

**DECISION OF THE DISCIPLINARY COMMITTEE**

**COMPLAINT NO. 243/2018**

**BETWEEN                      LOWELL MORGAN                      COMPLAINANT**  
**AND                              MAURICE FRANKSON                      RESPONDENT**

**PANEL:**

DANIELLA GENTLES SILVERA (Chairman)  
DELROSE CAMPBELL  
ANNA GRACIE

**PERSONS PRESENT:**

Mr. MAURICE FRANKSON – Respondent

Hearing date: 1<sup>st</sup> February 2020

**THE COMPLAINT:**

1. By Form of Application dated the 19<sup>th</sup> November 2018 and Affidavit of Applicant of the same date, the Complainant instituted this complaint against MAURICE FRANKSON (hereinafter referred to as “the Respondent Attorney”) asserting that the Respondent Attorney failed to file either an accountant’s report or declaration with the Secretary of the General Legal Council for the years 2014, 2015, 2016 and 2017 contrary to Regulation 16(1) of the Legal Profession( Accounts and Records) Regulations 1999.

**THE EVIDENCE:**

2. The Complainant, LOWELL MORGAN, being unavoidably absent, the panel decided to hear the complaint in his absence as it has the legal authority to do pursuant to Rule 8 of the Fourth Schedule of Legal Profession Act. The panel also determined to hear the complaint by his affidavit evidence pursuant to Rule 10 of the Fourth Schedule of Legal Profession Act.

3. The Respondent Attorney was sworn, and he stated that he was served with the Form of Application and the Complainant's Affidavit both dated the 19<sup>th</sup> of November 2018. The Form of Application of the Complainant Lowell Morgan dated November 19, 2018 was tendered and admitted into evidence as exhibit # 1. The Affidavit of Applicant sworn to on November 19, 2018 tendered and admitted into evidence as exhibit 2.
4. Paragraphs 1 and 2 of exhibit 2 established the authority of the Complainant to make the application. In paragraph 3 of exhibit 2 the Complainant further stated that "the Respondent, MAURICE FRANKSON, was admitted to practice as an Attorney-at-Law of the Supreme Court of Judicature of Jamaica on the 20<sup>th</sup> of October 1978 and in each of the years from 2000 to 2017 inclusive the Respondent applied for and was granted a practising certificate pursuant to the Legal Profession Act".
5. In paragraph 4 of exhibit 2 the Complainant alleged "It has come to my attention as a member of the Council that MAURICE FRANKSON has been involved in conduct which may be in breach of the Legal Profession (Canons of Professional Ethics) Rules and the Legal Profession (Accounts and Records) Regulations 1999". In paragraph 5 he continued "That the conduct to which reference is made in paragraph 4 hereof is that the Respondent Attorney has failed to deliver to the Secretary of the General Legal Council an accountant's report in respect of the financial year(s) 2014, 2015, 2016 and 2017 contrary to Rule 16(1) of the Legal Profession (Accounts and Records) Regulations 1999". Paragraph 6 states "in view of the matters contained in paragraph 5, I have reasonable grounds to believe that the Respondent is guilty of professional misconduct in a professional respect having regard to the provisions of Rule 17 of the said Legal Profession (Accounts and Records) Regulations 1999".
6. The panel decided to rely on the Affidavit evidence of Althea Richards sworn to on the 19<sup>th</sup> of November 2018 in support of the complaint pursuant to Rule 10 of

the Fourth Schedule of Legal Profession Act. This Affidavit of Althea Richards sworn to on the 19<sup>th</sup> of November 2018 was admitted in evidence as exhibit 3.

7. The Affidavit of Althea Richards stated at paragraph 1 that she was “the Secretary of the General Legal Council with responsibility of keeping the records of the Council and pursuant to the Legal Profession (Accounts and Records) Regulations 1999”. She also stated in the same paragraph that she has responsibly “to receive the Accountants Reports which are required ....to be delivered to me by attorneys-at-law”. Althea Richards said in paragraph 2 of her affidavit that the Respondent had failed to deliver to the General Legal Council any Accountant's Reports for the years 2014, 2015, 2016 and 2017. She further stated that the Respondent Attorney had not filed any Declarations in the form of the First Schedule to the said Regulations for the named years.
  
8. The Respondent Attorney stated that he filed an Affidavit sworn to on the 18<sup>th</sup> of December 2019. The Affidavit of Maurice Frankson was tendered and admitted as exhibit 4.
  
9. The Respondent Attorney in reference to the Affidavit of the Applicant stated at paragraph 3 of his Affidavit that “I do not deny the averments made therein” and admitted in paragraph 4 of his Affidavit that no accountant's reports had been delivered in respect of the years 2014, 2015, 2016 and 2017. In paragraph 5 of his Affidavit he said, “the failure to deliver the accountant report had been a result of inadvertence and not in defiance of the rules”. The Respondent Attorney's Affidavit further stated that he is seeking an extension of time in which to comply.

## The Law

10. Regulation 16(1) of the Legal Profession (Accounts and Records) Regulations 1999 states "Every attorney shall, not later than six months after the commencement of any financial year (unless he or she files a declaration in the form of the First Schedule which satisfied the Council that owing to the circumstances of his or her case, it is unnecessary or impractical for him or her to do so), deliver to the Secretary of the Council an accountant's report in respect of the financial year next preceding that year".
11. Regulation 17 reads "Failure by any attorney to comply with any of the provisions of these Regulations shall constitute misconduct in a professional respect for the purposes of section 12 of the principal Act".

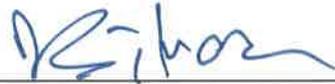
### FINDINGS:

12. After evaluating the evidence before it, and on the admission of Respondent Attorney, the panel was satisfied that the complaint against the Respondent Attorney, was proven to a standard of "beyond reasonable doubt".
13. The findings of the Panel pursuant to section 15 of the Legal Profession Act is that: -
  - a. The Complainant was a member of the General Legal Council and authorized in law to bring this complaint.
  - b. The Respondent Attorney at the time the complaint was laid was an attorney -at-law in private practice with offices at 9-11 Church Street in the parish of Kingston.
  - c. The Respondent Attorney failed to file either an accountant's report or declaration with the Secretary of the General Legal Council in keeping with Regulations 16(1) of the Legal Profession (Accounts and Records) Regulations 1999 for the years 2014, 2015 2016, and 2017.

- d. This means that for 4 consecutive years the Respondent Attorney has not complied with the Legal Profession (Accounts and Records) Regulations 1999.
- e. This failure is in breach of regulations 16(1) and 17 of the Legal Profession (Accounts and Records) Regulations 1999.
- f. The Respondent Attorney, MAURICE FRANKSON, is guilty of professional misconduct.

14. The Respondent Attorney was advised that before imposing the appropriate sanction, the matter would be adjourned to April 25, 2020 to hear his submissions in mitigation of any sanction the panel may impose pursuant to section 12(4) of the Legal Profession Act. The matter was not heard on April 25, 2020 as government regulations surrounding the Covid19 pandemic affected the availability of the personnel required to proceed with hearings, the matter was adjourned to July 4, 2020.

Dated the 4<sup>th</sup> day of July 2020



**DANIELLA GENTLES SILVERA**



**DELROSE CAMPBELL**



**ANNA GRACIE**