

IN THE MATTER OF THE LEGAL PROFESSION ACT
IN THE MATTER OF JOHANAN LAFEUILLEE DOUGHLIN (ATTORNEY-AT-LAW)

AND

JAMES A. L. BRISTOL (APPLICANT)

DECISION OF THE GENERAL LEGAL COUNCIL

Hearing: 10th February 2021

Decision: 4th March 2021

Appearance: Mr. James A. L. Bristol, Applicant – Self Represented
No appearance for Mrs. Johanan LaFeuillee Doughlin, Attorney-at-Law

DECISION

The Complaint

1. **CHITAN, S:** Pursuant to section 34 of the Legal Profession Act (“the LPA”), and with leave of the General Legal Council (“the Council”), the Applicant Attorney-at-Law, Mr. James A. L. Bristol (“the Applicant”) on 31st August 2020 filed a complaint against Attorney-at-Law, Mrs. Johanan LaFeuillee Doughlin (“Mrs. Doughlin”), in strict compliance with the procedure set out in section 35 of the LPA¹.
2. The gravamen of the Applicant’s complaint is that Mrs. Doughlin breached section 46 of the Code of Ethics² when she, without his consent, communicated with his client’s representative directly, by electronic mail, with a view to discussing settlement of ongoing litigation proceedings involving parties represented by the Applicant and Mrs. Doughlin.
3. The Council determined that a prima facie case had been made out by the Applicant and by letter of 10th September 2019, forwarded the complaint to Mrs. Doughlin and invited her to respond within 21 days of receipt of said letter.
4. By letter dated 18th November 2020, Mrs. Doughlin responded to the complaint and explained that there was a significant delay in receiving the Council’s letter as

¹ An Application in Form I of the Schedule IV to the LPA and accompanying Affidavit in Form II of the Fourth Schedule thereto were filed with the Registrar’s Office.

² Schedule III Legal Profession Code of Ethics of the LPA

it was posted to an incorrect address. The greater part of Mrs. Doughlin's response was dedicated to introducing herself to the Council as, not only an attorney-at-law but also a local entrepreneur involved in the Citizenship by Investment Programmes in at least five Caribbean islands.

5. Mrs. Doughlin posits that section 46 of the Code of Ethics does not preclude her from contacting the Applicant's client's representative in her capacity as a local entrepreneur. Further, Mrs. Doughlin is of the view that her communication with the Applicant's client's representative is sanctioned by the court and relies on a 3rd February 2016 order of the Master encouraging the parties to contact each other with a view to settling the matter³.
6. A hearing date was fixed for 10th February 2021 at 1:00 p.m. and the Secretary of the Council served the requisite Notice on the Applicant and Mrs. Doughlin, both of whom responded and confirmed their intention to attend the hearing.
7. The Secretary sent electronic reminders to the parties on 9th February 2021.

The Hearing

8. Mrs. Doughlin did not attend the hearing. The Applicant appeared and was ready to proceed. Section 35 (7) of the LPA provides "*If either or both parties fail to appear at the hearing, the Council may, upon proof of service of the notice of hearing, proceed to hear and determine the application in their absence.*" On the Council being satisfied that Mrs. Doughlin was properly served, it proceeded with the hearing in Mrs. Doughlin's absence.
9. The Applicant presented his complaint against Mrs. Doughlin. Notwithstanding Mrs. Doughlin's absence, the Council, in its discretion, posed questions to the Applicant which it determined were relevant, based on Mrs. Doughlin's letter in response to the application⁴.
10. At the conclusion of the hearing, the Council deliberated and unanimously found that a case of professional misconduct had been made out against Mrs. Doughlin having regard to the evidence and law presented to the Council. Mrs. Doughlin's response to the allegation, and more specifically, that she had contacted the Applicant's client's representative in her capacity as a local entrepreneur is not supported by the email exhibited to the Applicant's complaint, which is a copy of

³ This is simply a restatement of Mrs. Doughlin's response as this referenced order was never produced.

⁴ i.e. Mrs. Doughlin's letter of 18th November 2020

Mrs. Doughlin's email to the Applicant's client's representative ('the offending email').

11. The subject of the offending email reads '**Moving forward re Claim No GDAHCV2015/0426 Comissiong [sic] v SOL**'. Throughout the offending email, Mrs. Doughlin expressly advocates for the amicable settlement of '*the captioned matter*'. It is therefore clear to the Council that Mrs. Doughlin's intention was to engage in settlement discussions with the Applicant's client's representative directly and that she in fact engaged in discussions, without his permission. The Council did consider whether the offending email may be construed in an alternative manner, but in the absence of Mrs. Doughlin and/ or evidence to substantiate an alternative interpretation, it was not possible to conclude differently. Further, the Council also determined that the court order referenced by Mrs. Doughlin, encouraging the parties to contact each other with a view to settling the matter, if accepted as true and accurate, did not authorise her to breach the rules contained in the Code of Ethics to contact the Applicant's client's representative directly. When litigants are represented by counsel, it is understood that all communication must be channeled through counsel.
12. Part A, section 46 of the Code of Ethics is clear: ***An attorney-at-law shall not, in any way, communicate upon a subject in controversy, or attempt to negotiate or compromise a matter directly with any party represented by another attorney-at-law, except through such other attorney-at-law or with his prior consent.***
13. Section 33 of the LPA instructs that a breach of the rules in Part A of the Code of Ethics may constitute professional misconduct.
14. The Council therefore finds that the conduct of Mrs. Doughlin, complained of by the Applicant, constitutes professional misconduct within the meaning of the LPA.
15. The Council deliberated on an appropriate order to make in light of its finding of professional misconduct against Mrs. Doughlin. The Council considered the nature and gravity of the allegation and Mrs. Doughlin's response to it and unanimously decided that a reprimand would be in order.
16. The Council renders a stern reprimand to Mrs. Doughlin to refrain from conduct that would contravene the Code of Ethics.

17. Mrs. Doughlin, by letter to the Secretary dated 15th February 2021, apologised to the Council for her absence at the hearing and explained that she inadvertently scheduled the hearing for 15th February 2021. Mrs. Doughlin wished for the Council to know that no disrespect was intended to it by her absence from the hearing. The Council accepts Mrs. Doughlin's apology but was not satisfied that a good reason was provided for failing to attend the hearing.

I concur
Dia C. Forrester, Acting Chair⁵

I concur
Celia Edwards, Q.C.

I concur
Leslie Ann Seon

I concur
Michael Archibald

I concur
Daniel Roberts

⁵ Pursuant to section 5(4) of the LPA, the Attorney General acted as Chair. Chairwoman Rosalyn Wilkinson J. (Retired) recused herself from the proceedings.