

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

COMPLAINT NO. 7/2018

In the Matter of LILLIAN BARROWS and
KENNETH BECKER and HOPE M.
RAMSAY-STEWART, an Attorney-at-Law.

AND

In the Matter of the Legal Profession Act,
1971

Panel: Daniella Gentles-Silvera - Chairman
Nadine Guy
Jeffrey Daley

Appearances: The Complainants, Mrs. Lillian Barrows and Mr. Kenneth Becker (on
Skype).

The Respondent, Hope M. Ramsay-Stewart, represented by Garth
McBean, Q.C.

Hearing: 4th May, 2019, 20th June, 2019, 4th October, 2019, 15th November, 2019,
22nd November, 2019 and 7th March, 2020.

COMPLAINT

1. The complaint against the Attorney-at-Law, Hope M. Ramsay-Stewart, (hereinafter called “the Attorney”) as contained in Form of Application Against an Attorney dated the 11th December, 2017 and amended on the 20th June, 2019 and Affidavit by Applicants sworn to on the 11th December, 2017 by Lillian Barrows and Kenneth Becker, (hereinafter called “the Complainants”) is that:

- (a) The Attorney has acted with inexcusable or deplorable negligence in the performance of her duties;

- (b) The Attorney has failed to maintain the honour and dignity of the profession (at all times) and has failed to abstain from behaviour which may tend to discredit the profession of which she is a member in breach of Canon I(b) of the Canons of Professional Ethics;
- (c) The Attorney failed to deal with their business with all due expedition;
- (d) The Attorney had not accounted to the Complainants for monies in her hands for their account or credit although they had reasonably required her to do so.

2. Briefly, the facts giving rise to the complaint is that the Attorney was retained to act on behalf of the Complainants in the purchase of property in Jamaica. A deposit was wired to the Attorney's bank account. The transaction fell through and the Attorney was instructed by email sent on the 9th March, 2017 to return the deposit to the Complainants' bank account at Merrill Lynch. The email included the wiring transfer information for Merrill Lynch. By email the Attorney requested additional wiring information which she was advised Bank of Nova Scotia Jamaica Limited ("BNS") needed from the Complainant, Lillian Barrows. The Attorney subsequently received an email which she believed to be from Lillian Barrows changing the previous instructions sent by email dated the 9th March, 2017 and instructing her to instead wire the funds to a different recipient at a different account held at the Bank of America. The Attorney followed these latter instructions and wired the funds on the 22nd March, 2017. The emails between the Complainants and the Attorney had apparently been intercepted by fraudsters and therefore the money was wired to third party fraudsters and never received by the Complainants.

EVIDENCE OF THE COMPLAINANTS

3. The evidence of the Complainants was that the Attorney was retained to act on their behalf in the purchase of property at Top Hill, Westmoreland, Jamaica. A deposit in the sum of Twenty Six Thousand Seven Hundred and Sixty United States Dollars (US\$26,760.00) was wired to the Attorney's bank account at the BNS for the purchase of the property. The transaction fell through and the Attorney was instructed to return the deposit to the Complainants' bank account at Merrill Lynch by email sent on the 9th March, 2017 (Exhibit 3 - Appendix 3).
4. During the transaction, the Complainants and the Attorney communicated by email and telephone calls. The email address from the Complainant was Aduna7@aol.com and the email address of the Attorney was hramsystewart@rslawfirm.com.
5. By email dated the 17th March, 2017 Lillian Barrows advised the Attorney that she understood the charges attendant on the money transfer of the deposit and referred to a telephone conversation she had that day with the Attorney. Prior to this email on the same day, the Attorney emailed Lillian Barrows and advised:

“We will now send instructions to our bank to send your funds back. Please note that when the funds were received our bank deducted their commission of US\$30.90 and also GCT of US\$5.10. They will also deduct the cost of sending the funds back to you. I will find out the exact amount.”
6. The information which the Complainants had sent to the Attorney for the Merrill Lynch bank account was incomplete specifically, the address for the bank. Accordingly, the

Attorney sent an email dated the 20th March, 2017 to the Complainant, Lillian Barrows, requesting further information with respect to the account. The Attorney sent that email to "aduna7@aol.com". The Attorney subsequently received an email dated the 21st March, 2017 at 10:48 a.m. purportedly from Lillian Barrows advising that the payment was no longer to be transferred to the account sent earlier and asking that the monies be instead transferred to their lawyer/financial advisers' account and asking that after all the charges were deducted what was the exact amount to be transferred back to them. That email came from adunaa7@aol.com. Another email was sent to the Attorney on the same day from this email address and also from aduna7@mail.com at 12:43 asking about the exact monies to be transferred. Subsequent emails were sent at 2:40 and 2:56 on the same day asking the same question. The Attorney responded on the 21st March, 2017 at 3:35 p.m. advising that BNS will deduct US\$36.00 for their bank charges and at 4:07 p.m. she further indicated that the sum to be transferred was Twenty Six Thousand Six Hundred and Eighty Eight United States Dollars (US\$26,688.00).

7. By email dated the 22nd March, 2017 the Attorney received an email which she believed to be from Lillian Barrows changing the instructions contained in earlier emails. She was instructed to instead wire the funds to "The Bank of America for the account of Veronica Medina". The person was described as the Complainant's attorney. This email came from aduna7@mail.com copied to adunaa7@aol.com and kennybeck@aol.com. The Attorney followed this later instructions and wired the funds on the 22nd March, 2017 as requested to Bank of America for the account of Veronica Medina.

8. By email sent on the 23rd March, 2017 purportedly from the Attorney, the Attorney advised Lillian Barrows that the bank had sorted out the wire transfer issue. This email came from cyber criminals and not the Attorney.
9. By email sent on the 24th March, 2017 purportedly from the Attorney, the Attorney advised Lillian Barrows that the money would be sent the following week.
10. By email sent on the 31st March, 2017 Lillian Barrows advised the Attorney that the funds had still not been received.
11. Between the end of March, 2017 and 13th April, 2017 the Complainants went on holiday and did not keep in touch with the Attorney.
12. On the 13th April, 2017 Lillian Barrows telephoned the Attorney and said the funds had still not been received. The Attorney advised Lillian Barrows that she had received an email dated the 22nd March, 2017 changing the bank and recipient and that she had wired the money to that account on or about the 22nd March, 2017.
13. Further investigations revealed that the Attorney had received this email from aduna7@mail.com copied to adunaa7@aol.com and kennybeck@aol.com. The email addresses for “aduna” were not the email addresses of Lillian Barrows. The emails had been intercepted by fraudsters and therefore the money was wired to third party fraudsters and not the Complainants.

14. According to the Complainants, the Attorney breached her fiduciary duty of care owed to her clients to ensure that she provide utmost care in the management and protection of their escrow money in that she did not notice that the Complainant, Lillian Barrow's, email address which was in the email containing the changed instructions hitherto aduna7@aol.com had changed to "adunaa7@aol.com" and "aduna7@mail.com". An additional "a" was inserted in the first email address and in the second, the company was changed from "aol" to "mail". The Complainants also gave evidence that the "sender" of the emails had on more than one occasion request that the Attorney advise them of the amount being sent after the bank charges had been deducted although Lillian Barrows had acknowledged this amount in an email dated the 17th March, 2017. Further, the Attorney made no telephone call to the Complainants for confirmation when she received the email changing the initial instructions.

15. The account of the Attorney was also compromised as the fraudsters responded to the Complainants and told them that they had sent the monies.

16. By email dated the 14th April, 2017 from Kenneth Becker he advised the Attorney that he was not able to receive emails from his original address from the Attorney or Lillian Barrows at kennybeck@aol.com. The Attorney was therefore advised by the Complainant, Kenneth Becker, to use another email address kennybeck3@gmail.com. He stated that until he fixed his aol account "please only email me at this gmail address." The Attorney was therefore aware from the 14th April, 2017 that something was wrong with the email address kennybeck@aol.com. So even if the fraudsters' emails were copied to kennybeck@aol.com the Complainant, Kenneth Becker, was not receiving

those emails. It appears this email address had been blocked. This was confirmed by AOL Internet Service Provider. It was eventually fixed in a short time.

17. The Complainants stated that they had virus/malware and spyware protection programs on their computers.

18. The Attorney sought to reverse the wire sent to the fraudulent bank account but it was too late. The Attorney also sought to recover the funds through her insurers and also filed a police report (Cyber Crime Unit). These attempts did not bear fruit. The Complainants also reported the incident to the Federal Bureau of Investigation but they never received a response.

19. Eventually the Attorney turned the tables on the Complainants and began to suggest/imply that the cybercrime was due to their fault/negligence and refused to return the deposit. A letter of demand was served on the Attorney who denied all wrongdoing and failed to return the deposit.

20. The Complainants filed suit against the Attorney but discontinued it as they had already spent a lot of money on a lawyer and were not getting anywhere.

EVIDENCE OF THE ATTORNEY

21. The evidence of the Attorney which was contained in an Affidavit filed on the 21st February, 2018 and oral testimony, was similar to the evidence of the Complainants to a large extent so we will not repeat that evidence but point out where there are differences or additions. The email address of Ramsay Stimpson was also infiltrated as the

Complainants received an email from hramsystewart.rslawfirm@gmail.com which is different from the previous email of the Attorney which was hramsystewart@rslawjm.com. The difference in the Complainants' email addresses was far less significant than the difference in the Attorney's email address.

22. On the 22nd March, 2017 the cyber criminals pretended to be the Attorney and replied to Lillian Barrows using a fake email address. The email dated the 22nd March, 2017 changing the instructions was part of an email thread which was copied to kennybeck@aol.com. The Attorney was not negligent in sending the money based on the change of instructions contained in the emails as the emails appeared to have originated from the original email thread. According to the Attorney "an email thread is virtually impenetrable". It is the same emails that are being used so they are one and the same. It was copied to the Complainant's husband, Kenneth Becker, at kennybeck@aol.com therefore he ought to have been aware of the change in the instructions and the email contained the same subject heading as the various emails being "Re: Money Transfer". The Attorney genuinely believed this email was from the Complainant.

23. The law firm had:

- (a) virus and/or malware protection on all computers in their offices;
- (b) a private server which is password protected;
- (c) updates done to their computers regularly;
- (d) gets daily log-on activities; and
- (e) its computers fully monitored by an independent information technology company.

24. Mrs. Barrows advised the Attorney that she had no virus and/or malware protection on her computer.

25. Although the Complainants were expecting the money one (1) week after the 24th March, 2017 they never called the Attorney to say they did not get it until the 13th April, 2017. They were cross examined on this but Mr. McBean could not take this line of questioning any further. The Complainants never followed up with the FBI and could not produce the FBI report which they alleged they had made.

26. The Complainants themselves were negligent as:

- (a) Thirty-five (35) days had elapsed between Lillian Barrows' request for the deposit and notification that they had not received the funds.
- (b) The Complainants failed to provide an address for Merrill Lynch Bank which BNS requested as had the address been supplied BNS would have immediately wired the funds and there would have been no opportunity for the fraudsters to infiltrate the email addresses.
- (c) The Complainants made no meaningful attempt to follow up the report which they had allegedly made to the FBI.

SUBMISSIONS

27. The Complainants submitted that the Attorney had a fiduciary duty to her clients to protect the funds under her care and therefore she should have been placed on alert when suspicious circumstances arose and she breached her fiduciary duty which rose to the level of inexcusable negligence or neglect when she sent monies she held on trust to a

third party. The Attorney's evidence contained multiple inconsistencies, discrepancies and lack of support by way of documentary evidence.

28. Mr. McBean submitted that the Complainants had failed to establish beyond all reasonable doubt that the Attorney was guilty of professional misconduct. Specifically it was his case that:

- (a) The failure of the Attorney to observe the additional "a" in the email address of the Complainant, Lillian Barrows, has not reached the level of inexcusable or deplorable negligence. For professional misconduct the negligence must be higher than ordinary negligence or carelessness, which it was not, especially as the fraudulent email formed part of an email chain/thread to which Mr. Kenneth Becker's correct email address was copied and his evidence that it was not working is not credible. Mr. Becker admitted in his email dated the 14th April, 2017 that both his wife and the Attorney had been fooled. The Attorney had no reason to believe the email was not genuine.
- (b) Eight (8) days delay in the Attorney responding to the Complainants' email is not a delay which is equal to failure to deal with ones client's business in a businesslike manner and therefore not a breach of Canon IV (r).
- (c) The Attorney responded and accounted to the Complainant as to what happened to their funds and reported the matter to the police and took all reasonable steps to retrieve the funds.

STANDARD OF PROOF

29. When bringing a complaint against an attorney-at-law it is well established that the applicable standard of proof is the criminal standard. That has been affirmed in the case of **Campbell v Hamlet [2005] UKPC 19**. Accordingly where a complaint of professional misconduct is made, the Disciplinary Committee must be satisfied beyond reasonable doubt that the complaint has been established. That means that the panel hearing the complaint must be satisfied on the totality of the evidence adduced that the complaint has been made out. The panel must be satisfied that there is a case for the Attorney to answer and the quality of the evidence must be such that the panel feels satisfied, beyond reasonable doubt that they can arrive at an adverse finding against the Attorney should he fail to adduce any evidence or otherwise adequately respond by way of defence.

FINDINGS OF FACTS

30. Having seen and heard the evidence of the Complainants and the Attorney and read the affidavits and exhibits, the Committee finds that the following facts have been established beyond all reasonable doubt:

- (a) The Attorney had during the transaction communicated with the Complainants by email.
- (b) The email address of Lillian Barrows to whom the Attorney communicated was aduna7@aol.com and kennybeck@aol.com for Kenneth Becker.
- (c) After the transaction to purchase of the property at Top Hill, Westmoreland fell through, the Complainants by email dated the 9th March, 2017 instructed the Attorney to wire to her account the deposit of Twenty Six Thousand Seven

Hundred and Sixty United States Dollars (US\$26,760.00) to her bank account at Merrill Lynch.

- (d) The address for the bank was not complete to facilitate the Attorney's bank, BNS, wiring the funds and therefore the Attorney sent an email on the 20th March, 2017 to the Complainants requesting this information. The Complainants never provided this information as it appears the cyber criminals hacked the email accounts of Kenneth Becker and Lillian Barrows and/or all or one of them and advised her that all was well.
- (e) Cybercriminals wrote to the Attorney on the 21st March, 2017 indicating that the money was no longer to be transferred to the Merrill Lynch account but to their lawyer/financial adviser's account and asking what was the exact amount to be transferred after the bank charges had been deducted.
- (f) This email of the 21st March, 2017 to the Attorney came from a different email address, adunaa7@aol.com (two 'a's) and aduna7@mail.com (that is "mail" not "aol").
- (g) By email dated the 22nd March, 2017 which purported to come from the Complainants the instructions were changed for the Attorney to wire the funds to the Bank of America for the account of Veronica Medina, who was described as the Complainants' attorney.
- (h) This email at paragraph (g) above came from the aforesaid fraudulent email addresses.
- (i) The money was sent and confirmation email sent and copied to the Complainant, Kenneth Becker's email, kennybeck@aol.com.

- (j) The Complainants never got back the deposit paid on account of the purchase price for the property as the emails between themselves and the Attorney were intercepted by cybercriminals and the monies diverted to a third party.

ANALYSIS

Acting with Inexcusable or Deplorable Negligence in the Performance of Her Duties

31. In determining whether or not the Attorney's conduct was inexcusable or deplorable the Panel is guided by the decision of the Court of Appeal in **Witter v Roy Forbes [1989] 26 JLR 129**, where Carey JA noted that in promulgating the Canons, the General Legal Council had taken a practical approach, no doubt appreciating that where an attorney conducted a busy practice some slips would inevitably occur that could be labelled as negligence or neglect, but as this was the expected (unavoidable) consequence of a busy practice, the attorney ought not to be penalized for same as having committed professional misconduct. The proper remedy would be to seek redress by way of an action in the Court for negligence and not to penalize the attorney for an act of professional misconduct. Nevertheless, there was a level of neglect or negligence which no reasonably competent attorney would be expected to commit and this is what Canon IV (r) addressed as being professional misconduct by attaching the label "inexcusable or deplorable". It is for the Disciplinary Committee to determine whether the attorney had gone beyond an acceptable level of negligence or neglect into the realm of what is "inexcusable or deplorable". Carey JA stated:-

"The Council is empowered to prescribe rules of professional etiquette and professional conduct. Specifically, rule (s) of Canon IV is concerned with professional conduct for Attorneys. It is expected that in any busy practice some

negligence or neglect will occur in dealing with the business of different clients. But there is a level which may be acceptable, or to be expected, and beyond which no reasonable competent Attorney would be expected to venture. That level is characterized as “inexcusable or deplorable”. The Attorneys who comprise a tribunal for the hearing of disciplinary complaints, are all in practice and therefore appreciate the problems and difficulties which crop up from time to time in a reasonably busy practice and are eminently qualified to adjudge when the level expected has not been reached. I cannot accept that the determination of the standard set, will vary as the composition of the tribunal changes. The likelihood of variation is in the sentence which different panels might impose but that, doubtless, cannot be monitored by the Court or the Counsel itself.

What I have said in regard to Canon IV(s) applies to Canon IV (r) on the ground the phrase ‘with due expedition’ is not certain and positive in its terms.”

(Emphasis Added)

32. A single act of negligence in the course of a matter would therefore not normally be regarded as inexcusable or deplorable negligence so to amount to professional misconduct with Canon IV (s) of the Legal Profession (Canons of Professional Ethics) Rules (“The Canons”).

33. Having outlined the legal principles one must now turn to the facts of this case. The Attorney sent the money based on the changed instructions. The Attorney argued that she had no reason to not genuinely believe that the email came from the Complainant, Lillian Barrows, because:

- (a) The email was part of a thread and she just pressed reply.
- (b) kennybeck@aol.com email address was copied.
- (c) Her firm had virus and/or malware protection. The computers were updated daily and they are fully monitored by independent third parties and they had a private server that is password protected.
- (d) The email contained the same subject heading.

34. Mr. McBean further tried to diminish the error in the Attorney not picking up the change in the email address when in cross examination of Mrs. Barrows he suggested that the error in the Attorney's email which the Complainants did not pick up, was greater than the error in Mrs. Barrows' email address and therefore should have been picked up by the Complainants. Further, the Attorney said Mrs. Barrows advised her that she had no virus and/or malware protection on her computer. It is to be noted that it was denied by the Complainants that they told the Attorney that they had no virus and/or malware protection on their computer and secondly that their computers did not in fact have virus and/or malware protection.

35. At first blush one may question why a more cautious approach by the Attorney was not triggered when the Attorney received the change in the instructions of the Complainants to pay the money into a different bank account and to a third party especially as it is well known and accepted that sending financial information over the internet is risky and law firms are amongst cyber criminals most attractive targets. Further, the Attorney had received an email on the 17th March, 2017 from the Complainant, Lillian Barrows, advising the Attorney that she was aware of the charges associated with the wire transfer

yet on the 21st March, 2017 the Attorney received four (4) emails at 10:48 a.m., 12:43 p.m., 2:40 p.m. and 2:56 p.m. asking about the precise amount to be transferred after the charges had been deducted.

36. The answer is this fraud took place in 2017 and the fact is that the increase in cyber criminals attacking law firms has really only occurred over the last couple of years consequent upon which attorneys have become more aware of the dangers. Although cybercrime is not a new crime it is relatively a new issue for the legal profession. Further, when one examines the email sent on the 17th March, 2017 from Lillian Barrows it is to be noted that although this Complainant did indicate that she was aware of the bank charges she did not confirm that she knew the exact amount. Indeed in the Attorney's email of the 17th March, 2017 she stated that she would find out the exact amount. Accordingly when the Attorney received the four (4) emails on the 21st March, 2017 asking about the precise amount to be transferred this would not necessarily have raised a red flag.

37. Further, the Attorney said the computers at her firm had virus and/or hardware protection and were updated daily and were fully monitored by an independent third party and that the firm had a private server. It therefore seems that the Attorney did try to protect herself and her Firm from computer hacking.

38. Without more we accept that it is possible especially in a busy practice as stated in **Witter v Roy Forbes supra** that the Attorney would not have realised that the email address of Lillian Barrows had changed from aduna7@aol.com (one 'a') to

adunna7@aol.com (two 'a's) and aduna7@mail.com ("mail" instead of "aol") especially as the fraudulent email addresses were very similar to the Complainants' true email addresses; according to the Attorney she pressed reply to the email which was part of a thread and had the same subject matter and was copied to Mr. Becker.

39. Against this background we find that the actions and/or omissions of the Attorney in not picking up the change in the email addresses of the Complainant, Lillian Barrows and wiring the funds to fraudsters, does not rise to the level of inexcusable or deplorable negligence or neglect and therefore the Attorney is not guilty of a breach of Canon IV (s) of the Legal Profession (Canons of Professional Ethics) Rules ("Canons") which provides:

"(s) In the performance of his duties an Attorney shall not act with inexcusable or deplorable negligence or neglect."

Failure to deal with the Complainants' business with due expedition

40. In **Witter v Forbes [1989] 26 JLR 129** Carey, JA stated:

"As to rule (r) it is not mere delay that constitutes the breach, but the failure to deal with the client's business in a business-like manner."

41. We find that the eight (8) days delay by the Attorney in responding to the email from the Complainant, Lillian Barrows, is not a breach Canon IV (r) and therefore this complaint has not been proved to our satisfaction beyond all reasonable doubt.

Failure to Account

42. The Attorney had money for the Complainants which was not repaid to the Complainants as it was intercepted by fraudsters thereby depriving the Complainants of this money. According to the Attorney, she told the Complainants that the email accounts were hacked and their monies sent to fraudsters and that she had reported the matter to the police.

43. Mr. McBean, Q.C. relied on an extract from Black's Law Dictionary (8th Ed.) which defines "account for" as:

- “1. to furnish a good or convincing explanation for: to explain the cause of.
2. reckoning of funds held in trust.
3. to answer for (conduct).”

44. An attorney becomes a trustee of monies held by his/her client and accordingly owes a fiduciary duty to ensure that the money held for a client is returned to the client. There are a number of Disciplinary Committee decisions which have interpreted the meaning of failure to account as being where the attorney has money for the client and not handed it over (see **Kemisha Gregory v Debayo A. Adedipe - Complaint No. 26/2018** (Decision delivered on the 23rd October, 2019); **Garrett Dawkins v Jermaine R. Simms - Complaint No. 48/2009** (Decision delivered on the 21st September, 2017); and **Petitia Cooper and Neville Fearon v Daimian Masters - Complaint No. 29/2014** (Decision delivered on the 25th September, 2015).

45. We accept that unlike the Disciplinary Committee's decisions referred to above the reason for not handing over the money by the Attorney in this case was not due to any dishonesty on the part of the Attorney. The fact remains however that she has to date not paid over monies which was entrusted to her and which she had an obligation to pay over to the client. We do not accept that the duty by an attorney to account as contemplated by Canon VII (b)(ii) which provides "An Attorney shall ... 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..." is satisfied by giving to the client an explanation as to what happened to the monies in the possession of the attorney. We therefore find that the Attorney in this case has not accounted to the Complainants for the amount she had in hand. She has not accounted to the Complainants for the sum by advising that the email accounts were hacked and the monies sent to the fraudsters. This situation and the Attorney's fiduciary duty to ensure that monies held for a client is handed over to the client, would be no different if the money was in a bank account and stolen by a bank teller. The Attorney would similarly be liable to account/give the client the money and thereafter seek to recover from the bank.

Failure to Maintain the Honour and Dignity of the Profession

46. In **Geresford Jones v The General Legal Council (ex parte Owen Ferron) Miscellaneous Appeal No. 22/2002 (delivered March 18, 2005)** Harrison, JA (with whom Panton, JA (as he was then) and Smith, JA agreed) considered that a charge of this nature against an attorney may be considered in this way:

“The governing words of Canon 1 are: “An attorney shall assist in maintaining the dignity and integrity of the Legal Profession and shall avoid even the appearance

of professional impropriety.” This standard of conduct required to be maintained by members of the legal profession is easily understood and perceived as basic good, upright and acceptable behaviour. Any deviation from this legal code is subject to scrutiny as it relates to the requirement of a particular canon. Consequently, “the honour and dignity of the profession...” may be besmirched by a breach of a particular canon or “the behaviour (of an attorney) may tend to discredit the profession...” and be a breach of a specific canon. Either conduct would not fail to contravene the requirements of the proper conduct demanded by Canon 1 (b).”

47. The learned judge continued:

“It is my view that the Canon is specifically widely drafted, in order to emphasize the ever-prevailing high standard of conduct demanded by the profession and re-enforced by all the Canons in the Rules...The Canon may also be construed in light of the cumulative effect of the overall conduct of the appellant towards Ferron and the other beneficiaries from 1988 up to the filing of the complaint in 1996.”

48. Although the money was not taken by the Attorney she still has an obligation to her client to keep safe and ensure safe transmission of the money held by her to her client. The loss of the money is through no fault of either the Complainants or the Attorney but rather a fraudster. Rather than accept this position however and try to negotiate some sort of settlement with the Complainants, the Attorney instead sought to blame her clients; the Complainants. Based on the conduct of the Attorney and her approach in denying all

wrongdoing and seeking to instead blame the Complainants' behaviour we find that she has failed to maintain the honour and dignity of the profession.

49. In all the circumstances the panel finds that the Respondent has breached Canons VII (b) (ii) and 1 (b) and therefore is guilty of misconduct in a professional respect as per Canon VIII (d).

50. Before imposing a sanction, the panel will provide the Attorney an opportunity to be heard in mitigation and hereby directs the Attorney, if so advised, to file any submissions or affidavit evidence in mitigation within twenty-one (21) days of the date of this judgment.

51. This has been a difficult case for the Disciplinary Committee. Criminals hacking into a law firm's email server to intercept and send false emails to clients, usually to change bank details, has become one of the biggest threats to a law firm/lawyers. Cyber criminals intercept and/or falsify emails between clients and law firms and bank details are changed from the originating account to that of the cybercriminal. Monies are stolen as a consequence of the interception (email modification fraud). In the United Kingdom it makes up 80% of cybercrimes reported to the Solicitors Regulations Authority in the second quarter of 2018 (see "The three biggest cyber threats facing law firms" - 4th June, 2019, The Law Society). Given what is happening, lawyers need to now be more mindful when receiving and acting on instructions by email particularly as it relates to the payment of monies. Attorneys need to be more careful and take additional steps to confirm instructions pertaining to the payment of money and bank details such as getting

confirmation by letters and/or telephone. It is also perhaps time for lawyers to begin considering getting professional indemnity insurance for this type of fraud. The Law Society of England and Wales have set out steps for a law firm to take to protect the firm from a cyber attack such as:

- (a) use a firewall to secure your internet connection;
 - (b) protect all devices with anti-virus software;
 - (c) encrypt mobile devices and install a system that can wipe them if they are lost;
 - (d) recognize computer scans;
 - (e) create secure passwords;
 - (f) avoid changing payment details or making payments without thorough checks;
 - (g) avoid opening email attachments without knowing who or where they are from;
- and
- (h) avoid downloading unsafe applications or browsing on unsafe sites.

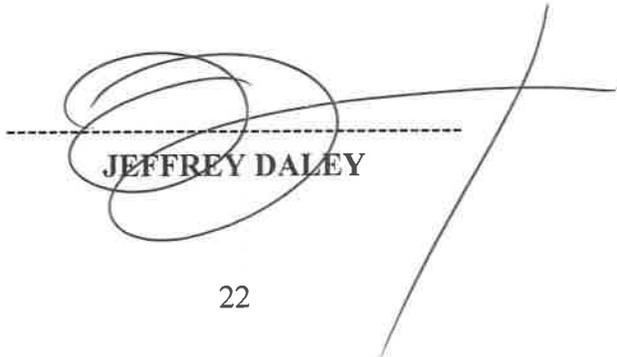
Dated the 7th day of March, 2020



DANIELLA GENTLES-SILVERA



NADINE GUY



JEFFREY DALEY