

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

Complaint No. 148/2015

MARIE CLEMETSON AND DOREEN CLEMETSON VS GREGORY LOPEZ

Panel:

Mr. Walter Scott, KC

Charles Piper, KC

Mr. Michael Thomas

Present: Ms. Marcia & Doreen Clemetson – Complainants

Mr. Gregory Lopez – Respondent

Mrs. Jennifer Hall-Rowe – Attorney-at-law for the Complainants

BACKGROUND

1. By its Decision dated 07 March, 2020, the Disciplinary Committee found the Respondent Attorney-at-law guilty of professional misconduct. In its Decision the following Findings of Fact were made:

“(a) The Attorney was engaged in about 2004 to represent the Complainants (Executors of estate Alice Maud Clemetson) in the matter of estates:

(i) Alice Maud Clemetson comprised of 3 parcels of land.

(ii) Paul Goulbourne comprised of one parcel of land.

(iii) Clive Williams comprised of 3 parcels of land; and

(iv) Bernard Cridland comprised of 6 parcels of land totalling 13 parcels of land which came to be known as the "Clemetson Estate."

(b) The Attorney was engaged on the basis that all his fees would have been deducted from the proceeds of sale of the properties

(c) Upon the death of Mr. Cecil Lopez, Attorney-at-Law and father of the Attorney, all files concerning all the estates were passed to the Attorney.

(d) All the titles to the 13 parcels of land which were originally handed to Cecil Lopez were passed on to the Attorney and none of those titles were ever given to the Complainants.

(e) Save and except for an accounting in writing from the Attorney dated 29th September 2005 in respect of the sale of lot no. 350, Prospect, St. Thomas Estate Alice Clemetson, deceased, the Complainant has not received any accounting in respect of the estates and the titles associated therewith.

(f) In respect of lot no. 341, estate Alice Maud Clemetson, the copy of Certificate of Title at Volume 1037 Folio 407 confirms that the lot was sold to Yvonne Finlayson in 2012 for \$3,300,000.00 and there has been no accounting to the Complainants) for this transaction and no payment made to them from the said transaction.

(g) In respect of Estate Clive Williams, the 3 parcels of land were sold in 2012 for a consideration money totalling \$1,200,000.00 and as far as the

Complainants) are aware there has been no accounting for these transactions from the Attorney to them or to the Executrix of the said estate Mrs. Williams. Copies of Certificates of title registered at Volume 1014 Folios 57, 58, and 59 confirm the sale of the parcels to Bradley Stewart et al.

(h) In respect of Estate Bernard Cridland, the two lots were transferred in 2012 to Lorris Barclay for a sale of price of \$3,100,000.00 which the Certificate of Title registered at Volume 1014 Folio 622 confirms

(i) To the best of the Complainant(s) knowledge the Executors of Estate Bernard Cridland have received no accounting from the Attorney for transactions in respect of any of the properties

(j) Up to the filing of the complaint against the Attorney by the Complainant(s) they received no documents from him nor any account relating to their matter which was verbally requested of him between 2006 - 2013.

(k) On the 28th October 2013 the Complainants authorized the Attorney in writing to deliver to their Attorney, Jennifer Rowe all files relating to Estate Alice Maud Clemetson as well as any relevant documentation, Certificates of Title and full accounting and proceeds of sale from the transactions to date.

(l) That letter of authorization was sent to the Attorney under cover of letter from Jennifer Rowe dated 28 October 2013 requesting that the Attorney let her know when it would be a convenient time to meet to receive from him the files and an account in respect of the estates.

(m) The Attorney did not act upon this request".

2. In its said Decision the Panel held as follows:

“The Panel finds that the Attorney is guilty of professional misconduct in that he has breached Cannon 1 (b), IV (r), IV (s) and VII (b) (ii) of the Legal Profession (Cannons of Professional Ethics) Rules; the Attorney failed to provide the Complainants with all information as to the progress of their business and deal with their business with due expedition.

In the performance of his duties, he has acted with inexcusable or deplorable negligence or neglect. He has failed to account to his clients for all monies in his hands for the account or credit of his clients.

From the sale of lot 341 - estate Alice Maud Clemetson, for \$3,300,000.00, 3 parcels of land - estate Clive Williams for \$1,200,000.00, 2 lots - estate Bernard Cridland for \$3, 100,000.00 there has been no accounting for the net proceeds to the Complainants or anyone else to the best of their knowledge.

The Attorney was engaged in or about 2004, and notwithstanding several requests made to him by the Complainants between years 2006-2013 for information as to the progress of their business or an accounting (save and except for lot 350, estate Alice Maud Clemetson in 2005) the Attorney has failed to so provide them.

The Attorney has failed to provide the Complainants with any explanation as to the reason(s) for the non-performance of his duties, and his contempt for the complainants and this Committee is palpable by given his him neglecting/refusing to file an Affidavit in response to their complaint”.

3. The Respondent attorney at law failed to attend the scheduled Sanction Hearing on 17 July 2020. On that said date the Panel noted from the affidavit of service that the Respondent was duly served. It therefore adjourned the matter for the delivery of the Sanction Decision.

4. This is an awful matter. Two elderly retired ladies had their trust abused. The respondent failed to account to the complainants for monies due to them. He failed to provide the Complainants with all information as to the progress of their business and deal with their business with due expedition. In the performance of his duties, he has acted with inexcusable or deplorable negligence or neglect.
5. Once again, this Respondent has been brought before The Disciplinary Committee on serious charges. He is a serial offender. He has already been struck from the Rolls.
6. There has been no known attempt by the Respondent to remedy or ameliorate his scandalous treatment of the complainants and their business affairs.
7. The Panel finds that there are no mitigating factors in this matter.
8. The Panel is reminded of the judgement in Bolton v Law Society (1994) 2 All ER 486. **“It is required of Lawyers practicing in this country that they should discharge their professional duties with integrity, probity and complete trustworthiness. That requirement applies as much to barristers as it does to solicitors. If I make no further reference to barristers it is because this appeal concerns a solicitor, and where a client’s moneys have been misappropriated the complaint is inevitably made against a solicitor, since solicitors receive and handle clients’ moneys and barristers do not. Any Solicitor who is shown to have discharged his professional duties with anything less than complete integrity, probity and trustworthiness must expect severe sanctions to be imposed upon him by the Solicitors Disciplinary Tribunal. Lapses from the required high standard may, of course, take different forms and be of varying degrees. The most serious involves proven dishonesty, whether or not leading to criminal proceedings and criminal penalties. In such cases the tribunal has almost invariably, no matter how strong the mitigation advanced for the solicitor, ordered that he be of the reasons why the tribunal makes orders which might otherwise seem harsh. There is, in some of these orders, a punitive element; a penalty may be visited on a solicitor who has fallen below the standards required of his profession in order to punish him for what he has done and**

to deter any other solicitor tempted to behave in the same way. Those are traditional objects of punishment. But often the order is not punitive in intention. Particularly is this so where a criminal penalty has been imposed and satisfied. The solicitor has paid his debt to society. There is no need, and it would primarily directed to one or other or both of two other purposes. One is to be sur that the offender does not have the opportunity to repeat the offence. This purpose is achieved for a limited period by an order of suspension; plainly it is hope that experience of suspension will make the offender meticulous in his further compliance with the required standards. The purpose is achieved for a longer period, and quite possibly indefinitely, by an order of striking off. The second purpose is the most fundamental of all; to maintain the reputation of the solicitors' profession as one in which every member, of whatever standing, may be trusted to the ends of the earth. To maintain this reputation and sustain public confidence in the integrity of the profession it is often necessary that those guilty of serious lapse are not only expelled by denied re-admission. If a member of the public sells his house, very often his largest asset, and entrusts the proceeds to his solicitor, pending re-investment in another house, he is ordinarily entitled to expect that the solicitor will be a person whose trustworthiness is not, and never has been, seriously in question. Otherwise, the whole profession, and the public as a whole, is injured. A profession's most valuable asset is its collective reputation and the confidence which that inspires"

9. The Panel finds that Respondent treated these two elderly complainants with cruelty and disdain. No attempt was made to inform them of the progress or otherwise of their business. Land was sold and there was no accounting as to the proceeds of sale. This was plainly wrong.
10. The Panel is aware of the duty of the General Legal Council to maintain the reputation of the profession and to sustain public confidence in the integrity of the members of the profession.
11. This Panel is obliged to act in the interest of the profession to ensure that the collective reputation of the profession is maintained. In these circumstances it cannot accede to the submission of the respondent through his Attorney-at-Law.

12. Taking all the circumstances of the case into account it is the Decision and Order of the Panel that the Respondent Gregory Lopez:

(1) Is ordered to pay costs in the amount of \$500,000.00 of which \$200,000.00 is to be paid to the Complainant and \$300,000.00 to the General Legal Council.

(2) The Respondent Gregory Lopez is struck from the Roll of Attorneys-at-Law entitled to practice in the several Courts of the Island.

13. Finally, the Panel apologises for the delay in the delivery of this judgment, and for the inconvenience that may have been caused by the delay.

DATED THE 27th DAY OF OCTOBER 2023.



WALTER H. SCOTT KC



CHARLES E. PIPER KC



MICHAEL THOMAS

