case was closed and made oral submissions. The Panel made an order for the filing of written submissions on behalf of the Complainant on or before 15 December 2016 and fixed the matter for completion on 25 February 2017. The Attorney was notified of the Panel's order by letter dated 13 December 2016.
7. On 25 February 2017, the Panel received a letter from the Attorney dated 24 February 2017 in which he stated that he had undergone a surgical procedure on 21 February 2017 and that he was under doctor's orders for bed rest. The Attorney acknowledged that despite this, he has gone in to his office and to court on a few occasions to deal with emergency situations requiring his direct and immediate attention. In the letter the Attorney also asserted his belief that he has a proper defence to the complaint and wished an opportunity to pursue that defence. The letter referred to a medical certificate and to a Notice of Intention to Rely on Hearsay Statements made in a Document, neither of which was seen on the file. The Attorney requested an adjournment and more time to settle his submissions.
8. Having been satisfied that the Attorney had been served with the Complainant's written submissions and the Order made on 24 October 2015 not having been complied with and no explanation given by the Attorney for his failure to file an Affidavit the Panel refused the Attorney's request and fixed 25 March 2017 for delivery of judgment. The Panel's decision was notified to the Attorney by letter dated 13 March 2017.
9. By letter dated 24 March 2017 the Attorney re-sent a copy of his letter dated 24 February 2017 and the medical report of Dr. Gerald Smith dated 27 January 2017 referred to therein. Dr. Smith reported that the Attorney

had surgery on 3 January 2017 and was "incapable of carrying out his normal occupation over the next three (3) months, as his condition is being monitored. In particularly (sic), he will not be able to attend at court during this period."

10. On 25 March 2017 Mr. Neville Stewart appeared on behalf of the Attorney. Mr. Stewart made it clear that he had no instructions to seek an adjournment and stated that he was present to receive the judgment.
11. Due to the absence of one member, the delivery of judgment was adjourned to 25 April 2017.

### **EVIDENCE**

12. The Complainant is a medical doctor residing in Barbados. She said that she has known the Attorney who has been a family friend for 50 plus years as he and her brother Michael Gibson have been friends from their teenage years.
13. The Form of Application and Affidavit sworn by the Complainant dated 26 June 2014 was admitted as **Exhibit 1**. The Complainant's evidence is that the Attorney was retained by her brother Michael Gibson on behalf of all the siblings to attend to the probate/administration of the estate of their late mother, Annie Anita Gibson. In the course of the Attorney's handling of the affairs, he conducted the sale of property at 3 Chevy Chase, Kingston 19, in Havendale, which was an asset of the Estate, for \$11,100,000.00. The transaction was completed in 2007. The Complainant stated that the Attorney distributed of approximately 50% of the proceeds of the sale to the siblings, being Michael Gibson, Maxine Gibson, Fern Bishop and the Complainant but that despite promises made by the Attorney and repeated telephone calls and correspondence requiring him to do so, the Attorney has not paid over the remaining 50% of the proceeds in the amount of \$5,509,535.00. The Attorney gave a Statement of Account to the Complainant which he delivered to her at her brother's house in Cherry Gardens. The Statement of Account dated 4 October 2013 was admitted as **Exhibit 2**.
14. The Complainant said she reviewed the Statement of Account and contacted the Attorney several times in 2014 after which she got frustrated. The Attorney told her that he was trying to sell some land to



pay her and her siblings. The Attorney charged fees of \$65,000.00 for his services.

15. The Complainant was cross examined by the Attorney. The Attorney challenged the Complainant as to whether he had ever been retained and that he had never received attorney's costs. The complainant admitted that she did not see a line item for \$65,000.00 in the Statement of Account. She was also questioned as to whether she was aware that the property was registered in the name of Annie Gibson.
16. In his evidence, Mr. Michael Gibson stated that he had known the Attorney from a teenager for roughly 50 years, that he retained the Attorney In 2007 in connection with the sale of property at 3 Chevy Chase, Havendale and that the Attorney in fact handled the sale. Mr. Gibson said that he had received part of the proceeds and that he had received the Statement of Account – **Exhibit 2**. Mr. Gibson also testified that he had received an undated Statement of Account signed by the Attorney. The Undated Statement of Account was admitted as **Exhibit 3**. The undated Statement of Account reflected a balance due and owing of \$5,557,723.00. Mr. Gibson's evidence is that the Attorney has to date not accounted for the balance of the proceeds of the sale in the amount of \$5.5 million.
17. In his cross examination of Mr. Gibson, the Attorney questioned him about the several other legal transactions that he had handled on his behalf, including the winding up of the estates of Hector Lloyd Wilson and Anthony Lloyd Gibson and the transfer of property at Belvedere from Mr. Gibson to a Kenisha Panchan. Mr. Gibson admitted that in the Attorney's handling of those Estates there were no discussions about payment of attorneys' fees.
18. At the conclusion of the cross examination, the Complainant indicated that there were no further witnesses to be called. The Attorney requested that the adjournment be taken and that he have an opportunity to retain Counsel. In response to enquiries from the Panel, the Attorney indicated that he did not intend to put in any evidence to challenge the complaint laid against him as to failure to account for monies in his hand and said that he intended only to give evidence in mitigation.
19. The Attorney filed an Affidavit in response to the Complaint on 9 October 2015. As stated above, the Attorney did not attend any of the hearings subsequent to 7 February 2015. Therefore, his affidavit was therefore not

formally admitted into evidence in the usual way. More importantly, he did not submit himself to cross examination.

20. The Panel has considered how to treat the Attorney's Affidavit evidence. Rule 10 of the **Legal Profession (Disciplinary Proceedings) Rules**<sup>1</sup> gives the Committee discretion to proceed and act upon evidence given by affidavit. The Rule also permits any party to the proceedings to require the attendance of any deponent of any such affidavit for the purpose of giving oral evidence and it is only where the Committee is satisfied that the affidavit is purely formal and that the requirement to attend for oral evidence is with the sole object of causing delay that the Committee would proceed with the affidavit evidence over any objection made.
21. The Complainant's Attorney did not make a request that the Attorney be required to attend to give oral evidence nor was any objection taken to the Panel taking the Attorney's affidavit into consideration. In light of the Panel's order that the Attorney was permitted to file affidavit(s) containing the evidence on which he intended to rely, the Panel exercised its discretion to proceed and act upon the Attorney's evidence given by affidavit.
22. Given that the Attorney's evidence was untested by cross examination, the Panel is entitled to give the affidavit and the exhibited Statement of Account such weight as it considers fit.
23. In his affidavit, the Attorney admits that he was retained to undertake work in relation to the Estate of Annie Anita Gibson, deceased, and that he was required to undertake the sale of properties at 20 New Haven Drive Kingston 20, land part of Belvedere and land at 3 Chevy Chase, Havendale all in the parish of St. Andrew.
24. The Attorney says that he has tried his best to keep the Complainant informed about the progress of the matter and that he has sought to deal with the matter in good time despite several constraints. He denied that he has not accounted to the Executor and the beneficiaries for all moneys on account and exhibited to the Affidavit was a Statement of Account dated 8 October 2015.



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<sup>1</sup> As amended 4 August 2014

## FINDINGS OF FACT

25. The Panel carefully considered the evidence, bearing in mind that the burden of proof is on the Complainant and that the standard of proof is beyond reasonable doubt.
26. In evaluating the evidence, the Panel had regard to the documentary evidence which supported the Complainant's evidence. The Panel was convinced of the reliability of the Complainant's evidence by the fact that in his cross examination of the two witnesses, the Attorney did not challenge the evidence as contained in the Statement of Account signed by him - **Exhibit 2**, i.e., that the balance net proceeds of sale due and owing to be paid over to the Complainant and her siblings was \$5,509,535.00.
27. We accept the Complainant's unchallenged evidence that the Attorney had made several promises to pay the sum due and owing as per **Exhibit 2** and that he had told her that he was trying to sell some land in order to pay her and her siblings.
28. The Attorney's Statement of Account dated 8 October 2015 exhibited to his Affidavit differs from the Statements of Account admitted as **Exhibit 2** and **Exhibit 3** by several entries for attorney's fees for transactions other than the Estate of Annie Anita Gibson and the sale of the property at 3 Chevy Chase. Those entries account for \$1,245,000 plus GCT at 17.5% for a total of \$1,462,875. In his cross examination of Mr. Gibson, the Attorney asked "For the winding up of the estates, did I discuss attorney's fees with you?" To which Mr. Gibson replied, "No." The Attorney did not challenge that response. The Attorney did not put to either the Complainant or Mr. Gibson a case that there were fees owing to him and certainly up to 4 October 2013, the date on the signed and stamped Exhibit 2, it does not appear that the Attorney made that claim to the Complainant or her siblings.
29. Although the Statement of Account dated 8 October 2015 sets out various fees and expenditure in connection with "Sale of Red Hills part of Belvedere" there is no entry for the proceeds of sale of that property, which would be expected in a properly prepared Statement of Account. The Attorney did not comply with the Panel's instructions to prepare a revised Statement of Account with better details including dates of receipts and





payments, which was communicated by the Disciplinary Committee's letter to the Attorney dated 14 October 2015.

30. There was also now included two new entries for sums totaling \$2,648,648 said to have been paid to Michael Gibson. Neither of these payments were put to Mr. Gibson by the Attorney during cross examination and no documentary evidence of these payments and their connection to the sale of the property was led by the Attorney.
31. Having seen the Complainant and her witness Michael Gibson and hearing their evidence and having reviewed the exhibits, we accept them as credible witnesses of truth and find that the following has been established beyond reasonable doubt:
  - a. The Attorney represented the Complainant and her siblings in administering the Estate of their late mother Annie Anita Gibson.
  - b. The Attorney handled the sale of property at 3 Chevy Chase, Kingston 19 for \$11,100,000.00 and received the proceeds of sale.
  - c. The Attorney paid over sums totaling \$3,616,500.00 to Michael Gibson.
  - d. The Attorney delivered a signed Statement of Account in which he stated that as at 4 October 2013 the sum of \$5,509,535.00 was the balance of the net proceeds of sale due and owing to the Complainant and her siblings.
  - e. The Attorney has not accounted for nor paid to the Complainant or any of her siblings the balance of \$5,509,535.00.
  - f. The Attorney made several promises to pay the balance.
  - g. The Attorney misappropriated the Complainant's money which ought to have been paid over to the Complainant and her siblings.
  - h. 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**

32. We find that the Attorney is guilty of professional misconduct as per Canon VIII (d) in that he has breached **Canons I (b) and VII (b) of the Legal Profession (Canons of Professional Ethics) Rules**: the Attorney received the proceeds of sale of property at 3 Chevy Chase, Kingston 19 and has failed to account to the Complainant for the balance of the net proceeds being \$5,535,000.00. In the circumstances, it is reasonable to



infer that the Attorney has misappropriated the monies paid to him being the balance purchase price.

33. The relevant canons are set out below.

Canon I (b) provides:

"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:

"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 reasonably 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."

34. The Complainant and her siblings placed their trust and confidence in the Attorney who they had known as a family friend for over 50 years. The Attorney betrayed that trust and confidence when he collected the proceeds of sale of the property and failed to turn all of it over to the Complainant and her siblings.

35. Following the guidance of the Court of Appeal in Owen Clunie v. GLC, CA 3/2013 delivered on the 22nd of September, 2014, this Panel directs that a date be set to give the Attorney an opportunity to be heard in mitigation before a sanction is imposed.

Dated the 28<sup>th</sup> day of April 2017.

Mr. John Graham - Chairman  
Mr. Peter Champagne  
Mrs. Tana'ania Small Davis

