

IN THE COURT OF APPEAL OF BELIZE, A.D. 2026
CIVIL APPEAL NO 38 OF 2025

BETWEEN:

HUBERT ELRINGTON, S.C.

Appellant

and

ORPHA MARTINEZ

Respondent

Before:

Hon. Madam Justice Hafiz Bertram
Hon. Madam Justice Minott-Phillips, K.C.
Hon. Madam Justice Arana

President
Justice of Appeal
Justice of Appeal

Appearances:

Orson J Elrington for the Appellant
Orpha Martinez, *pro se* (the Respondent)
Kimberly Wallace (watching proceedings for the General Legal Council)

.....
2026: 11 June

11 September
.....

JUDGMENT

- [1] **MINOTT-PHILLIPS, J.A.:** This is an appeal by Hubert Elrington, S.C. (“**the Appellant** or **Elrington, S.C.**”) from the decisions of the General Legal Council (“**the GLC**”) dated 31 October 2025 (on professional misconduct) and 14 November 2025 (on sanction) handed down in relation to a complaint made by Orpha Martinez (“**the Respondent** or **Ms Martinez**”).
- [2] Having heard the Respondent’s complaint and found the Appellant guilty of “grave professional misconduct in breach of Rule 81(1) and (2) read with rule 45 and Rule 69 read

with Rule 28(1) and (2) of the Legal Profession (Code of Conduct) Rules”,¹ and after a subsequent sanctions hearing, the GLC ordered THAT:

- a. Senior Counsel Elrington pay to the Complainant by way of restitution the total sum of \$6,000.00 or so much thereof that has not yet been paid and received;
- b. Senior Counsel Elrington be suspended from the practice of law for a period of six months and for such longer period of time as any part of the monies hereby ordered to be paid remains unpaid; and that
- c. Senior Counsel Elrington provide to the Council proof of payment of the sum ordered to be paid herein immediately on payment of the same so that the Council can apply the terms of this order to determine for the record if the longer period of suspension is to take effect.

[3] There were several grounds of appeal as well as an application to stay execution of the sanctions order pending the determination of this appeal. However, at the outset, counsel for the Appellant announced that his client was abandoning his application for a stay of execution as well as his first ground of appeal. His abandoned first ground of appeal was that,

“The Complaint could not be brought in law either under statute or common law after 14 years had expired and the court could not have tried any complaint brought outside the applicable statute of limitation whether statute or common law.”

[4] The remaining grounds of appeal were as follows:

- a. The GLC erred, was wrong in law, and should not have proceeded to hearing [sic.] the complaint after the Appellant had, in fulfillment of an agreement between him and the Respondent prior to the hearing to pay the full retainer, paid the full retainer to the Respondent prior to the scheduled hearing.

¹ Page 11 of the professional misconduct decision

- b. The GLC erred and was wrong in law in reinstituting and hearing the Complaint after accepting the parties' agreement for settlement which included a withdrawal of the Complaint by the Respondent.
- c. The GLC erred and was wrong in law in failing to follow any of the stipulated procedures that applied to the hearing of a new complaint or a reconstituted complaint.
- d. The GLC further erred and was further wrong in law to proceed to hearing the Complaint after the Appellant appeared to have [sic.] defaulted in his undertaking to make payment of the retainer of \$6,000.00 by way of cheque, to the GLC when he had made the payment directly to the Respondent.

[5] No written or oral submissions were made by the Respondent or by counsel watching proceedings on behalf of the GLC.

Factual Background

[6] The complaint made by Ms Martinez against Elrington, S.C. was that she paid him \$6,000 to institute a civil case concerning a property in Benque Viejo Town and that he failed to institute the civil claim (by that time over 7 years later), failed to respond to her multiple enquiries regarding the status of the case with anything other than excuses, and then refused to refund her payment. In his response to the complaint Elrington, S.C. confirmed that Ms Martinez was a client of his and said she engaged him to do legal work for her in relation to a land dispute between the estate of Aurelio Aldana and Plantation Lodge Limited. He advised her that Mr Aldana continued in his adverse possession of the land notwithstanding purchase by Plantation Lodge Limited and that no action should be taken on her behalf until continuous undisturbed possession of the land for 12 years had passed. He swore that a trip by him to visit the land in Placencia took a full day and asserted he was entitled to charge \$1,000 per hour for the time spent making the trip.

[7] The GLC noted "*astonishingly*" that a few weeks later Elrington S.C. sent an email to inform the GLC that he had finally located a payment made to his office for work to be done regarding a mortgage that the Bank of Nova Scotia was in the process of foreclosing. He

said Ms Martinez was his client and that the mortgage property and household goods were in Benque Viejo and confirmed the payment by her to him of \$6,000 in two tranches as well as that the claim was drafted, but never filed. He said it appeared to him that Ms Martinez left the country and that he had difficulty contacting her. He agreed “*unconditionally and without reservation*” that Ms Martinez had paid him \$6,000 to do a claim and that the claim was not pursued for a reason he could not recall. He agreed Ms Martinez was entitled to a full return of her “*deposit*” and undertook to the GLC to forward a cashier’s cheque to the Secretary of the GLC in the sum of \$6,000 for delivery to Ms Martinez in full and final satisfaction of her claim not later than the close of business on 30 June 2025. Ms Martinez indicated her agreement to that course of action.

- [8] Against that background the mention hearing for the complaint that was scheduled for 20 June 2025 was cancelled. Elrington, S.C. personally appeared before the GLC and formally undertook to the Council to make the payment. However he failed to comply with his undertaking to forward the cashier’s cheque or otherwise make any refund to the Complainant on or before 30 June 2025.
- [9] On 13 August 2025 the GLC wrote to Elrington, S.C. informing him that having met and considered the matter the GLC had determined that a *prima facie* case of professional misconduct had been made out against him.
- [10] At the hearing of the complaint on 10 October 2025, the Respondent was sworn and testified that she paid Elrington, S.C. \$6,000 to do a civil case for her, that he did not do the case, that he was not responding to her enquiries, and that he had not refunded the monies she had paid to him. Elrington, S.C. questioned her as to her move to the United States and whether she left contact information with his office. She confirmed relocating but insisted that she, in fact, maintained contact with the Appellant’s office on the matter which office, on a number of occasions, offered excuses for why the work was not done.

[11] Elrington, S.C., in his oral testimony before the Council, accepted being paid \$6,000 by the Respondent and agreeing to refund her the money because the claim requested was never filed. He suggested it may have been because he could not get in touch with Ms Martinez. He said he practiced in the same office with two other attorneys at the time and that the work **was to be done by one of the other attorneys and that attorney never did it. He doubted that he was to do any work for Ms Martinez. He said it was not his brief.** [My emphasis].

[12] In response to the GLC about whether he comingled Ms Martinez's monies with his own, Elrington, S.C. denied the suggestion and testified that he treated the payment as income to himself and that he, as a matter of practice, does not charge large retainers that would require separation of funds. Though inconsistent with the payment being a "*deposit*" as indicated in his email to the GLC, he made it clear that the payment was treated by him **as his income. He did not seek to be released from his undertaking to the Council to refund the \$6,000 to the Respondent.** He only offered excuses as to why he was not then able to do so.

- [13] The facts found by the GLC² included,
- a. Elrington, S.C. accepted and treated as his own payment of \$6,000 from Ms Martinez for work that he promised but never performed.
 - b. Elrington, S.C. neglected to communicate with the Respondent as to the status of the work and instead, through his office, fabricated excuses for non-performance. The work was neglected almost entirely.
 - c. Elrington, S.C. gave the GLC a number of conflicting explanations as to why the work was not done.
 - d. Elrington, S.C. breached his undertaking given to the GLC to refund the payment and resolve the matter.

² On page 8 of the professional misconduct decision

- e. The work requested by the Respondent concerned property in Benque Viejo and had nothing to do with any Aurelio Aldana or any land in Placencia.
- f. Having treated the entire \$6,000 received from the Respondent as his income, the responsibility for performing the work was that of Elrington, S.C., even if he intended to rely on the assistance of another attorney to secure performance.
- g. The conduct of Elrington, S.C. was egregious.
- h. Elrington, S.C. did no meaningful work for the Respondent having accepted her money and treated the entire fee as his income.
- i. Elrington, S.C. failed to deal with the Respondent's work with any expedition and failed to keep her updated as to the progress of the work when requested to do so.

[14] Having made those findings the GLC pronounced,

"This deplorable conduct by Senior Counsel is not only a derogation of the high standards expected of attorneys but clearly amounts to professional misconduct. It further potentially erodes the standard of practice of attorneys generally by providing a deplorable example to young attorneys.

The Council has also come to the ineluctable conclusion that not only did Senior Counsel Elrington act in breach of Rules 28(1), 28(2) and 69 in deplorable breach of his professional responsibilities, but that he deliberately sought to mislead the Council in what can only be described as a weak attempt to avoid responsibility for his actions.

He did this by firstly giving an undertaking which he failed to honour and secondly by making disingenuous and conflicting explanations in order to deflect responsibility for the obvious neglect, first to an unnamed colleague and then to the Complainant herself.

The overarching result is that Senior Counsel's acts of professional misconduct are compounded and aggravated by woefully unprofessional conduct before the Council itself.

Accordingly, the Council finds Senior Counsel Mr Hubert Elrington guilty of grave professional misconduct in breach of Rule 81(1) and (2) read with Rule 45 and Rule 69 read with Rule 28(1) and (2) of the Legal Profession (Code of Conduct) Rules."

The Act

- [15] The jurisdiction of the General Legal Council to hear disciplinary complaints against Attorneys-at-Law derives from the Legal Profession Act (LPA). Section 15(1) of the LPA provides that,

Any person alleging himself aggrieved by an act of professional misconduct, including any default, committed by an attorney-at-law may make an application supported by an affidavit of the facts of which he complains to the Council (defined as "the General Legal Council established by section 3") to require the attorney to answer such allegations; and the Registrar [of the Supreme Court] or any member of the Association (defined as "the Bar Association of Belize established by section 40") may make a like application to the Council in respect of any grave professional misconduct.

Section 16(2) of the LPA provides,

If the Council, after hearing an application under this Part, is satisfied that the allegations made against the attorney to whom the application relates have been established and the conduct alleged against him constitutes professional misconduct or grave professional misconduct, the Council shall summon the attorney concerned to show cause, and if no cause or insufficient cause is shown, the Council may-

- (a) remove the attorney's name from the Roll;*
- (b) remove the attorney from practice on such conditions as the Council may determine;*
- (c) impose on the attorney such fine as it may think proper;*
- (d) subject the attorney to a reprimand;*
- (e) order the payment by any party, of costs or of sum as the Council may consider a reasonable contribution towards cost;*
- (f) order the payment by the attorney of any sum by way of restitution as the Council may consider reasonable ; or*
- (g) any other punishment as the Council deems fit.*

Section 18 of the LPA allows the Council to make rules-

- (a) prescribing standards of professional etiquette and professional conduct of members and may by such rules direct that any specified breach of the rules shall constitute professional misconduct or grave professional misconduct; or*
- (b) regulating the presentation, hearing and determination of complaints to the Council in respect of professional misconduct of attorneys.*

The Rules

- [16]** The rules made are the Legal Profession (Code of Conduct) Rules. The following are among those that are germane to this appeal.
- [17]** Rule 69 provides that in the performance of his duties an attorney shall not act with inexcusable or undue delay, negligence or neglect.
- [18]** Rule 28(1) provides that 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.
- [19]** Rule 28(2) provides that it is improper for an attorney to accept instructions in a matter unless he can handle it without undue delay.
- [20]** Rules 45, 81(1) and 81(2) are engaged in relation to the undertaking given.
- [21]** Rule 45 provides that an attorney shall not give a professional undertaking that he cannot fulfil, and he shall fulfill every such undertaking that he gives.
- [22]** Rule 81(1) provides that an attorney shall not commit a breach of an undertaking given by him to a judge, Court or other tribunal or an official thereof, whether such undertaking relates to an expression of intention as to future conduct or is a representation that a particular state of facts exists.
- [23]** Rule 81(2) provides that an Attorney shall not knowingly represent falsely to a Judge, a Court or a tribunal or to an official of a Court or other tribunal, that a particular state of facts exists.

The Appeal

- [24] When the hearing of this appeal commenced, counsel Orson Elrington for the Appellant said he was relying entirely on his written submissions. He also said that **the Appellant took no issue with the GLC's findings of fact or findings of law**. The appeal, as then presented to us, was expressly based solely on the Appellant's contention that the GLC did not have jurisdiction.
- [25] The contention on behalf of the Appellant was that in agreeing to accept \$6,000 to resolve her issues with the Appellant, payment of the sum would have resulted in full and final settlement of the issue and the disposal of the complaint which could not, thereafter, be revived. The argument was that the GLC had no jurisdiction to proceed to hear the resolved and disposed of complaint.
- [26] A complaint of professional misconduct against an attorney-at-law, once laid, cannot be disposed of by agreement between the parties, unless that agreement has the imprimatur of the GLC. The contention in this case was that the agreement struck did have the imprimatur of the GLC.
- [27] In this case, however, the conditions precedent to the full and final settlement of the complaint were payment by Elrington, S.C. of a certain sum, in a certain way, by a certain time. As he failed to fulfil those conditions precedent, the matter was not settled or resolved, and the complaint remained live and open. The substantive hearing that occurred on 10 October 2025 was not a new matter; it was the hearing of the complaint made by Ms Martinez. Furthermore, Elrington S.C.'s obligation to pay over the \$6,000 to her was anchored in an undertaking given by him to the tribunal; which undertaking he did not fulfil.
- [28] The relevant facts relating to the arrangement are recited by the GLC in its decision on professional misconduct³. They are:

³ On pages 4-5 (paras 16-21)

*“He agreed that Orpha Martinez was entitled to a full refund of her “deposit” even if she contributed to the non-filing of the claim. **He undertook to the Council to forward a cashier’s cheque to the Secretary of the Council in the sum of \$6,000 for delivery to Ms Martinez in full and final satisfaction of her claim not later than the close of business on the 30 June, 2025.** Ms Martinez indicated agreement to that course of action.*

*In response to Senior Counsel Elrington’s email to the Council, the Council cancelled a mention hearing that was scheduled for the 20 June 2025, in the expectation that Senior Council Elrington would honour his undertaking and this matter thereby put to rest. **Mr Elrington personally appeared before the Council and formally undertook to the Council to make the payment.***

Senior Counsel Elrington failed to comply with his undertaking to forward the cashier’s cheque or otherwise make any refund to the Complainant on or before 30 June 2025.

On the 13 August, the Council therefore wrote to Senior Council Elrington informing him that having met and considered the matter that the Council had determined that a prima facie case of professional misconduct had been made out against him.

The Council also on the same day issued a Notice of Hearing of the complaint on the 10 October 2025, informing not only that it had found a prima facie case for breach of Rules 28(1) and 28(2) and but also for breach of Rules 62, 69, and 81 and required that he answer the allegations in the affidavit of the Complainant. It also required Senior Counsel Elrington furnish the complainant with a list of all documents on which he proposed to rely at the hearing.

The Council further gave notice that it would also be requiring Senior Counsel Elrington to answer for breach of Rules 45 and 82⁴ for failure to comply with his undertaking to the Council.” [My emphasis.]

[29] The Legal Profession Act addresses the manner in which Disciplinary Proceedings are initiated and heard. The following sections are apposite:

87. An application to the Council to require an attorney to answer allegation contained in an affidavit shall be in writing under the hand of the applicant in Form 1 of the Schedule and shall be sent to the Secretary together with an affidavit by the applicant in Form 2 of the Schedule stating the matters of fact on which he relies in support of his application.

⁴ An obvious typographical error for 81.

88. Before fixing a date for the hearing, the Council may require the applicant to supply such further information and documents relating to the allegations as it thinks fit and in any case where in the opinion of the Council, no *prima facie* case is shown, the Council may, without requiring the attorney to answer the allegations, dismiss the application and notify the applicant and the attorney of the dismissal.

89. In any case in which, in the opinion of the Council, a *prima facie* case is shown, the Council shall fix a day of hearing, which shall not be more than ninety days of the receipt of the application by the Secretary, and the Secretary shall serve notice thereof on the applicant and on the attorney, and shall also serve on the attorney personally a copy of the application and affidavit together with additional information and documents, if any, supplied by the applicant pursuant to rule 88. The notice shall not be less than a twenty-one days' notice.

96. The Council may of its own motion, or upon the application of either party, adjourn the hearing upon such terms as to the Council may appear just.

[30] The disciplinary procedure followed in relation to this complaint complied scrupulously with those statutory requirements. As stated previously the hearing that occurred was of the complaint made. It was not the hearing of a new or "*reconstituted*" complaint, as stated in the ground of appeal set out at paragraph 4c of this judgment. One of the GLC's findings was that Elrington, S.C. breached his undertaking given to the GLC to refund the payment and resolve the matter. As the Appellant's counsel expressly indicated to us that no issue is taken with the GLC's findings of fact, this ground cannot be made out as the conditions precedent to there being full and final satisfaction of Ms Martinez's claim were never fulfilled by the Appellant. Specifically, Elrington S.C. did not comply with his professional undertaking to "*forward a cashier's cheque to the Secretary of the Council in the sum of \$6,000 for delivery to Ms Martinez in full and final satisfaction of her claim not later than the close of business on the 30 June, 2025.*" His failure to do so left the complaint in place and unresolved, as the settlement and resolution of the complaint were contingent upon compliance with his undertaking. Where (as here) a condition is contingent, the contract

shall not take effect unless or until the condition is fulfilled. The existence or enforceability of the contract is dependent upon the fulfillment of the condition⁵.

[31] The point is that Elrington S.C. did not fulfil the undertaking he gave (which was specific as to the amount, manner and time of payment). The agreement struck was not, therefore, actualized (because it was contingent upon fulfilment of an undertaking that was not, in fact, fulfilled). The Appellant's acceptance of the facts found by the GLC makes it impossible for him to succeed on his first ground of appeal (set out in paragraph 4a of this judgment) premised upon the Appellant having fulfilled the agreement between him and the Respondent. There was no such fulfilment. It is also the reason why it is impossible for the Appellant to succeed on his second ground of appeal (also premised on asserted facts that are incorrect). At no point did the GLC "*reinstitute*" a withdrawn complaint. All that happened was that the GLC cancelled a mention hearing of the complaint that had been set for 20 June 2025 "*in the expectation that Senior Counsel Elrington would honour his undertaking and this matter thereby put to rest*"⁶. It could be said that, effectively, the matter was adjourned *sine die* on the basis of the expressed expectation. The italicized words of the GLC make it clear that the putting of the matter to rest by agreement of the parties was contingent upon Elrington, S.C. honouring his undertaking. The Council's immediately following words also buttress that interpretation. They are⁷,

"Senior Counsel Elrington failed to comply with his undertaking to forward the cashier's cheque or otherwise make any refund to the Complainant on or before the 30 June, 2025.

*On the 13 August 2025, the Council **therefore** wrote to Senior Counsel Elrington informing him that having met and considered the matter that the Council had determined that a prima facie case of professional misconduct had been made out against him."* [My emphasis.]

The continuation of the hearing of the extant complaint ensued because the contingent condition for it to be disposed of and withdrawn was not met.

⁵ **Anson's Law of Contract**: 25th Edition. Edited by A.G. Guest, M.A. Oxford University Press 1979, at page 132

⁶ Paragraph 17 of the judgment on professional misconduct.

⁷⁷ Paragraphs 18 & 19 of the judgment on professional misconduct.

- [32] As regards the last of the grounds of appeal (set out at paragraph 4d of this judgment), it is also doomed to (and does) fail for being based on the factually incorrect premise that the \$6,000 was paid by Elrington S.C. Even if it had been paid, there is no dispute that it was not paid in the manner and within the time set out in his undertaking. *Ergo*, there was default by him in honouring his undertaking and, consequently, in fulfilling the contingent condition.
- [33] A perusal of the Council's judgment given following the sanctions hearing shows that Elrington, S.C. sought to then convince the Council that the complaint had been settled. He failed.
- [34] Having made its decision of professional misconduct on 31 October 2025, the GLC then ordered Elrington, S.C. to show cause in writing (by 7 November 2025) why he should not be ordered to pay the Respondent \$6,000 or so much thereof as has not yet been paid, in restitution, and why he should not be suspended from practice for a period of 6 months or why any of the other sanctions in section 16(2) of the Legal Profession Act should not be imposed on him.
- [35] In its judgment on sanctions dated 14 November 2025, the Council states,⁸
- “By written letter dated 7 November 2025, Senior Counsel Elrington opted to and addressed the Council in writing as to why “sentence should not be passed on him”.*
- He offered that the complaint was effectively settled by agreement between the parties so that the GLC was wrong to proceed to hear the matter...”*
- [36] In addressing that submission the Council said⁹,
- “Senior Counsel Elrington offered what can only be described as further defences to the complaint in his written reasons as to why the indicated sanction should not be imposed.*

⁸ At paragraphs 5 & 6.

⁹ At paragraphs 12, 13 & 14 of the sanctions judgment.

The Council has already made the finding of grave professional misconduct for the reasons set forth in its written decision and sees no reason to reopen those findings at this stage on the basis of the further defences presented by Senior Counsel Elrington.

*The Council, in any event, sees no merit in any of the additional defences. **There was in fact no agreement for settlement in the terms alleged by Senior Counsel Elrington and, even if so, Senior Counsel Elrington never complied with the agreed terms.***” [My emphasis].

- [37] As is evident, the view expressed by Council that there was no agreement for settlement is well founded and accords with my own. I detect no error by the Council at all, or as contended in the grounds of appeal pursued. For the reasons I've stated, none succeed.
- [38] Although it arose before the GLC consequentially to the Respondent's complaint (and was not, therefore, a component of her complaint), the Council was correct and acting within its remit at the hearing on 10 October 2025 to require Elrington, S.C. to answer to Council for failing to comply with his undertaking given to it¹⁰.
- [39] A court or the disciplinary tribunal that is the General Legal Council is entitled to summarily treat with a breach by an attorney-at-law of his professional undertaking given to the court (or to the GLC) on being given due notice to return on a subsequent occasion and show cause (personally or through counsel) why he should not be sanctioned for the breach.
- [40] The gravity of a breach by an attorney-at-law of his undertaking cannot be overstated. Rule 81 of the Legal Profession (Code of Conduct) Rules falls within the part of the rules that contain mandatory provisions and specific prohibitions, the breach of which by an attorney-at-law may constitute professional misconduct or grave professional misconduct. Rule 85(1) provides that an attorney who commits such a breach shall be liable to any of the penalties, which the General Legal Council recommends and which the Chief Justice is empowered to

¹⁰ Paragraph 21 of the judgment on professional misconduct. The reference to rule 82 there seems to be a typo for rule 81.

impose. It is not insignificant that, in this case, the Council found the conduct of Elrington S.C. to be egregious¹¹ and pronounced him guilty of **grave** professional misconduct on account of his acts of professional misconduct being

*“compounded and aggravated by woefully unprofessional conduct before the Council itself.”*¹²

[41] The undertaking in this case was a professional undertaking given by Elrington S.C. to pay \$6,000 to the Respondent by 30 June 2025 and it was provided by way of an undertaking given by him to the tribunal he was before to do so in a certain manner by a certain time. The legal profession is self regulatory (without derogating from the separate and additional supervisory and summary jurisdiction the court has over attorneys-at-law who, *ex officio*, are its officers). Statutorily the Council clearly had the jurisdiction to deal with a breach of an undertaking given to it by an attorney-at-law. On these facts the breach of undertaking arose in the course of the proceedings before, and in the face of, the tribunal. Elrington, S.C.’s failure to honour his undertaking given to Council, in its view, amounted to a *“breach of Rule 81(1) and (2) read with Rule 45”*.

[42] There being no challenge to the facts found by the Council that finding stands. Although it arose in the context of a court case (and not a disciplinary proceeding) I find the dicta of Lord Denning, MR in **Geoffrey Silver & Drake (suing as a firm) v Thomas Anthony Baines (trading as Wetherfield, Baines & Baines (a firm))**¹³ to be salutary. He said:

*This court has from time immemorial exercised a summary jurisdiction over solicitors. They are officers of the court and are answerable to the court for anything that goes wrong in the execution of their office. Even if the solicitor has been guilty of no fault personally, but it is the fault of his clerk, he is accountable for it: see **Myers v Elman**.¹⁴ This jurisdiction extends so far that, if a solicitor gives an undertaking in his capacity as a solicitor, the court may order him straightaway to perform his undertaking. It need not be an undertaking to the court. Nor need it be given in connection with legal proceedings. It may be a simple undertaking to pay money, provided always that it is given ‘in his capacity as a solicitor’: See **United Mining***

¹¹ Paragraph 15 of its professional misconduct judgment.

¹² Paragraph 22 of the judgment on professional misconduct.

¹³ [1971] 1 All ER 473 at 475, letter f

¹⁴ [1940] AC 282

*and Finance Corpn Ltd v Becher*¹⁵ per Hamilton, J. If such an undertaking is given, the court may summarily make an order on the solicitor to fulfil his undertaking (see *Re a Solicitor*)¹⁶ and, if he then fails to do so, the court may commit him to prison. Alternatively, if it is an order to pay money, execution may be levied against his property. This summary jurisdiction means, however, that the solicitor is deprived of the advantages which ordinarily avail a defendant on a trial. There are no pleadings; no discovery; and no oral evidence save by leave. The jurisdiction should, therefore, only be exercised in a clear case.”

[43] Of course, unlike the court (which has a wider range of sanctions) the Council may only impose a sanction set out in the LPA. This was, however, a clear case of breach of an undertaking given by the attorney to the tribunal.

[44] Attorneys-at-law are reminded that a lawyer’s undertaking, once given in his professional capacity, is to be relied upon simply because it is a lawyer’s undertaking. There is little else of relevance. There need be no element of moral turpitude on the part of the attorney-at-law; it is not a necessary element to ground liability.

*The conduct which is required of solicitors is to this extent perhaps raised to a higher standard than the conduct required by ordinary men, in that it is subject to the special control which a Court exercises over officers so that in certain cases they may be called upon summarily to perform their undertakings, even where the contention that they are not liable to perform them is entirely free from any taint of moral misconduct.*¹⁷

[45] Given the inaccuracy of the factual sub-stratum of the ground of appeal set out at paragraph 4d of this judgment (already pointed out above) and in the context of the now unchallenged and accepted facts the Council found in relation to Ms Martinez’s complaint as well as the breach of undertaking (either of which basis would have warranted the outcome), it did not err in pronouncing Elrington, S.C. “guilty of grave professional misconduct in breach of Rule

¹⁵ [1910] 2 KB 296 at 306; [1908-10] All ER Rep 876 at 881

¹⁶ [1966] 3 All ER 52, [1966] 1 WLR 1604

¹⁷ Per Hamilton J in *United Mining and Finance Corporation, Limited v Becher* [1910] 2 KB 296 at 305.

81(1) and (2) read with Rule 45 and Rule 69 read with Rule 28(1) and (2) of the Legal Profession (Code of Conduct) Rules”¹⁸.

- [46]** Accordingly, and in conformity with section 20(1) of the Legal Profession Act, this appeal is dismissed and the orders made by the GLC on 31 October and 14 November 2025, are confirmed. Costs of the appeal are awarded to the Respondent and are to be assessed if not agreed.

Sandra Minott-Phillips KC
Justice of Appeal

- [47] HAFIZ BERTRAM, P.**

I agree with the order made by my learned sister Minott-Phillips JA to dismiss the appeal.

Minnet Hafiz Bertram
President

- [48] ARANA, JA**

I concur.

Michelle Arana
Justice of Appeal

¹⁸ Paragraph 23 of the decision on professional misconduct.