IN THE SUPREME COURT OF GRENADA
AND THE WEST INDIES ASSOCIATED STATES
HIGH COURT OF JUSTICE

GRENADA

CLAIM NO. GDAHCV2007/0237

BETWEEN:

JOEL GANPOT

Claimant

and

BRENDA WARDALLY-BEAUMONT

Defendant

Before:

The Hon. Mr. Justice Raulston L. A. Glasgow — High Court Judge
The Hon. Mde. Justice Victoria Charles-Clarke — High Court Judge

Appearances:

Mr. Alban John for the Claimant
Dr. Francis Alexis, KC with him Mrs. Winnifred Duncan Phillip for the Defendant

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2022: July 8;
September 15; (Closing submissions)
November 15.

DECISION

[1] **GLASGOW, J.** and **CHARLES-CLARKE, J.:** These proceedings concern whether there is reasonable cause to discipline Brenda Wardally-Beaumont, (Ms. Beaumont), attorney-at-law, pursuant to section 82 of the West Indies Associated States Supreme Court (Grenada) Act[1] hereinafter ("the Supreme Court Act").

[1] Cap. 336 of 2010 Continuous Revised Edition of the Laws of Grenada

Background

[2] Ms. Beaumont is an attorney-at-law who practices before the Supreme Court of Grenada. In or about April 1999, Ms. Beaumont, represented Mr. Joel Ganpot in matrimonial proceedings[2]. As part of ancillary relief proceedings brought further to the matrimonial proceedings, Mr. Ganpot was ordered to transfer his interest in the matrimonial home at True Blue in the parish of Saint George to his former wife, Mrs. Lester Ganpot. The house was valued in the sum of $304,419.99.

[3] In April 2005, Ms. Beaumont, as attorney for Mr. Ganpot, received the sum of $304,419.99 on his behalf which represented monies he was entitled to as part of the settlement of the ancillary relief proceedings. Between the period June 2006 and June 2007, Mr. Ganpot caused letters to be sent to Ms. Beaumont demanding payment of the settlement sum. However, Ms. Beaumont failed to pay the settlement sum as demanded.

[4] On 5th June 2007, approximately two years after Ms. Beaumont received the above monies, Mr. Ganpot filed a claim against Ms. Beaumont seeking payment of the sum of $304,419.99 together with interest and costs. On 13th July 2007, judgment in default of defence was entered for Mr. Ganpot against Ms. Beaumont in the sum of $308,248.69. Thereafter, Ms. Beaumont applied to set aside the default judgment. On 3rd October 2007, Master Cheryl Mathurin refused the application to set aside the default judgment and awarded Mr. Ganpot $600.00 in costs.

[5] Between the period 4th October 2007 and January 2009, Ms. Beaumont made sporadic payments towards the judgement debt. On 13th January 2009, a consent order was entered before Cumberbatch J. His Lordship ordered that: "*[t]he Defendant is to pay the sum of $10,000.00 every quarter until judgment in the sum of $300,971.11 together with all costs awarded to the Claimant and interest at 6% per annum is paid in full, commencing the 30th day of April 2009*".

[2] Suit No. 37 of 1999 between Joel Ganpot and his former wife, Lester Ganpot.

[6] On 19th March 2014, Mr. Ganpot applied to the court for an order of contempt against Ms. Beaumont and for the determination of whether Ms. Beaumont ought to be suspended from the practice of law or whether she ought to be struck off from the court's roll as an attorney-at-law. The application was heard before Wallbank J in December 2014. In his written judgment dated 26th January 2015, Wallbank J ordered, among other things, that

> "1. The whole conduct of the Defendant relating to this matter shall be considered by a disciplinary tribunal comprising at least two judges of the Supreme Court for the purpose of determining whether the Defendant shall be suspended from practicing for a specified period or be struck off from the Roll, pursuant to section 82 of the West Indies Associated States Supreme Court (Grenada) Act, Cap 336.
> 2. There shall be established such a disciplinary tribunal by the Registrar, in consultation with the Judicial and Legal Services Commission..."

[7] A tribunal comprising two judges was appointed by the Honourable Dame Janice Pereira, Chief Justice and Chairman of the Judicial and Legal Services Commission to consider the matters referred by Wallbank J in his judgment. To date, the entire judgment debt inclusive of interest has not been satisfied by Ms. Beaumont.

Evidence

[8] By order of the tribunal dated 27th October 2021 Mr. Ganpot and Ms. Beaumont were directed, among other things, to file affidavit evidence in these proceedings and to file and exchange written submissions.

[9] On 14th January 2022, Rolda Clifford, tendered affidavit evidence on behalf of Mr. Ganpot wherein she avers that –

(1) She is the sister of Mr. Ganpot.
(2) Mr. Ganpot was previously represented by Ms. Beaumont in matrimonial proceedings. Ms. Beaumont received the sum of $304,419.99 on his behalf as his share of the former matrimonial property;

(3) The entire sum of $304,419.99 was misappropriated by Ms. Beaumont and applied for her own purpose;

(4) In July 2007, default judgment was entered against Ms. Beaumont for the sum of $308,248.69 in relation to the monies counsel received on behalf of Mr. Ganpot.;

(5) In February 2009, by virtue of a consent order, Ms. Beaumont was ordered to pay quarterly sums of $10,000.00 towards the judgment debt. However, to date, Ms. Beaumont has only paid the sum of $205,573.00 inclusive of interest, leaving a balance of $332,790.63;

(6) Notwithstanding the above, Ms. Beaumont has breached further orders of the court, including an order made by Mohammed J on 26th February 2013 ordering Ms. Beaumont to pay the sum of $104,000.00 being arrears on the judgment debt by monthly instalments of $2,000.00 in addition to the order to pay $10,000.00 every quarter pursuant to the consent order. Ms. Beaumont has not complied with those orders of the court;

(7) By application filed on 19th March 2014, Mr. Ganpot applied to the court for consideration of the issue of whether Ms. Beaumont should be suspended from practice or struck off the court's roll. Wallbank J in his judgment dated 26th January 2015 ordered, among things, that Ms. Beaumont's conduct be considered by a disciplinary tribunal;

(8) In or about the month of April 2016, Ms. Beaumont acquired 3 acres of land situate at Claboney Estate, Saint Andrew for the purchase price of $28,000.00 which is evidenced by a conveyance dated 21st April 2016 between Joyle Urias Taylor and Ms. Beaumont. On 13th May 2016, Ms. Beaumont conveyed that property by way of gift to Lorna Marcelle and Kimberly Nathaniel (both minors), holding a life interest in the property;

(9) In April 2020, Ms. Beaumont executed a supplemental deed of gift of the property. In that supplemental deed, the name Lorna Marcelle was removed as grantee and substituted with the names of Kathlyn Williams and Briggetta Baker, who are children of Ms. Beaumont, as grantees;

(10) Thereafter, Ms. Beaumont built a house on the property and currently resides there;

(11) Ms. Beaumont has not shown or expressed any contrition for misappropriating the monies belonging to Mr. Ganpot;

(12) In the circumstances, she is of the view that Ms. Beaumont ought to be struck off the court's roll or at the very least suspended for a period of no less than five years.

[10] Ms. Beaumont, in her affidavit filed on 14th January 2022, deposes that:

(1) She is attorney-at-law and is 71 years of age.

(2) She represented Mr. Ganpot, in her professional capacity, in a matrimonial matter. Her firm received a sum of money as settlement in his ancillary matter on behalf of Mr. Ganpot;

(3) She finds herself in a position where is she unable to hand over the amount she received despite Mr. Ganpot's demand since she discovered that the majority of the money she deposited into her client's account is not there;

(4) With respect to the deposit of the money, she did not personally deposit the money into her client's account at Republic Bank. She says that it was the responsibility of one Patricia Cadore Charles, (Ms. Charles), who was, at the time, the office administrator in her firm, to deposit monies into the client's account and to distribute monies to clients;

(5) When she made inquiries into her client's account she discovered that the balance was insufficient to make the payment to Mr. Ganpot and as a result she decided to trace where the funds went. She avers that this was not the first occasion that client's money went missing from her office;

(6) She recalls that on a previous occasion she obtained a loan for $30,000.00 to cover a deficit when a similar situation occurred. On this occasion the amount was larger. She accepts that all cheques cleared from her client's account included her signature;

(7) She accepts that she is fully responsible for her client's monies and that the responsibility cannot be delegated. Therefore, she agreed to pay Mr. Ganpot the outstanding sum by way of quarterly payments of $10,000.00;

(8) In May 2009, she suffered a brain aneurism and was admitted to St. George Hospital in London, England on 12th June, 2009;

(9) Whenever she travelled abroad she left signed open cheques and blank signed letterheads, forms and other documents in Ms. Charles' custody;

(10) Upon her return to Grenada she discovered that Ms. Charles used monies not related to the firm;

(11) In April 2010, she resumed payments to Mr. Ganpot, however, she claims that business was slow. Thereafter, Ms. Charles left her law firm to migrate to the United States of America. Upon Ms. Charles' departure from the firm, she discovered further discrepancies in the finances of the firm and claims that Ms. Charles was collecting monies from clients which were never deposited into the clients' account;

(12) She received an outstanding payment in a matter and decided to purchase property which she describes as "mountain land" for $28,000.00. Thereafter, she built a home on the property and began residing there on 31st December 2016;

(13) To date, she has paid Mr. Ganpot the sum of $206,773.30 and gives an assurance that she will pay the debt owing to him;

(14) At the hearing, Ms. Beaumont tendered evidence that she paid the sum of $46,000.00 in March 2022 and $17,000.00 on 23rd April, 2022;

(15) She has paid a high price for her error and denies personally profiting from any of Mr. Ganpot's funds. Therefore, she urges the tribunal not to disbar her from the legal profession.

Legal Submissions

Mr. Ganpot's submissions

[11] Mr. Alban John, counsel for Mr. Ganpot, filed written submissions on 17th February, 2022 and 5th September, 2022. Mr. John submits that attorneys-at-law are officers

of the court by virtue of section 81(1) of the Supreme Court Act. Therefore, the court is enjoined to enquire into the conduct of its officers. The court, he says, also as an inherent power to adjudicate on the conduct of its officers and to discipline attorneys-at-lawpursuant to section 40 of the Legal Profession Act.

[12] With respect to the duties of an attorney-at-law, Mr. John relies on section 2(2) of the Code of Ethics of the Legal Profession Act which imposes a duty on an attorney – at - law"*to maintain his integrity and the honour and dignity of the legal profession and of his own standing as a member of it...and to refrain from conduct which is detrimental to the profession, or which may discredit it.*" Further, Mr. John refers the tribunal to section 20(2) of the Code of Ethics which states that "*[a]n attorney-at-law shall always act in the best interest of his client...and...to obtain for him the benefit of any and every remedy...*" Additionally, counsel refers the tribunal to sections 54(1), 64, 81, 82(1) and 84 of the Code of Ethics which concern the duties of attorneys with respect to finances and professional conduct. Counsel submits that as a matter of law, the courts have consistently treated misappropriation of client's funds as egregious conduct warranting dire sanctions. Such conduct, Mr. John continues, betrays the very oath taken by the attorney and brings the profession into disrepute.

[13] Mr. John also makes reference to the case of **Re Clarke**[3], where the court opined that the seriousness of the attorney's conduct must be reflected in the sanction imposed. Simmons CJ stated at paragraph 43 of the judgment that –

> "Secondly, this court has an inescapable duty to protect the public interest. The public must not be led to believe that misappropriation of clients' funds and failure to honour promises to repay are matters to be tolerated. In paying due regard to the public interest, it is important that punishment be appropriate and proportionate. In our view, the protection of the public requires a penalty whose objectives include specific and general deterrence and whose imposition gives an assurance to the public that certain misconduct by attorneys at law will be met with appropriate sanctions. Mr Clarke's misconduct seems to us to be altogether more serious than the

[3] (2008) 73 WIR 43

misconduct in the cases cited by Ms Brathwaite and warrants a more severe penalty."

[14] Similarly, the court in **Faelleseje A Private Danish Foundation v Othniel R. Sylvester**[4] opined that –

> "In the present case, we consider the professional misconduct to be grossly reprehensible and falls at the highest level of the scale. The conduct of the Respondent has been so grossly improper that severe penalties are in order. The Respondent is a very senior practitioner from whom much was expected. The amount of money involved is considerable and the Applicant has been deprived of its use for an extended period. Misconduct involving the use of clients' money is not to be tolerated. No contrition has been forthcoming from the Respondent but rather the allegations have been stoutly defended."

[15] In respect of the standard of proof in these proceedings, Mr. John submits that it is a criminal standard of proof and that proof must be beyond a reasonable doubt. Counsel accepts that the burden of proof rests on Mr. Ganpot to prove the alleged infractions in this case. Mr. Ganpot insists that Ms. Beaumont did misappropriate the settlement funds that she received on his behalf. Having regard to the provisions of the Code and the Legal Profession Act, Mr. Ganpot's case is that this misappropriation constitutes fraudulent breach of trust and professional misconduct. It only remains, counsel says, for the tribunal to determine the level of sanction which ought to be imposed on Ms .Beaumont.

Ms. Beaumont's submissions

[16] Counsel for Ms. Beaumont, Ms. Winnifred Duncan Phillip, argues[5] that the main issue in this case is whether Ms. Beaumont's conduct warrants disciplinary action by the tribunal and if so, what sanction should be imposed. Counsel concedes that Ms. Beaumont's inability to repay Mr. Ganpot when called upon to do so, attracts rules 81 and 84 of the Code of Ethics which state:

"Rule 81:

[4] (Saint Vincent and the Grenadines) Claim No.86A of 2004 at para. 82
[5] Written ssubmissions filed on 3rd March 2022

> In pecuniary matters, an attorney-at-law shall be most punctual and diligent; and shall never mingle funds of others with his own, and he shall at all times be able to refund money he holds for others."

"And rule 84:

> A breach by an attorney-at-law of any of the provisions contained in this Part, shall constitute professional misconduct, and an attorney-at-law who commits such a breach, is liable to any of the penalties which the Council, the Court, or both are empowered to impose."

[17] It is Ms. Beaumont's case that her former office administrator one Patricia Cadore Charles was the sole person authorised by her to deposit and distribute monies to clients. Ms. Beaumont stated that after she made enquiries to trace the missing monies, she concluded that someone in the bank was pilfering her funds. Ms. Beaumont avers that over the years there have been many discrepancies with respect to the firm's finances. She admits that "*I know that I am responsible for Client's monies and any failure cannot be delegated*[6]. "*I know that this situation is my fault*[7]". Further, Ms. Beaumont claims that she became ill sometime in May 2009 and was unable to consistently meet the payments toward the judgment debt.

Discussion and analysis

The court's power to discipline lawyers

[18] It is well-established under the common law that judges have the jurisdiction to supervise and control the conduct of attorneys at law which jurisdiction includes the power to discipline attorneys for breaches of their duties and responsibilities as officers of the court. Byron CJ in **Hansraj Matadial v John Bayliss Frederick**[8] at paragraph 3 of the judgment, had this to say:

> "Historically the Judges in England had the right at common law to determine who should be admitted to practice as barristers and solicitors;

[6] Para. 15 of the Affidavit of Brenda Joan Wardally-Beaumont filed on 14th January 2022
[7] Para. 25 of the Affidavit of Brenda Joan Wardally-Beaumont filed on 14th January 2022
[8] St. Vincent and the Grenadines Civil Appeal No. 23 of 2001

> **and, as incidental thereto, the Judges had the right to suspend or prohibit from practice.** In England this practice has been delegated so far as barristers are concerned, to the Inns of Court and so far as Solicitors are concerned to the Law Society. In the British Colonies, there were no Inns of Courts and as an essential requirement of the Administration of Justice **the Judges retained the same powers in their own hands**[1]." (Our emphasis)

[19] In Grenada, the courts' common law powers to regulate the conduct of lawyers and specifically discipline them for the breaches of their duties have been codified under statute by virtue of section 82 of the Supreme Court Act which states-

> "82. Barristers and solicitors may be suspended or struck-off the roll. Any two Judges of the High Court may, for reasonable cause, suspend any barrister or solicitor from practising in Grenada during any specified period, or may order his or her name to be struck-off the Court Roll."

[20] Section 82 of the Supreme Court Act prescribes that any two judges of the High Court are empowered to form a disciplinary tribunal to determine whether there is reasonable cause to discipline an attorney. Although the provisions of the Supreme Court Act are silent on how that discretion must be exercised, section 82 is premised on there being "reasonable cause" to discipline the attorney. Further, the tribunal notes that the Supreme Court Act does not speak to procedures to initiate and conduct disciplinary proceedings pursuant to section 82 of the Supreme Court Act as is the case in some ECSC jurisdictions such as St. Vincent and the Grenadines. The tribunal is of the view that Grenada ought to expedite the process of enacting procedural rules to govern the section 82 process. Notwithstanding the absence of procedural rules the common law jurisdiction of the courts to discipline lawyers may be invoked by a judge, acting on his or her own initiative or on information that has come to the judge's attention or further to the referral from another judge.

[21] The above learning was elucidated by the Privy Council in **Attorney-General of The Gambia v N'jie**[9], where the court stated at page 509 of the judgment that-

[9] [1961] 2 All ER 504

> "When the judges exercise this power to suspend or expel, they do not decide a suit between parties. There is no prosecutor as in a criminal case, nor any plaintiff as in a civil suit. **The judges usually act on their own initiative, ex mero motu, on information which has come to their notice, or to the notice of one or other of them in the course of their duties;** as in *R v Southerton* ((1805), 6 East, at p 143) and *Har Prasad Singh v Judges of Allahabad High Court* ((1931), LR 58 Ind App at p 154)." (Our emphasis)

[22] The legislature of Grenada has also enacted laws in respect of the matters related to the legal practitioners. The Legal Profession Act, Cap. 167A of the laws of Grenada (the Act) states in its short title that it is enacted **"...to provide for the regulation of the legal profession, for the qualification, enrolment and discipline of its members...".** That Act encodes its own prescriptions and processes for the discipline of legal practitioners, among other matters. See Part V of that Act and in particular sections 33 to 39 for the rules that govern the professional conduct of attorneys at law and the procedures to initiate and conduct disciplinary proceedings for breaches of the ru es of appropriate conduct. In section 40 of the Act, however, the legislature acknowledges and recites the aforestated common law jurisdiction of the court to discipline its officers which power, as we have stated above, is now codified in section 82 of the Supreme Court Act. Section 40 of the Legal Profession Act states the following-

> "Notwithstanding anything contained in this Act, the jurisdiction, power and authority vested in any Court immediately before the commencement of this Act—
> (a) **by the common law, with respect to the discipline of**; or
> (b) by any written law, to deal with contempt of court committed by, **barristers, solicitors or attorneys-at-law, shall continue to be exercisable after the commencement of this Act.**" (Our emphasis)

[23] As we have noted above, these proceedings are being conducted further to the referral by our colleague Wallbank J on 26th January, 2015. As elucidated by the Privy Council in **Attorney-General of The Gambia v N'jie**, such a referral is consistent with the powers of the court to empanel this tribunal "... on information which has come to their notice, **or to the notice of one or other of them in the**

course of their duties." (Our emphasis). We observe that the legislature of Grenada has empowered the General Legal Council (GLC), a body established under the Legal Profession Act, to also discipline attorneys at law who are registered to practice in Grenada. See section 37 of the Act. Where, however, the GLC has heard an allegation made against an attorney at law and finds that the allegation is not only made out but warrants a sanction which is beyond the jurisdiction of the GLC, such as removal from the roll of lawyers, the GLC is required to refer the matter to the Supreme Court to be dealt with in accordance with the procedure set out in section 82 of the Supreme Court Act.

[24] The tribunal is of the view that notwithstanding the provenance of the referral, and in this case, it emanated from our esteemed colleague Wallbank J, we are required to consider whether reasonable cause has been shown to warrant either the suspension or removal of Ms. Beaumont from the practice of law in Grenada. We also agree with counsel Mr. John that the standard of proof to be applied is the criminal standard of proof in that the allegations must be proven beyond a reasonable doubt. See Byron CJ in **Faelleseje A Private Danish Foundation v Othniel R. Sylvester** at paragraph 43.

Manner of exercising the court's powers to discipline lawyers

[25] It is by now clear that the court will exercise the aforestated common law and/or statutory supervisory and disciplinary jurisdiction over attorneys at law to ensure that they maintain the highest fidelity to the codes of ethics, mores and values of the profession. As was said in **Re Grey**[10]**:**

> "... the Court has a punitive and disciplinary jurisdiction over solicitors, as being officers of the Court, which is exercised, not for the purpose of enforcing legal rights, but for the purpose of enforcing honourable conduct on the part of the Court's own officers. That power is distinct from any legal

[10] [1892] 2 QB 440 at 443

rights or remedies of the parties ... the Court has a right to see that its own officer does not act contrary to his duty."

[26] We also adopt the salutary words of the Court of Appeal in **Re Fields**[11] at paragraph 72 that-

> "[P]ivotal to this court's duty is the need to protect the public and to maintain trust and confidence in the legal profession. The enforcement of the rights of the client is a further consideration."

[27] We observe, in this regard, that the sums in question in this case are quite substantial but we take the view, as did the court in **Re Fields** at paragraph 63, that "*.neither the amount of money nor the use to which it was put is a consideration which should detain this court in its determination of the appropriate discipline to be applied."* And at paragraph 70, where the court in **Re Fields** continued –

> "[W]hat is clear from **Re Hayes** and **Re Browne** is that the court does not concern itself with what happened to the money entrusted to the attorney by the client. All that is necessary, as Douglas CJ pointed out, is to show that the attorney is either unwilling or unable to repay the money. Hence it is irrelevant that Mr. Fields used the money for his own personal use."

[28] Clearly, the more serious the departure from the standards expected of counsel, the more severe the sanctions that must be imposed to express the court's disapproval of the inappropriate, unprofessional and/or unethical practice exhibited by the legal practitioner. We will consider this latter aspect in our discourse on sanctions, if necessary.

Discourse on the law as applied to the facts in this case

[29] As a starting point, we remind ourselves that this entire affair centres on the failure of an attorney-at-law to hand over funds received on behalf of a client to that client. For the reasons to follow, we do not find that the attorney-at-law has provided any plausible, adequate, credible or satisfactory evidence or reasons to overcome Mr.

[11] (2015) 87 WIR 68

Ganpot's contention that she misappropriated those funds for her own use. Attorneys-at-law are to be held to the highest standards of rectitude in the exercise of their duties both to the court and to their clients. The Act and its attendant Code of Ethics mandate no lesser standard. Indeed, one of its dictates stipulates that counsel holds all moneys received for a client on trust for that client. See section 54 of the Act. Further, section 54(2) of the Act enjoins the GLC to -

> "...make rules generally, as to the keeping and operating of bank accounts for clients' money by an attorney-at-law, and without prejudice to the generality of the foregoing, such rules may provide—
> (a) for an attorney-at-law to open and keep accounts at banks;
> (b) for an attorney-at-law to keep accounts containing particulars and information as to money received, held, or paid by them for, or on accounts of their clients; and
> (c) for the Council to take such action as may be necessary, to enable it to ascertain, whether or not the rules are complied with"

[30] The tribunal has not been pointed to any rules made by the GLC pursuant to its section 54(2) powers. If this is indeed the case we believe that the facts of this case graphically and in some sense tragically, highlight the need for such rules to be put in place and enforced by the GLC.

[31] Notwithstanding the absence of the procedural rules stated in section 54(2) of the Act, the Code of Ethics in the Third Schedule sets out the applicable imperatives with respect to client's funds. In this regard sections 64, 81 and 82(1) read as follows:

> "64. An attorney-at-law shall not retain money he receives for his client, longer than is absolutely necessary"
> 81. In pecuniary matters, an attorney-at-law shall be most punctual and diligent; and shall never mingle funds of others with his own, and he shall at all times be able to refund money he holds for others.
> 82. (1) An attorney-at-law shall keep such accounts as clearly and accurately distinguished, the financial position between himself and his client, as and when required."

[32] Misappropriation or mishandling of a client's funds is a self-evidently egregious violation of the ethics and high moral standards of the profession. It is a breach of the considerable faith placed by clients in the awyers and in our system of justice.

The mandate of our system of justice to aid in the maintenance of the rule of law in our societies is thrown into question when the public loses faith in the way judges and other constituent members of the legal profession conduct the business that the public places into our hands. In addition, there is no discounting the incalculable hurt, pain and possible financial displacements that a client may encounter when they are out of their funds to conduct their affairs. In **Re Fields** for instance, the client was an elderly lady who raised funds to purchase a home in Barbados to which she hoped to retire. While we as judges and lawyers lament a lawyer's misconduct in respect of client's money, we must never lose sight of the fact that these misdeeds of lawyers have a severely adverse effect on people in their daily lives.

[33] In this regard we borrow from the words of our distinguished colleague Wallbank J where he observed in his referral to us that –

> "Misappropriation of client funds can take many forms. All such forms are seriously egregious. They cause scandal, incalculable distress and anxiety to the immediate victims, and great harm to the administration of justice system, including to public confidence in the Courts and the legal profession. Misappropriation of client funds is not the preserve of the thoroughly devious, which is why instances undermine the reputation of the legal profession so profoundly. They breach the tenet around which the entire civil administration of justice revolves, that client funds are sacrosanct.
>
> Why misappropriation of client funds is so serious bears reflection. The first reason of course is the immediate harm it causes. Then there is the indirect damage that it does to the fabric of society as a whole. It constitutes a breach of contract, but is more than that. It is a breach of trust, but is also more than that. Breaches of contract and trust can be, and unfortunately are, committed by tradesmen, businessmen and ordinary members of the public, but a solicitor is none of these. He or she practices pursuant to an oath that he or she professes upon admission. That is why a solicitor is referred to as a professional, in the original and etymologically correct sense of the word. Misappropriation of client funds is a betrayal of the obligations freely assumed, for all time, when the solicitor takes the oath."

[34] With regard to the facts in this case, there are some stark matters arising immediately. Firstly, apart from Ms. Beaumont's evidence that she made enquiries into her clients' account and conducted searches, to date, there is no evidence as to the nature of those searches, what they entailed and the evidence as what to the searches purportedly unearthed. We have cited the Code of Ethics that enjoined counsel to maintain separate accounts for the funds that she received on Mr. Ganpot's behalf. Besides her viva voce evidence we have not had sight of any evidence that she maintained any such account and as to whether her funds were or were not comingled with the client's funds. Significantly, as we have stated above, the missing funds amounted to quite a lot of money. Therefore, if counsel's assertions about the theft of the funds are true then one would have anticipated that counsel would have engaged the police, the Financial Intelligence Unit or even auditor to trace the allegedly missing monies belonging to her client. Ms. Beaumont's suspicion that someone from her bank stole monies from her client's account or that Ms. Charles was collecting monies on the firm's behalf, but not depositing them into the client's account are serious allegations. Any reasonable and diligent attorney -at -law would have conducted an audit or involve the relevant authorities to investigate and account for the missing monies. As we have said before, this evidence besides being unsupported is also palpably incredible.

[35] Further, Ms. Beaumont by her own evidence at paragraph 6 of her affidavit avers that a similar incident had previously occurred at her firm. In view of her sections 81 and 84 obligations set out in the Code of Ethics and in light of this previous incident, it was incumbent on Ms. Beaumont to put proper measures in place to mitigate against these losses or theft of client's funds. Again, no evidence was led with respect to what mechanisms were in place to safeguard her client's monies. Indeed, Ms. Beaumont astonishingly admits that "*I now know that a due diligence search and comparative accounting if conducted over the years could or would have disclosed discrepancy [sic]*[12]."

[12] Para. 24 of the Affidavit of Brenda Joan Wardally-Beaumont filed on 14th January 2022

[36] We also find it extra ordinary that counsel testified that she only discovered what happened to Mr. Ganpot's moneys after Ms. Charles left her office in 2010. Counsel was paid this money on her client's behalf in 2005. This would mean that the client was "knocking" on counsel's door for 5 years for his money before counsel "discovered" where the money had allegedly gone. What exactly did counsel tell him in that period about the location of his money? Incredibly, if one is to believe counsel's story then the discovery of what happened to the money occurred after Mr. Ganpot was constrained to file a claim for his money (June 2007), after he had obtained judgment (July 2007) and after the consent order was obtained further to enforcement proceedings (February 2009). If we are to believe counsel's version of what happened to the money, we find this indisputable evidence of a beyond grossly negligent disposition to client's funds. We however find counsel's account of the missing funds incredible and rather indicative of the evidence that the funds were misappropriated by counsel.

[37] We could find no greater evidence that counsel not only wantonly and callously mishandled client's funds but also misappropriated same than when we examine the evidence with respect to the purchase of land in 2016. There was, in our view, a deliberate and dishonest effort to conceal this transaction. We can only surmise, and we believe rightly so, that counsel sought to hide this transaction from the client to whom she owed moneys. We already above in this ruling recited the facts about the purchase of this land. But suffice it to say, that the land was bought in April 2016 in counsel's name, then transferred into the names of 2 individuals bearing relations to counsel in May 2016 with counsel holding a life interest in the property. One of the individual's names was eventually removed. Counsel raised sums and built a house on the land in which she now resides. Even if this was not a rather sloppy attempt to conceal this transaction then we are solidly convinced that the transaction itself shows Ms. Beaumont's disregard for her obligations to her client. This is since these facts make nonsense of counsel's assertion of impecuniosity and difficulties over the years to pay Mr. Ganpot his money. We do express great sympathy for counsel for the period in 2009 in which she ailed and had to seek medical assistance

overseas. But it is clear to us that by 2016 counsel, by her own evidence, was in a more than adequate financial state to purchase or to raise moneys to purchase property for her own purposes.

[38] Interestingly and instructively, we observe that counsel was engaged in obtaining property and attempting to conceal her efforts to do so in the year 2016. This year is significant since counsel would have been aware that Justice Wallbank had only one year earlier in 2015 referred her conduct to a disciplinary tribunal for possible sanctions of suspension or removal from the roll of attorneys. Yet she proceeded in 2016 with no regard to the looming threat of severe sanctions to purchase property for own benefit with funds that could or ought to have been paid to her client to liquidate the long outstanding debt owed to him. Meanwhile her client was left to make several applications to the court to receive his moneys and implore counsel over the period of 17 years for his money.

[39] Tellingly, we note further that while counsel has stated in submissions to the court that she accepts responsibility for this entire scrdid affair, her own evidence, just like in **Re Fields**, seeks to place the blame entirely elsewhere. We do take cognisance of the fact that some efforts have been made in a sporadic manner to pay back the considerable sums due which have now accumulated interest. However, while the large quantum of the misappropriated sums may compound matters as the court found in **Othniel Sylvester**, as we have stated above, we are tasked with looking not merely at the quantum of the sums in question but at the conduct of the lawyer. All in all, we do not believe that counsel maintained the highest values of the profession with respect to Mr. Ganpot's money. We do not accept that a credible or an accurate or satisfactory account has been given to us as to what transpired with those funds. We are inclined to the view and indeed so find that the confluence of evidentiary matters suggests that the funds were misappropriated by counsel. We find that, as found by Wallbank J, this was not the first instance of counsel's wanton disregard for the interest of her client's money. This clearly indicates a pattern of inappropriate, incompetent and/or dishonest behaviour by counsel with respect to

client's funds. The finding of egregious professional misconduct is therefore made out in this case.

What is the appropriate sanction?

[40] We are now to consider the sanction warranted in the circumstances.

[41] Counsel for Mr. Ganpot submits that the approach the tribunal should take in determining an appropriate sanction has long been settled by the court in **Bolton v Law Society**[13], where the court explained the reasoning behind imposing a sanction. Binhgam MR elucidated that a sanction has a punitive element which serves to punish the attorney for his wrongdoing. Equally a sanction is also imposed to maintain the reputation of the profession[14]. Counsel urges the tribunal to find that despite Ms. Beaumont's attempts to explain the missing funds, she has not shown any contrition or has made an honest attempt to remedy her default. Counsel states that the funds have been unaccounted for since 2005, some 17 years ago. The appropriate sanction, in counsel's view, is to have Ms. Beaumont's name struck-off the court's roll as an attorney-at-law or suspension for five years at the very least.

[42] In answer, counsel for Ms. Beaumont sought to distinguish this case from **Re Fields** which is relied on by Mr. Ganpot. In **Re Fields**[15], counsel states, the court found that the attorney acted dishonestly. However, Ms. Beaumont never denied receiving the money on behalf of Mr. Ganpot. Counsel is of the view that this case is more in line with **Re Clarke**[16], where the court found that there was no dishonest intention to deprive the client of his money. In that case, the attorney was suspended for 9 months. Counsel submits that there are no aggravating factors in this case. Therefore, she argues that the ultimate sanction of being struck-off the court's roll is not appropriate. Counsel asks the tribunal to allow Ms. Beaumont reasonable time

[13] [1994] 2 All ER 486
[14] Ibid at page 492
[15] (2015) 87 WIR 68
[16] (2008) 73 WIR 43

to repay the balance due failing which she can be suspended for a period of time as the tribunal deems fit.

[43] With respect to what must be considered in determining the appropriate sanction, the tribunal is guided by the learning in **Bolton**[17], where the court held that-

> "In most cases the order of the tribunal will be primarily directed to one or other or both of two other purposes. One is to be sure 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 hoped that experience of suspension will make the offender meticulous in his future 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 lapses are not only expelled but denied re-admission".** (our emphasis).

[44] At paragraph 6 of Ms. Beaumont's affidavit, she admits that this was not the first time that monies went missing or went unaccounted for in her client's account. Indeed, Ms. Beaumont stated in that same paragraph that "*[t]his was not the first occasion this occurred. I recall that I had to take out a loan on a previous occasion for $30,000.00 to cover a deficit when a similar situation occurred. At that time I believed that I must have made a mistake.*" The tribunal takes note that there is a previous judgment of the high court[18], where Ms. Beaumont was ordered to return monies in excess of the sum of $100,000.00 to a former client. We have concluded that there is a pattern of mismanagement of client's funds involving Ms. Beaumont's practice. Indeed, this previous judgment against Ms. Beaumont was highlighted by Wallbank J at paragraph 15(i) of his judgment, where his Lordship stated that:-

> "The Defendant has previously consented to, and subsequently satisfied, a judgment against her in Claim No. GDAHCV2002/0101, Cecilia Yvonne

[17] [1994] 2 All ER 486 at page 492

[18] Claim No. GDAHCV2002/0101, Cecilia Yvonne James v Brenda Wardally-Beaumont

James vs Brenda Wardally-Beaumont, wherein it was claimed that the Defendant misappropriated a sum in excess of $100,000 whilst acting for the Claimant in the sale of a property. I pause here to remark that the Defendant's alleged mitigation argument in the present case, that the misappropriation of Mr. Ganpot's money was the doing of a former employee, is called into question by this earlier event, in that one may well ask why it is that the Defendant appears not to have taken appropriate care to prevent a repetition of a similar incident, particularly as she was for all intents and purposes a sole practitioner and thus must have had an appreciation of her firm's fee income before signing off on spending. The apparent repetition suggests, rather, a longer running and more endemic problem in the financial management of the Defendant's practice than she is currently portraying. Disclosure of the Defendant's dealings with the client account should demonstrate the whole picture. Appropriate measures can be put in place to preserve her clients' confidentiality. If the Defendant has nothing to hide, and if the primary responsibility for the shortfall in the present case lies with another, as the Defendant contends, the Defendant should be keen to give full disclosure."

[45] Again, we allude to Ms. Beaumont's own evidence of gross negligence in managing the serious business of client's funds. We again repeat the charge that counsel ought to have at the very least put proper mechanisms in place to prevent a reoccurrence of missing monies in her client's account. Indeed, we have been directed to no evidence of any steps made by counsel to put systems in place in her office to prevent the occurrence of another incident of this sort. In fact, besides counsel's viva voce evidence that she does have a client's account, no evidence has been led before us to show that counsel even has a client's account or that there is an adequate or indeed any system to secure money belonging to her clients. Section 2(2) of the Code of Ethics states that *"[a]n attorney-at-law shall maintain his integrity and the honour and dignity of the legal profession and of his own standing as a member of it, and shall encourage other attorneys-at-law to act similarly, both in the practice of the profession and in their private lives, and shall refrain from conduct which is detrimental to the profession, or which may tend to discredit it:.."*

[46] In **Othneil Sylvester**[19] in considering what sanction to impose the tribunal concluded inter alia at para 82 that –

> "...the conduct of the Respondent has been so grossly improper that severe penalties are in order... Misconduct involving the use of clients' money is not to be tolerated. No contrition has been forthcoming from the Respondent but rather the allegations have been stoutly defended."

[47] In this case the tribunal is of a similar view. The entire course of this matter has brought dishonour to the profession. Additionally and more importantly, Mr. Ganpot and indeed the entire public that relies on the integrity of the judicial system have had their trust betrayed by the conduct of counsel in this case. There is no evidence before us to satisfy us that sufficient or anything significant has been done by Ms. Beaumont to repair these breaches, to compensate the hurt inflicted on Mr. Ganpot after 17 years and/or to advert any further occurrence of gross mishandling or misappropriation of client's funds. For these reasons, we are satisfied that an order for suspension would be an inadequate sanction. We rule that that Ms. Brenda Wardally-Beaumont is hereby struck-off the court's roll of attorneys-at-law registered to practice law in Grenada. The Registrar of the High Court is to make the necessary adjustments to the roll of attorneys-at-law in Grenada to remove counsel's name therefrom and to make the necessary publications in the Official Gazette.

Interest on the judgment debt

[48] At trial and under cross examination, a preliminary issue was raised by counsel for the defendant as to whether post-judgment interest accrued from the default judgment dated 13th July 2007 (default judgement) or the consent order dated 13 July 2009. The tribunal notes that these proceedings concern the discipline of an attorney-at-law and do not concern private law rights of a client to claim for monies due and owing. However, for completeness, the tribunal will consider the arguments raised by Ms. Beaumont.

[19] SVGHCV2004/086A

[49] Counsel for Ms. Beaumont submits that the default judgment dated 13th July 2007 did not include post-judgment interest. The default judgment does not disclose that post-judgment interest was not awarded by the Registrar of the high court upon entry of the default judgment. Indeed, judgment was entered for the sum of $308,248.69 in default of the defence against Ms. Beaumont without any order for post-judgment interest thereafter.

[50] It is now well established that post-judgment interest does not automatically attach to every judgment debt, save and except where statute expressly makes provision for post judgment interest to accrue or where it is ordered by the court. This learning was elucidated by the Court of Appeal in **Veda Doyle v Agnes Deane**[20], where Pereira JA (as she then was) found that:

At paragraph 1 of the headnote:

> "Post-judgment interest did not automatically attach to the judgment debt as there was no law in the State of Grenada which permitted this at the time the judgment debt became payable. Also, post-judgment interest not having been expressly awarded by the court, none could accrue and become payable by the judgment debtor or be claimed against the judgment debtor by way of Judgment Summons. The trial judge therefore erred in awarding post-judgment interest on the Judgment Summons."

And at paragraph 11:

> "It is no doubt in recognition of the fact that there was no substantive provision in Grenada which allowed for the automatic accrual of post-judgment interest that the Parliament of Grenada saw it fit to enact the West Indies Associated States Supreme Court (Grenada) (Amendment) Act, 2009 which, by the insertion of section 27A, provided for the automatic attachment of post-judgment interest. This case was not caught by this new provision however, since the judgment debt pre-dated the coming into force of that amendment."

[51] The court in **Veda Doyle** found that in Grenada, by virtue of Act No. 7 of 2009, which amended the Supreme Court Act, post-judgment interest automatically accrues on

[20] GDAHCVAP2011/020

every judgment of the court. The entry of the default judgment was made on 13th July, 2007 which was prior to the section 27A amendment in 2009 and as such that amendment is not applicable in the circumstances sincethat section did not have retroactive effect. Section 27A of the Supreme Court Act section prescribes that-

> **"Interest of judgement debts**
> (1) For the purposes of this section—
> "judgement debt" means a debt under a relevant judgement;
> "relevant judgement" means a judgement of the High Court for the payment of a sum of money and, in relation to a judgement debt, means the judgement or order which gives rise to the judgement debt.
> **(2) This section shall not apply where a relevant judgement was given before the date of commencement of the Act.**
> (3) **Until it is satisfied, every judgement debt shall bear interest at such rates as the High Court may determine and in the absence of such determination, the rate of interest shall be six per cent per annum.**
> (4) Unless it is otherwise ordered by the Court, the rate of interest under subsection (3) shall be calculated from the time of the giving of the relevant judgement, as the case may be, notwithstanding that the giving of the relevant judgement has been suspended by any other proceedings either in the High Court or on appeal." (My emphasis)

[52] The evidence discloses that the consent order made provision for entry of the judgment sum of $300,971.11 together with interest of 6% per annum. There is no evidence that this consent order has been set aside. As such Ms. Beaumont and Ms. Ganpot are bound by terms of the consent order. The tribunal is satisfied that post-judgment interest on the judgment debt only began to accrue and continues to accrue from the consent order dated 13th July 2009 to the date of satisfaction. In passing the tribunal notes that the judgment debt remains largely unsatisfied. Further, the tribunal notes that by consent the debt owed to Mr. Ganpot was crystallised into a consent order of the court. Mr. Ganpot remains at liberty to pursue civil remedies to enforce the judgment debt, if such a need arises.

Conclusion

[53] For all these reasons, it is hereby declared and ordered that-

(1) Brenda Wardally-Beaumont (Ms. Beaumont) is found guilty of professional misconduct in the discharge of her duties as an attorney-at-law when she failed to return the sum of $304,419.99 which she held on trust for her client, Mr. Joel Ganpot.

(2) Ms. Beaumont is hereby struck-off the court's roll of attorneys-at-law in Grenada.

(3) Ms. Beaumont shall pay all outstanding monies together with accrued interest due and owing to Mr. Joel Ganpot, in accordance with the consent order dated 13th July 2009 within 6 months of today's date.

(4) The Registrar of the High Court shall effect the appropriate changes to the court's roll of attorneys-at-law and shall cause the requisite notices to be published in the Official Gazette.

(5) There shall be no order as to costs.

Raulston L.A. Glasgow
High Court Judge

Victoria Charles-Clarke
High Court Judge

By the Court

Registrar

Registrar Supreme Court Grenada