

GENERAL LEGAL COUNCIL

IN THE MATTER OF THE LEGAL PROFESSION ACT

Complaint No. 10 of 2023

BETWEEN:

JINYUE YOUNG

COMPLAINANT

and

BRYAN A. NEAL

ATTORNEY-AT-LAW

PANEL:

Mr. Justice Rajiv Goonetilleke (Chair)

Mrs. Magali Marin-Young SC

Mrs. Cheryl-Lynn Vidal SC

Mrs. Ashanti Arthurs Martin

Ms. Vanessa Retreage

Ms. Samantha Matute

Mr. Adler Waight

Date of Hearing: February 9 2024

Appearances

Jinyue Young, the Complainant (Virtually)

Bryan A. Neal, Attorney-at-Law (In person)

DECISION

Introduction

1. This is the General Legal Council's (**Council's**) decision on a complaint brought by Mr. Jinyue Young (**Mr. Young**), a self-described retired attorney-at-law of New Zealand residing in New Zealand, against Attorney-at-Law, Bryan A. Neal (**Mr. Neal**), a sole practitioner.
2. This complaint against Mr. Neal as contained in Form of Application against an Attorney dated with Form of Affidavit by Applicant dated and further affidavit dated the 28th day of November 2023 alleges that Mr. Neal failed to update Mr. Young as to the status of his matter where Mr. Neal was retained in March 2023 to take action against Mr. Young's tenant.
3. It is noted that Mr. Neal did not provide any documentary or written evidence in answer to the allegation to this Council though he had an opportunity to do so when the complaint was served on him.
4. On the 9th day of February 2024, the Council heard the matter, hearing the evidence of the Complainant and the Respondent and consequently reserved its decision at the close of the hearing.

Evidence of the Complainant

5. In addition to the Form and Affidavits submitted to the Council by Mr. Young, Mr. Young also gave oral evidence at the hearing, which can be summarized as follows:
 - a. Mr. Young confirmed that he engaged Mr. Neal to act on his behalf to recover damages in the form of rent arrears and for breach of rent agreement, and to recover possession of his property in Burrell Bcom.
 - b. The engagement was done through an Agent for Mr. Young.
 - c. Mr. Neal was paid \$5,000.00 through Mr. Young's son who traveled from New Zealand.
 - d. Mr. Young sought updates on the progress of the work from Mr. Neal via email having sent several emails to bnattorney@gmail.com, but none was forthcoming.
 - e. Sometime after Mr. Neal was retained, Mr. Young also lost contact with the Agent.

- f. Mr. Young and Mr. Neal did not communicate until after the instant complaint was served on Mr. Neal in December 2023 after which Mr. Neal contacted Mr. Young in an attempt to refund the sum of \$5,000.00. Discussions between the men took place and Mr. Neal offered to assist Mr. Young with retaining a new attorney.
- g. Mr. Young admitted that he did not have a local bank account in which Mr. Neal could have refunded the cash retainer and that Mr. Neal, after receiving notice of the complaint, offered to make the refund voluntarily.
- h. Mr. Young indicated that he still would have liked Mr. Neal to continue representing him.
- i. Mr. Young also testified that Mr. Neal had arranged for him to speak to another attorney on the day of the hearing and that Mr. Neal had paid, on his behalf, the sum of \$450.00 for that consultation and that he was awaiting that attorney's decision as to whether she would accept his case.
- j. He indicated that he would be willing to withdraw this complaint if he could procure a new attorney, and if Mr. Neal agreed to refund the balance of the retainer and "subsidize" his son's travel cost.

Evidence of the Attorney

6. Mr. Neal, after being sworn, gave oral evidence at the hearing. His evidence can be summarized as follows:
 - a. Mr. Neal confirmed his engagement and his receipt of \$5,000.00 through an Agent for Mr. Young.
 - b. Mr. Neal indicated that he had requested certain information from the Agent and that Mr. Young failed to provide this evidence.
 - c. Several conversations were had with the Agent and that he informed the Agent as early as April 2023 that he would not be able to take on Mr. Young's matter. There was no denial that he failed to communicate his views directly with Mr. Young. It became known that he had formed the view that Mr. Young's case was not likely to succeed.

- d. Consequently, he informed the Agent that he [Agent] would need to procure a written authority from Mr. Young and Mr. Young's bank information so that Mr. Neal could refund the money.
- e. Mr. Neal admitted that he did not have any telephone number for Mr. Young, despite being engaged by Mr. Young. Instead, Mr. Neal stated that he did not believe that he should have made an effort to communicate directly with Mr. Young as the Agent was Mr. Young's agreed contact point.
- f. Mr. Neal said that he did not "remember receiving any emails from Mr. Young" addressing the information he requested of Mr. Young's agent, or any other matter, but when pressed, he said that he received maybe "one or two emails" in 2023 to which he said he responded.
- g. Mr. Neal confirmed that his email was: bnattorney@gmail.com.
- h. Mr. Neal said he reached out to the Agent in order to refund the retainer upon receipt of the present complaint. No attempt was made to contact Mr. Young directly to refund the money.
- i. Since the filing of the complaint, Mr. Neal made no attempts to check his email, as he was hoping to resolve the complaint amicably.

Law

7. Attorneys-at-Law hold a special position in society. They act as stewards and guides for those that retain their services. They help lay clients navigate the sometimes labyrinthian legal system and as such those clients repose a particular trust in them.
8. Attorneys-at-Law play a vital role in the system of justice and the administration of justice.
9. Consequently, it is expected that Attorneys-at-Law will maintain the highest ethical standards as guardians of the law.
10. Attorneys-at-Law must be, at a minimum, guided by the Legal Profession (Code of Conduct) Rules¹.

¹ Rule 4(1): An attorney shall uphold at all times the standards set out in these Rules.

11. Attorneys-at-Law that do not meet these standards may, depending on the nature of the complaint, expect severe sanctions.

12. Even momentary or inadvertent lapses may be visited with condign punishment.

13. Attorneys-at-Law should treat all client matters with the attention, sensitivity, and care that they deserve, a standard this Council will insist on.

14. The Council finds that Mr. Neal has breached:

a. *Rule 28-(1) An attorney shall deal with his client's business with all due expedition and shall, whenever reasonably so required by the client, provide him with full information as to the progress of the client's business.*

(2) It is improper for an attorney to accept instructions in a matter unless he can handle it without undue delay; and

b. *Rule 69. In the performance of his duties an attorney shall not act with inexcusable or undue delay, negligence or neglect.*

15. As noted by Chief Justice Sykes writing extra-judicially:

*"The object of..[Rule 28]...is plain enough. It...[promotes]...efficiency and speed when dealing with the client's business and it also reinforces the principle of informed decision making. That is, the client must have full and complete information in order to decide how to manage his affairs."*²

Discussion and Analysis

16. The Council's deliberations have been limited to the information presented and the sworn oral evidence given at the hearing.

² The Ethical Lawyer: A Caribbean Perspective, Chapter 6 "Wanted: Due Skill and Care" Attorneys' Liability for Negligence

17. This Council accepts the evidence of Mr. Young as being true. The Council finds that after Mr. Young retained and paid Mr. Neal \$5000.00, Mr. Young sent a number of emails to Mr. Neal between April to November 2023, seeking an update on his matter. Those emails were sent directly to bnattorney@gmail.com, and they largely remained unanswered save for the emails of September and November 2023. The Council notes that neither correspondence from Mr. Neal suggests that Mr. Neal indicated that he would not deal with the matter for Mr. Young, and or that he was prepared to and wanted to refund Mr. Young's money. This is despite Mr. Neal's representation to this Council that he wished to terminate the retainer and return the funds to Mr. Young as early as April 2023. Instead, the Council accepts that communication from Mr. Neal only began in earnest as a consequence of this complaint. The Council also accepts that Mr. Neal attempted to make amends after the complaint was filed and served on him, a matter of greatest lament. As such, the Council, is left with the suggestion that Mr. Neal's ability to freely communicate with Mr. Young after the service of the complaint upon him meant that Mr. Neal had the ability to, but simply failed and neglected to, communicate with Mr. Young between April and December 2023, when he determined that he wanted to terminate the retainer and return the funds.

18. Therefore, the Counsel finds that Mr. Neal has acted in breach of the Rules at [7], as the Mr. Neal had ample opportunity between April 2023 to November 2023 to have communicated with Mr. Young by email when he decided he could not to act for Mr. Young. Mr. Neal should have, having decided that he would not act for Mr. Young, informed Mr. Young of the progress of the matter or, to be more precise, the lack of progress. Mr. Neal was bound to seek out his client's instructions if they were not forthcoming. He could not simply leave the matter as is. The Council accepts that there may be small lapses or errors in the busy practice of law but the lapses of Mr. Neal in question are unacceptable. It must be remembered that an Attorney-at-Law must deal with a client's matter in a businesslike manner.

19. The Council finds that Mr. Neal's protracted delay crosses into the realm that can only be characterized as inexcusable or unacceptable, and his attempts to belatedly communicate with Mr. Young could not salvage his deplorable conduct.

20. Attorneys-at-Law in this jurisdiction cannot simply ignore a client's request for reasonable information as Mr. Neal has done and cannot without more fail to deliver on the work that they have undertaken to complete.

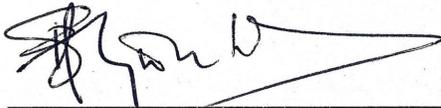
Conclusion

21. Considering all the material placed before this Council, the Council is satisfied that the allegations made against Mr. Neal have been established and that Mr. Neal's conduct amounts to professional misconduct. In particular, the Council finds that Mr. Neal's conduct has breached Rules 28 and 69 of the Legal Profession (Code of Conduct) Rules.

22. Mr. Neal is required to be present before the General Legal Council on March 22nd, 2024 at 1:00 pm at the Court House in the former National Bank Building; to show cause why any of the sanctions set out in section 16(2) of the Legal Profession Act should not be imposed upon him.

Dated the 13 of March 2024

By the General Legal Council



Mr. Justice Rajiv Goonetilleke
Chairman



Magali Marin-Young SC
Member



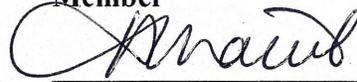
Cheryl-Lynn Vidal SC
Member



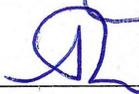
Ashanti Arthurs-Martin
Member



Vanessa Retreage
Member



Samantha Matute
Member



Adler Waight
Member