

**SANCTION DECISION OF THE DISCIPLINARY COMMITTEE OF
THE GENERAL LEGAL COUNCIL
COMPLAINT NO: 117/2024**

**IN THE MATTER OF ERIKA MARGE BIRGIT GERSTENBERG and
ANO MAGGIELIN MILLER SEWELL an Attorney-at-Law**

AND

IN THE MATTER OF THE LEGAL PROFESSION ACT, 1971

PANEL:

Trevor Ho-Lyn (Chairman)
Ursula Khan
Delrose Campbell

June 27 2025.

The Parties

1. ERIKA MARGE BIRGIT GERSTENBERG (hereinafter referred to as the “Complainant”)
2. ANO MAGGIELIN MILLER SEWELL (hereafter referred to as “the Attorney”)

1. On the 31st May 2025 this Panel rendered a decision finding that the Attorney was guilty of professional misconduct for breaching the following Canons :-
 - a. The Attorney has not provided me with all information as to the progress of my business with due expedition although I have reasonably required him to do so in breach of Canon 4 (r)
 - b. The Attorney has not dealt with my business with all due expedition in breach of . (Canon 4 (r)
 - c. The Attorney has not accounted to me for all monies in his hands for my account or credit, although I have reasonably required him to do so in breach of Canon VII (b) (ii)
2. In accordance with the Court of Appeal decision in **Owen Clunie v General Legal Council** in the Court of Appeal (**Misc. App No. 3 of**

2013, [2014] JMCA Civ 31) disciplinary proceedings under the Legal Profession Act now afford an opportunity to an Attorney to make submissions as to what in their opinion is the appropriate sanction in their case accordingly the matter was set for the 14 June 2025 to afford the Attorney such an opportunity.

3. The following decisions outline the principles applicable when a Panel is considering the appropriate sanction that is applicable to the factual circumstances before it.

4. *In Advinculav. Atty. Macabata, 546 Phil. 431, 447-448 (2007).the Court stated that the primary purposes of disciplinary proceedings are to protect the public; to foster public confidence in the Bar; to preserve the integrity of the profession; and to deter other lawyers from similar misconduct. Disciplinary proceedings are means of protecting the administration of justice by requiring those who carry out this important function to be competent, honorable and reliable men in whom courts and clients may repose confidence. While it is discretionary upon the Court to impose a particular sanction that it may deem proper against an erring lawyer, it should neither be arbitrary and despotic nor motivated by personal animosity or prejudice, but should ever be controlled by the imperative need to scrupulously guard the purity and independence of the bar and to exact from the lawyer strict compliance with his duties to the court, to his client, to his brethren in the profession and to the public.*
5. *In the course of its decision in **RE: SHOW CAUSE ORDER IN THE DECISION DATED MAY 11, 2018 IN G.R. No. 237428 (REPUBLIC OF THE PHILIPPINES, REPRESENTED BY SOLICITOR GENERAL JOSE C. CALIDA v. MARIA LOURDES P. A. SERENO)** the Court stated that "Indeed, "lawyer discipline not meant to punish; rather, its purpose is to protect clients, the public, the courts, and the legal profession." Conviction, punishment, retribution, much less,*

denigration have no place in administrative proceedings against lawyers.

6. *Further that the Respondent is reminded that the practice of law is neither a natural right nor a Constitutional right demandable or enforceable by law. It is a mere privilege granted by this Court premised on continuing good behavior and ethical conduct, which privilege can be revoked or cancelled by this Court for just cause.*

7. The Panel finds that this is an accurate statement of the principles relevant to the imposition of sanctions for misconduct by members of the Bar. In applying these principles to the case before us the Panel noted the following facts :-

(a) The payment of the funds in this matter occurred in March 2024 to date these funds have not been accounted for.

(b) This complaint was filed on the 8th July 2024. Although required by law to file an affidavit in response the Attorney has not done so. After the delivery of its decision on the 31st May 2025 the matter was set for a sanction hearing on the 14 June 2025. On the date of the sanction hearing the Attorney attended and was represented by Counsel who instructed the Panel that he was holding for Mr. Keith Bishop and wished to be given the opportunity to make submissions relating to setting aside the decision. To facilitate this the Panel adjourned the matter to the 21 June 2025 and allowed for submissions to be filed on the 20th June 2025. Submissions were filed as ordered and on the 21 June 2025 the Attorney attended accompanied by another Counsel who had just been retained on the morning of the 21 June 2025. The Panel reviewed the submissions which relied on the Court of Appeal decision in the GLC v Georgette Scott case. There was however a fundamental distinction between the matter at hand and the case cited in support of the submissions namely that in the Scott case a proper medical certificate had been tendered in support for the absence of the appellant while in the case at Bar there was NO medical certificate tendered. Based on this distinction the application for a rehearing was refused and on the application of Counsel for the Attorney which had the consent of Counsel for the Complainant the matter was further adjourned to the 27 June 2025 for submissions to be made regarding the sanction to be imposed.

8. On the 27 June 2025 the Attorney attended with her Counsel and after hearing submissions by counsel for the Attorney and counsel for the complainant the Panel took time to consider its decision. The Panel determined that in this case the aggravating factors far outweighed the mitigating factors. The submissions of Counsel for the Attorney focussed on the personal circumstances of the Attorney and made absolutely no reference to the subject matter that caused the complaint. As a result these submissions did not assist the Panel in any significant way.
9. A review of previous decisions of the Disciplinary Committee in complaints concerning the misappropriation of clients funds by an attorney have almost inevitably resulted in the most severe sanction being imposed on the attorney.
10. On the 18th March 2022 the Court of Appeal rendered a decision in the case of *Minnett Lawrence v GLC* in which they reminded us that the absence of fraud and/or dishonesty does not by itself remove the possibility of the sanction of striking off. At paragraph 146 the Court *stated The STD Guidance Note, which is informed by these cases, also states at para. 56 that striking off can be appropriate where in the absence of dishonesty, the seriousness of the misconduct is itself very high; and the departure by the attorney from the required standards of integrity, probity and trustworthiness is very serious. An overall look at the totality of the misconduct is necessary.*

Further in support of the decision the Court made reference to the following case and the dicta therein. In *The Law Society (Solicitors Regulation Authority) v Ambrose Emeana and others* [2013] EWHC 2130 (Admin), Moses LJ helpfully stated at paras. 25 and 26 that:

"25. I did not find this process of assistance. Of course, the disciplinary tribunal must strive for consistency. But uniformity is not possible. The sentences imposed are not designed as precedents. The essential principle is that which was identified by Sir Thomas Bingham MR in Bolton v Law Society [1994] 1 WLR 1286. The profession of solicitor requires complete integrity, probity and trustworthiness. Lapses less serious than dishonesty may nonetheless require striking off, if the reputation of the solicitors' profession "to be trusted to the ends of the earth" is to be maintained.

26. The principle identified in Bolton means that in cases where there has been a lapse of standards of integrity, probity and trustworthiness a solicitor should expect to be struck off.

Such cases will vary in severity. It is commonplace, in mitigation, either at first instance or on appeal, whether the forum is a criminal court or a disciplinary body, for the defendant to contend that his case is not as serious as others.

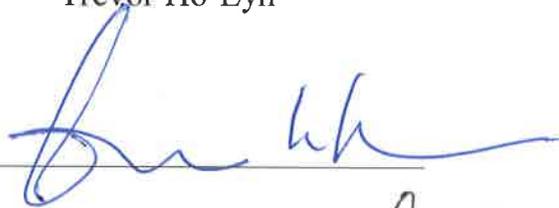
That may well be true. But the submission is of little assistance. If a solicitor has shown lack of integrity, probity or trustworthiness, he cannot resist striking off by pointing out that there are others who have been struck off, who were guilty of far more serious offences. The very fact that an absence of integrity, probity or trustworthiness may well result in striking off, even though dishonesty is not proved, explains why the range of those who should be struck off will be wide. Their offences will vary in gravity. Striking off is the most serious sanction but it is not reserved for offences of dishonesty." (Emphasis added)

11. In this complaint the actions of the Attorney has severely damaged the reputation of Attorneys it will cause the general public to become distrustful of the profession accordingly it falls into the most egregious type of conduct by an attorney.
12. After due consideration of all the circumstances of the complaint the Order of the Panel is therefore as follows:-
 1. Pursuant to section 12(4) (a) of the Legal Profession Act The Respondent Attorney ANO MAGGIELIN MILLER SEWELL is struck from the Roll of Attorneys-at-law entitled to practice law in the several courts of the island of Jamaica for misappropriating funds entrusted to her by the Complainant which should have been paid to the Vendor pursuant to a sale.
 2. Pursuant to section 12(4) (g) of the Legal Profession Act pay to the Complainant by restitution the sum of Thirty Seven Million Three Hundred and Ninety Two Thousand Dollars (\$37,392,000.) to be paid forthwith from the date of this decision.

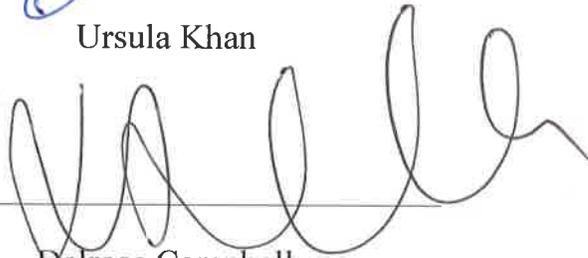
3. Pursuant to section 12(4) (h) the Attorney is to pay the sum of Two Hundred Thousand Dollars (\$200,000.00) in costs. These costs are to be divided equally between the Complainant and the General Legal Council being One Hundred Thousand Dollars (\$100,000.00) to each.



Trevor Ho-Lyn



Ursula Khan



Delrose Campbell