

**In Re: Grievance and Ethics Committee Investigative Report** on Complaint Filed  
by **Rev. Eric M. Allison** against **Counsellor Marcus R. Jones**

**LRSC 24**

HEARD: JANUARY 25, 2013 DECIDED: FEBRUARY 20, 2013

MR. CHIEF JUSTICE a.i., KORKPOR DELIVERED THE OPINION OF THE COURT

On July 11, 2012, Rev. Eric M. Allison filed a complaint with former Chief Justice Johnnie N. Lewis against Counsellor Marcus R. Jones raising serious unethical and unprofessional conduct. He narrated in the complaint that sometime in 2000 he retained the legal services of the Jones & Associates, by and through Counsellor Marcus R. Jones, to handle a claim in respect of his late wife, Mrs. Amelia Allison, who was killed in a Kenya Airways plane crash on January 30, 2000 in Abidjan, Ivory Coast. The complaint also alleged that Counsellor Jones successfully negotiated an out of court settlement of the matter and received the amount of one hundred and eighty two thousand United States dollars (US\$182,000.00) as insurance benefits for Rev. Allison and his three children; and that the amount paid was deposited into the account of Counsellor Jones at the Liberia Bank for Development and Investment (LBDI).

The complaint further alleged that Counsellor Jones demanded thirty three percent (33%) of the amount received or sixty thousand and sixty United States dollars (US\$60,060.00) as his legal fee which was accepted by Rev. Allison; that to date, Counsellor Jones has in his possession sixty two thousand, one hundred and thirty United States dollars (US\$62,130.00) for Rev. Allison and his children which he has refused to give despite repeated demands for him to do so; that in order to recover the money from Counsellor Jones, the services of Legal Consultants, Inc., by and thru Counsellor Beyan D. Howard, were hired; that Counsellor Howard wrote a letter to Counsellor Jones demanding that the amount of sixty two thousand, one hundred and thirty United States dollars (US\$62,130.00) be paid to Rev. Allison on or before July 7, 2012, but Counsellor Jones has not done so. According to Rev. Allison, in the letter to Counsellor Jones demanding payment of the money, Counsellor I Toward inadvertently wrote USD six thousand one hundred in words as the amount Rev. Allison and his children were claiming from Counsellor Jones, but the figure, US\$62,130.00 was stated correctly. Finally, Rev. Allison stated in his complaint that his son had just graduated from high school and he needed to be sponsored for college education and that other family obligations were pending for which he urgently needed money. He therefore requested the intervention of the Chief Justice to prevail on Counsellor Jones to make available the amount of sixty two thousand, one hundred and thirty United States dollars (US\$62,130.00) to enable him meet urgent family needs. He attached a copy of the letter written by Counsellor Howard to Counsellor Jones to the complaint. He also attached

a listing of many withdrawals from Counsellor Jones' account at LBDI, and the dates on which the withdrawals were made.

On July 18, 2012, the complaint was forwarded to the Grievance and Ethics Committee for investigation. The parties were duly cited and they appeared. Counsellor Jones, prior to appearing for the investigation, filed a written response to the complaint containing ten counts. We summarize counts 1, 2, 3, 5, 6, 7, and 10 which we have determined are relevant to the disposition of this case.

Addressing the entire complaint in count one of his response, Counsellor Jones said he never served as a trustee for Rev. Allison and his family. He claimed that the services he rendered and continues to render to Rev. Allison for over the period of nine years are moral services rather than legal services; that Rev. Allison elected to request and receive his money in bits and pieces by checks issued to him directly and to other individuals and maintained that Rev. Allison's calculation of the actual balance of his money is incorrect. He said he undertook, on sheer gratuity, to assist Rev. Allison in the matter of his wife's death claim and to have the money in question deposited in his checking account at LBDI without interest and without extra charges except bank charges and the cost for check books.

Also as to the entire complaint, Counsellor Jones contended that Rev. Allison failed to indicate in his complaint that any professional ethics had been breached to warrant the exercise of the Grievance and Ethics Committee's jurisdiction over this matter. He argued that the complaint, being lacking in merit of any ethical transgression on his part, the Grievance and Ethics Committee has no power to investigate same.

In count two of the response, Counsellor Jones denied that the services of Jones & Associates were retained in this case, rather, he said, it was his personal services that were retained; that the account into which the money in question was deposited is his personal checking account at LBDI, opened by him many years prior to the death of Rev. Allison's wife.

In count three of his response, Counsellor Jones admitted that he successfully negotiated with the authorities of Kenya Airways and received one hundred and eighty two thousand United States dollars (US\$182,000.00) as insurance benefits for Rev. Allison and his children. He contended, however, that Rev. Allison failed to state in his letter of complaint that he authorized him (Counsellor Jones) by email to deposit the money in his personal checking account at LBDI; that Rev Allison failed to state in his letter of complaint that he refused to accept his money, less deduction of 33%, and to open an account in his own name and have the money deposited therein but rather "resigned" to making requests of Counsellor Jones for periodic withdrawals; that Rev. Allison elected to comingle his money with

Counsellor Jones' money against the latter's advice; and that the complaint filed by Rev. Allison is a purely civil matter without any unethical stint, given the facts and circumstances.

In count five of his response, Counsellor Jones acknowledged and admitted that he received 33% or sixty thousand and sixty United States dollars (US\$60,060.00) of the total amount of one hundred and eighty two thousand United States dollars (US\$182,000.00) paid by Kenyan Airways, representing insurance benefits for Rev. Allison and his children as his fee for services rendered and that the balance of one hundred and twenty one thousand, nine hundred and forty United States dollars (US\$121,940.00) in his account belonged to Rev. Allison and his children.

In count six of his response, Counsellor Jones contended that the Grievance and Ethics Committee did not have jurisdiction over the complaint filed by Rev. Allison against him because the transaction narrated in the complaint concerned a debt matter which failed to state any unethical or unprofessional conduct on his part. He said the balance of the money in his account for Rev. Allison and his children was far less than sixty two thousand, one hundred and thirty (US\$62,130.00); that Rev. Allison failed to accurately deduct the value of checks issued to him in United States Dollars, the bank charges for nine years and the check of seventy four thousand Liberian dollars (L\$74,000.00) drawn on his Liberian dollars account also at LBDI in July, 2012 just before his (Counsellor Jones') departure to the United States of America. He also contended that he would have attached to his response a copy of the breakdown of disbursements he made to Rev. Allison were this matter one over which [the Grievance and Ethics Committee] may exercise jurisdiction .

In count seven of his response, Counsellor Jones addressed the contention of Rev. Allison that in the letter to him demanding payment of the money, Counsellor Howard inadvertently wrote USD six thousand one hundred in words as the amount Rev. Allison and his children were claiming, but the figure of US\$62,130.00 was stated correctly.

This is what Counsellor Jones said: [T]his alleged inadvertence coming from a senior Counsellor of the Honorable Supreme Court of Liberia can never be considered because under the law words written take precedence over figures written on financial instruments. Hence, Counsellor Beyan D. Howard's letter represents the actual balance if any still remains for Rev. Allison in Counsellor Jones' checking account when the seventy four thousand Liberian dollars (L\$74,000.00) is deducted, leaving a balance of five thousand, one hundred United States dollars (US\$5,100.00) due Rev. Allison at present.

In count ten of his response, Counsellor Jones reiterated his position that the transaction between him and Rev. Allison as narrated in the complaint partakes of debt matter over which the Grievance and Ethics Committee has no jurisdiction. He said there is no written contract between him and Rev. Allison; that there was no arrangement of trusteeship for which Rev. Allison paid him fees and that even if such were the case, the Grievance and Ethics Committee would still not be the proper forum for the enforcement of a breach of such contract, nor is the

Grievance and Ethics Committee the proper forum to issue a writ of arrest or indictment for misapplication of entrusted property. He therefore prayed the Grievance and Ethics Committee to refuse jurisdiction over the matter.

Rev. Allison, through his counsel, the Legal Consultants, Inc., by and thru Counsellor Beyan D. Howard, filed a reply to the response filed by Counsellor Jones. The reply basically confirmed the complaint and further averred that it was a violation of the code of professional ethics as a lawyer for Counsellor Jones to have comingled his personal funds with the funds he received for Rev. Allison and his children and to have refused to provide such funds despite numerous demands made for him to do so.

The records show that when the Grievance and Ethics Committee met to hear this case, it first considered the issue of jurisdiction raised by Counsellor Jones. The Committee held that the nature of the complaint filed by Rev. Allison involved a client making allegation against his lawyer for alleged unprofessional and unethical conduct, hence, the complaint was within the jurisdiction and mandate of the Grievance and Ethics Committee to investigate. Counsellor Jones' contention was therefore overruled and the Committee proceeded with the investigation.

Rev. Allison took the stand and recounted his complaint to the Grievance and Ethics Committee. He told the Committee that what he stated in his complaint was true; that Counsellor Jones is obligated to him and his children in the amount of sixty two thousand, one hundred and thirty United States dollars (US\$62, 130.00). He also told the Committee that he is Pastor of the Barnersville Lutheran Church and that Counsellor Jones is a member of his Church; that his late wife, Amelia Allison, died in a Kenya Airways plane crash on January 30, 2000 in Abidjan, Ivory Coast; that since this was an international air crash, he needed legal representation. He said Counsellor Jones, who is a member of the legal committee of his church, volunteered to accompany him to the Ivory Coast to handle all legal matters pertaining to the death of his wife and he agreed; that all expenses were paid by Kenya Airways; that Counsellor Jones subsequently contacted the law firm and insurer of Kenya Airways and handled the matter leading to the final settlement of the damages for the wrongful death of his wife without going to court; that the total amount received in settlement was one hundred eighty two thousand and United States dollars (US\$ 182,000.00); that at the time he was doing his graduate studies in Tanzania; that he told Counsellor Jones not to do anything with the money until he gets back to Liberia during his vacation.

He said when he got to Liberia, Counsellor Jones had travelled, but they communicated; that he did not know the cost of legal services for such matter at the time, and secondly he was still traumatized from the death of his wife; that Counsellor Jones informed him by telephone that his portion of the money received from Kenya Airways would be one-third (1/3) and he agreed in good faith. He said he did not have any bank account at the time, so Counsellor Jones instructed Kenya Airways to send the money to his (Counsellor Jones') account at LBDI and he agreed; that at the same time he also agreed that Counsellor Jones could begin using his portion

of the remitted amount; this was in August 2004. lie further said that Counsellor Jones had sole access to the account; that from August 2004 to June, 2012 all checks issued to him by Counsellor Jones was written as pay to the order of Rev. Allison against family account and what he understood from this was that Counsellor Jones consciously knew the balances.

The following questions were posed to Rev. Allison by the Grievance and Ethics Committee:

Q. Rev. Allison, did you check the balances?

A. No Counsellor Jones was the only person who had access to the account. I kept an accurate record of all the checks I received from Counsellor Jones I continued making withdrawals before I travelled to the United States of America in 2011. Counsellor Jones and I came to an understanding in July 2011 to finally dispose of the balance and the plan was for Counsellor Jones to give my oldest son, Pascal Allison seventeen thousand United States dollars (US\$17,000.00) and we were going to decide what to do with the remaining amount. But up until present, my son has not been settled.

Q. Did you know what the balance was at the time of this last arrangement?

A. Yes, the balance at the time was sixty six thousand six hundred thirty United States dollars (US\$66,630.00). It was from this balance that my son, Pascal Allison, should have received the seventeen thousand United States dollars (US\$17,000.00). Counsellor Jones asked me to send my son Pascal to him, which I did, but up until September 4, 2011 when I travelled to the United States, Counsellor Jones had not settled him. My son Pascal turned desperate, which I hold Counsellor Jones responsible for. Pascal went to the press but unfortunately his complaint was not published but rather Counsellor Jones' response was published in the Inquirer Newspaper. Counsellor Jones convened a press conference and said that the matter concerning Pascal's deceased mother and the benefits received were between him and Pascal's father. The second thing he said was that he had given one hundred twenty thousand United States dollars (US\$120,000.00) to Rev. Allison; I went to Counsellor Jones' house to inquire and he said the press misquoted him. Upon receiving this response from Counsellor Marcus R. Jones, I did not proceed further with the allegation. I left for the United States and I came back on October 9, 2011 and resumed pursuing Counsellor Jones for the implementation of our arrangement that was not honored by him. We made some withdrawals up to June 19, 2012 after I requested Counsellor Jones to make available the balance. I wrote him on September 2, 2011 in which communication I requested him to disburse the amount of sixty six thousand, six hundred thirty United States dollars (US\$66,630.00) but Counsellor Jones informed me that it was impossible. I again requested five thousand United States dollars (US\$5,000.00) from Counsellor Jones; he again told me that it was not available. I was frustrated and angry; this was when I decided to take his complaint to the Bishop of my church, but I did not get any redress. My son, Eric

Allison, Jr. is a victim of substance abuse and needs medical attention. [My oldest son, Pascal Allison] threatened my life for his share of the money] and I informed Counsellor Jones. My youngest son, graduated from high school and I wanted to send him to college, but Counsellor Jones refused to give me the five thousand United States dollars (US\$5,000.00), that is why I brought this complaint against him.

Q. Counsellor Jones received one hundred eighty two thousand United States dollars (US\$182,000.00) and you agreed that he should take one third  $\frac{1}{3}$  of the amount and you signed and received a total of one hundred nineteen thousand United States dollars (US\$119,000.00) and you filed a complaint for sixty two thousand United States dollars (US\$62,000.00) how possible is that?

A. The withdrawals you see on the attachments of our complaint include Counsellor Jones' share/portion of the total sum. While Rev. Allison was answering questions from members of the Grievance and Ethics Committee, Counsellor Pearl Brown Bull, Chairman of the Grievance and Ethics Committee observed that Counsellor Jones walked out of the hearing. She regarded the act of Counsellor Jones as disruptive and disrespectful to the Committee. We shall comment on this attitude of Counsellor Jones later in this opinion.

The Grievance and Ethics Committee concluded investigation into the matter and submitted its report. The Committee found that Counsellor Jones violated his moral and ethical conduct as a lawyer by comingling his client's money with his own money. The Committee further found that the failure of Counsellor Jones to promptly pay the money to his client upon demand was a further violation of the code of conduct of a lawyer. The Committee recommended that Counsellor Jones be suspended from the practice of law in Liberia for the period of one (I) year and until such time he shall have fully refunded Rev. Allison the amount of sixty two thousand, one hundred and thirty United States dollars (US\$62,130.00).

The matter has come before the full bench of this Court for review of the Grievance and Ethics Committee's decision.

It is a requirement that the Supreme Court en bane, in every case of suspension or disbarment of a lawyer, sits to hear and determine the records from the Grievance and Ethics Committee's investigation, either upon appeal or for the purpose of enforcing the Committee's recommendation based on the findings. Determination of the proceedings is made by regular opinion handed down on the adjournment day of the Supreme Court. (See Rule IX (b) &(c), Hearing and Determination by the Supreme Court of Disbarment and Suspension Proceedings, Code for the Moral and Ethical Conduct of Lawyers.)

So, while under Rule VIII of the same Code for the Moral and Ethical Conduct of Lawyers, it is provided that the decision of the Grievance and Ethics Committee shall be binding unless an appeal is made to the Supreme Court before the expiration of ten days after the receipt of the

decision, we hold that Rule VIII does not apply where suspension or disbarment of a lawyer has been recommended by the Grievance and Ethics Committee as in the instant case. For the avoidance of doubt, we say that no one justice of the Supreme Court, including the Chief Justice, may endorse the decision of the Grievance and Ethics Committee to suspend or disbar a lawyer. The Court en banc must sit, hear and pass upon every case of suspension or disbarment of a lawyer. We hold further that in such cases, it does not matter whether or not an appeal is announced in ten days by the affected lawyer after receiving the decision of the Grievance and Ethics Committee, since this Court, in any event, must sit and hear the case for the purpose of enforcing that decision.

Accordingly, Counsellor Jones was duly informed to appear before us for the hearing of the Grievance and Ethics Committee's report. Two members of the Supreme Court Bar, Counsellors Emmanuel B. James and Cooper W. Kruah were appointed as amici curiae or friends of Court to present the report of the Grievance and Ethics Committee and offer candid opinion/advice based on the facts and applicable laws controlling. Legal briefs were filed on both sides.

At the call of the case for argument, Counsellor Jones made application on the minutes of this Court objecting to the appearance of both Counsellors James and Kruah, as amici curiae on the grounds that: a) Counsellor Emmanuel B. James of the International Group of Legal Advocates is a counsel of record for defendants in two cases: Consolidated Group, Inc. vs. Eco Bank and Leon Dennis vs. Central Bank currently pending before the Civil Law Court, Sixth Judicial Circuit, Montserrado County in which he (Counsellor Jones) is a counsel of record on the opposite side representing the plaintiffs; and b) Counsellor Cooper W. Kruah of the Henries Law Firm is a counsel of record for the defendant in a cancellation proceedings filed by Madam Bindu F. Dukuly which is pending before the Commercial Court in which he (Counsellor Jones) is also a counsel of record on the opposite side. He therefore contended that his interest will not be properly served by the presence of the Court appointed amici curiae as he feared that they will not be objective in their judgment against him. He prayed that Counsellors James and Kruah be removed and replaced by other Counsellors of the Supreme Court.

This Court considered the reasons advanced by Counsellor Jones for seeking the removal of the friends of Court as being quite trivial and inconsequential to be accepted. Besides, such reasons do not conform to the practice in this jurisdiction. It is clear that the cases listed by Counsellor Jones are not the personal cases of the lawyers acting as amici curiae; neither are the cases personal cases of Counsellor Jones himself. Generally, lawyers are not parties to the cases in which they appear on behalf of their clients, and they do appear in a good number of cases against each other. There is no reason, therefore, to form a belief that because they are representing their respective clients in several cases on opposite sides in the trial courts, they will not be objective in a matter involving allegations of unethical and unprofessional conduct against their brother lawyer. Should the Court adopt such view as advocated by Counsellor Jones, it

would mean that very few lawyers could qualify to act as friends of the Court in this matter, since Counsellor Jones has handled a large number of cases in which other lawyers represented parties in opposite to Counsellor Jones' clients. That would set a bad and dangerous course for our legal system. This Court is therefore not prepared to pursue such course.

Rule 17, Code for the Moral and Ethical Conduct of Lawyers provides:

Clients, not lawyers, are litigants. Whatever may be the ill feeling existing between clients, it should not be allowed to influence counsels in their demeanor toward each other or toward suitors in the case. All personalities between counsels should be scrupulously avoided. In the trial of a case, it is indecent to allude to the personal history or the personal peculiarities and idiosyncrasies of counsel on the other side.

Rule 40 Code for the Moral and Ethical Conduct of Lawyers provides:

The legal profession is a fraternity to which all lawyers are members; therefore a spirit of brotherhood should at all times characterize their treatment to, and consideration for each other.

Moreover, lawyers who are appointed by this Court as amici curiae are not advocates of the cause; neither are they parties to the proceeding. They are appointed to assist the court by giving honest and professional advice to aid the Court in reaching a decision and this Court may or may not accept their advice. Ultimately, it is the decision of this Court that prevails. And under our practice, lawyers appointed as amici curiae cannot refuse such appointment, absent the show of good cause. For these reasons, this Court denied the request of Counsellor Jones to have Counsellors James and Kruah removed as amici curiae; the matter was ordered proceeded with.

The amici curiae in their brief, have urged this Court to endorse the recommendations of the Grievance and Ethics Committee and suspend Counsellor Jones for the period of one year and until such time he shall have fully refunded the money to Rev. Allison and his children. They maintained that indeed, Counsellor Jones commingled his client's money with his personal money and failed to produce the said money upon demand. This, according to them, is an ethical violation of a lawyer.

The amici curiae also said:

The fact that Counsellor Jones could not give back the money to his client upon demand suggests that he did not only commingle the money with his, but that he also used his client's money without his client's consent.

The amici curiae further said:

The Judicial Code for the Moral and Ethical Conduct of Lawyers set standards of the behavior for all lawyers in Liberia. These rules attempt to ensure that lawyers are honest and professional in their dealings with not only their clients, but [also] with the public in general.



Every lawyer has a responsibility of ensuring that people have access to the services of professional lawyers who will best represent their interest. This means that it is their responsibility to ensure that everyone in the field maintains high ethical standards at all times.

Counsellor Jones appeared in person and argued that the entire report of the Grievance and Ethics Committee was biased, prejudicial and a misrepresentation of the facts and circumstances narrated during hearing before the Committee. He also argued that he accepted the request of Rev. Allison to assist him in the matter of his wife's death claim because Rev. Allison is his Pastor in the Barnesville Lutheran Church, where he (Counsellor Jones) serves as a Senior Evangelist; that this case should therefore be seen from the standpoint of a transaction between a Pastor and his Senior Evangelist; that the facts and circumstances of this matter do not savor of any unprofessional and unethical conduct on his part because he and Rev. Allison had conducted themselves in a manner that has taken the transaction from the situation where a lawyer, without the consent and approval of his client, commingles the client's money with his; that the matter has now been placed in a debtor-creditor relationship; that should the Supreme Court treat this matter as one of professional misconduct in the ordinary sense other than making it an exception to the general rule, it will not augur well for the legal profession in this country.

He further argued in his brief that he rejected the demand of the Grievance and Ethics Committee for him to present a statement of account indicating the balance of Rev. Allison's money still in his account because "to resort to additions and subtractions would change the jurisdiction of the Grievance and Ethics Committee to that of a debt court where dollars and cents are handled. He said that given the nature of the relationship that exists between him and Rev. Allison, the Grievance and Ethics Committee initially looked into the case and advised that he and Rev. Allison should go home and settle the matter between them; that he was therefore surprised to have received a notice of assignment from the Supreme Court for the hearing of the matter.

Concerning the balance amount of sixty two thousand one hundred and thirty United States dollars (US\$62, 130.00) which Rev. Allison says Counsellor Jones still has for him and his children, Counsellor Jones contended in his brief that the actual balance of the amount in question still in his account is by far less than what is reported in Rev. Allison's complaint because the money [has] been in his account upon Rev. Allison's approval for nine years with bank charges being deducted monthly and check books being purchased; he submitted that when reconciliation of the money is made, the balance remaining will not exceed forty thousand United States dollars (US\$40, 000.00), which he is obligated to pay.

Concerning his alleged refusal to make the money available to Rev. Allison and his children upon demand, this is what Counsellor Jones said in his brief:

In June 2012, Rev. Allison informed Counsellor Jones that his son, Pascal Allison, was on his back for his portion of the money. This is the first time after eight (8) years that Rev. Allison

informed Counsellor Jones that he had apportioned seventeen thousand United States dollars (US\$17,000.00) as Pascal's share of the money. He did not inform Counsellor Jones that at certain in time he would be requesting the balance of his money at once and when Rev. Allison requested five thousand United States dollars (US\$5,000.00) to be sent in the United States, Counsellor Jones was on his way to the United States to attend two weddings and a funeral. The five thousand United States dollars (US\$5,000.00) requested could not have been provided by Counsellor Jones.

Before proceeding to determine the core issue, whether or not Counsellor Jones committed unethical and unprofessional conduct against his client, it is important that we set forth the role of the Grievance and Ethics Committee in handling cases against lawyers, in light of Counsellor Jones' persistent position that the Committee lacked jurisdiction to investigate the complaint filed against him.

The Grievance and Ethics Committee is one of two important organs of the Judiciary that deals with allegations of unethical and unprofessional conducts of members of the legal profession in our country. The other organ is the Judicial Inquiry Commission which sits and hears cases of unethical and unprofessional conducts against judges. The Committee has jurisdiction to inquire into and consider any complaint made against any lawyer involving his character, integrity, professional standing or conduct as a member of the bar.

It is within the competence of the Committee to employ the means of fact finding, conciliation, mediation, arbitration or adjudication in relation to any written complaint made against a lawyer and the Committee shall not be bound by the strict rules of evidence; however, every effort shall be made to accord the litigants due process, and any evidence offered or admitted shall be relevant and material within the *res gestae*. (See Procedure Governing the Operation of the National Bar Association of the Republic of Liberia in Matter of Unprofessional and Unethical Conduct of Lawyers, Code for the Moral and Ethical Conduct of Lawyers).

We are therefore in full agreement with the Grievance and Ethics Committee when it determined that it had jurisdiction to hear and decide the complaint filed by Rev. Allison against Counsellor Jones. Certainly, the complaint made by Rev, Allison involved the character, professional standing and conduct of Counsellor Jones as a member of the bar.

Having carefully considered the complaint of unethical and unprofessional conduct filed by Rev. Eric M. Allison against Counsellor Jones; having also carefully considered Counsellor Jones' response thereto; and having perused the report of the Grievance and Ethics Committee on the matter as well as the position and advice of the *amici curiae* appointed by this Court to assist the Court in determining the case, we hold that Counsellor Jones did not conduct himself in a professional manner as expected of a lawyer in this jurisdiction in handling the death claim of Rev. Allison's wife. He committed serious ethical and professional misconduct in many respects.

Firstly, Counsellor Jones should have, from the very beginning he undertook to represent Rev. Allison, informed him of his fee for handling the matter and reached an agreement with Rev. Allison before proceeding with the matter. But this was not the case. The records revealed, and Counsellor Jones did not deny, that it was after settlement was made in the case, about four years later, that he told Rev. Allison that he charged 33% of the amount recovered. At that point, services had already been rendered by Counsellor Jones and it was difficult for Rev. Allison to negotiate the fee if he wanted to do so. Had Rev. Allison been informed from the beginning, he probably would have contacted another lawyer to represent him in view of the high fee charged by Counsellor Jones.

We say that the fee charged is high because the case was settled without going to court. Counsellor Jones himself admitted that he only contacted Lloyds of London through Beaumont & Sons via telephone communications and emails from 2000 to August 2004. He did not indicate how many telephone calls he made and how many emails he sent. He did not travel to London. And when he travelled with Rev. Allison to Abidjan, Ivory Coast, on account of the matter, all expenses were paid by Kenya Airways. The records do not show that this was a case pre-financed by Counsellor Jones where he incurred huge expenses. Thus, for an out of court settlement wherein one hundred eighty two thousand United States dollars (US\$182,000.00) was received for a client, the fee of 33% or sixty two thousand and sixty United States dollars (US\$62,060.00) is certainly high. Counsellor Jones failed to disclose his fee at the time he was retained; he charged the high fee only after receiving the hefty settlement amount for his client. This is improper. Rule 16, Code for the Moral and Ethical Conduct of Lawyers provides:

In fixing fees, a lawyer should avoid charges which overstate his advice and services, as well as those which undervalue them. A client's ability to pay cannot justify a charge in excess of the value of the service .

Secondly, it was highly improper and a violation of his professional code of ethics for Counsellor Jones to have deposited his client's money into his personal account. We are in full agreement with the Grievance and Ethics Committee that this act of Counsellor Jones is in violation of Rule 15, Code for the Moral and Ethical Conduct of Lawyers which provides:

"A lawyer should refrain from any act whereby for his personal benefit or gain he abuses or takes advantage of the confidence reposed in him by his client. Money collected for his client, or other money or property of his said client coming into his possession as a result of his professional duty to his client, should be reported promptly and accounted for promptly, and should not under any circumstances be comingled with his own money or be used by him. [Emphasis supplied]

Section 63, 7AM JUR 2d, Attorney At Law provides:

A lawyer must maintain complete records of all funds and other properties of a client coming into his or her possession and render appropriate accounts to his or her client regarding them. Failure to maintain such records is grounds for professional discipline.

A lawyer must hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property. Funds must be kept in a separate account maintained in the state where the lawyer's office is situated, or elsewhere with the consent of the client or third person. An attorney's conduct in failing to keep and maintain records of a trust account reflecting the exact balance for each client, putting personal funds into the law firm's trust account, and withdrawing funds from the trust account for personal use will warrant discipline. Moreover, failing to maintain trust account books and records is serious misconduct and is an aggravating factor in determining an appropriate sanction. An attorney's using a portion of settlement proceeds being held for a client in an attorney escrow account for his or her own benefit will warrant discipline.

Counsellor Jones has not produced records of his client's account reflecting the exact balance. As indicated above, the full settlement amount of one hundred and eighty two thousand United States dollars (US\$182,000.00) received for Rev. Allison and his children was deposited in the account of Counsellor Jones and the account was operated as if the entire amount therein belonged solely to Counsellor Jones. From the listing of the withdrawals provided by Rev. Allison during investigation before the Grievance and Ethics Committee, there is no way of knowing which withdrawal was made in favor of Rev. Allison or anyone else without the benefit of the returned checks which only Counsellor Jones can account for. For the benefit of this opinion, we have reproduced the listing of withdrawals below:

Counsellor Jones has argued that Rev. Allison agreed for him to deposit the money into his account. This is no defense! As a layman, Rev. Allison was probably not aware that a lawyer is not allowed to commingle his money with his client's money. But Counsellor Jones, a "minister of the law" knew or ought to have known that to commingle his money with his client's money was a serious violation of the ethics of a lawyer. And as if commingling his client's funds with his was not an act reprehensible enough, Counsellor Jones failed to make the funds available upon demand by his client. The first part of Rule 15 quoted supra unequivocally states that money collected by a lawyer for his client, or other money or property of his said client coming into his possession as a result of his professional duty to his client, should be reported promptly and accounted for promptly. Counsellor Jones failed to do this.

Counsellor Jones has also argued that the balance of the money still in his account for Rev. Allison and his children is by far less than what is reported in Rev. Allison's complaint. He submitted that when reconciliation of the money is made, the balance remaining will not exceed forty thousand United States dollars (US\$40,000.00), an amount which he said he is obligated to pay.

Notwithstanding this position contained in his brief filed with this Court, this is what Counsellor Jones said in count seven of his response filed with the Grievance and Ethics Committee concerning the contention of Rev. Allison that Counsellor Howard inadvertently wrote USD six thousand one hundred in words but the figure US\$62,130.00 was stated correctly: this alleged inadvertence coming from a senior Counsellor of the Honorable Supreme Court of Liberia can never be considered... because under the law words written take precedence over figures written on financial instruments. Hence, Counsellor Beyan D. Howard's letter represents the actual balance if any still remains for Rev. Allison in Counsellor Jones' checking account when the seventy four thousand Liberian dollars (L\$74,000.00) is deducted leaving a balance of five thousand one hundred United States dollars (US\$5,100.00) due Rev. Allison at present.

We are at a loss concerning what Counsellor Jones considers as the actual balance of the money still in his possession for Rev. Allison and his children, given his conflicting positions on the issue. Under one breath, he says that the balance money for Rev. Allison and his children in his account cannot be more than forty thousand United States dollars (US\$40,000.00) and yet under another breath, he seems to suggest that the balance is five thousand one hundred United States dollars (US\$5,100.00).

What is clear though, is that Rev. Allison has remained consistent as to the balance amount he says Counsellor Jones has for him and his children; the amount, according to him, is sixty two thousand, one hundred and thirty United States dollars (US\$62,130.00). He said he knows this because he kept accurate account of all the checks Counsellor Jones issued in his favor or upon his instruction to other persons.

On July 4, 2012, Rev. Allison caused his counsel to write a letter to Counsellor Jones demanding payment of the money. We quote the letter:

LEGAL CONSULTANTS, INC.

Carey Street, P.O. Box 20-5192

1000 Monrovia, 20 Liberia, West Africa

Cells: 06-515649/05-671900/06-513055

Email: legalconsultants1994@yahoo.com

July 4, 2012

Marcus R. Jones

Counsellor-At-Law

Jones and Associates

Mechlin St., Monrovia, -Liberia

Dear Cllr. Jones,

We extend our compliments and write to inform you that our Law Firm has been hired by Rev. Eric M. Allison to institute an action to recover the amount of US\$62, 130.00 (Six- Thousand One Hundred Thirty United States Dollars) you have in your possession for him and other beneficiaries regarding insurance benefit, that was deposited in your account as a result of his late wife's death in 2000 in a Kenya Airways plane crash.

Because all of us are members of the same church, we have decided to give you two (2) days to contact Rev. Allison to pay him the amount mentioned herein and advise that you make good said payment on or before July 7, 2012. We will assume that the said amount is paid if and when we do not see our client on July 7, 2012, back to our office.

We would also like to let you know that wherein you fail to adhere to this ultimatum, we will be constrained to address the matter legally.

Kind regards.

Sincerely yours,

Beyan D. Howard  
Counsellor-At-Law

Cc: Rev. E.M. Allison

As seen from the quoted letter, the amount of sixty two thousand one hundred and thirty United States dollars (US\$62,130.00) stated in figure is not what is stated in words; the amount stated in words is six thousand, one hundred and thirty dollars. We note, however, that the same amount of sixty two thousand one hundred and thirty United States dollars (US\$62,130.00) in figure and in words is stated in the letter of complaint written to former Chief Justice Johnnie N. Lewis by Rev. Allison based upon which the Grievance and Ethics Committee conducted the investigation against Counsellor Jones.

Counsellor Jones had the opportunity, while the matter was being investigated at the Grievance and Ethics Committee, to have provided pertinent information, perhaps a bank statement, along with returned checks, indicating the number of checks he had issued to Rev. Allison or to other persons on the instruction of Rev. Allison, to clearly show how much had been withdrawn from the money belonging to Rev. Allison and his children, and what the actual balance was . Under the law, Counsellor Jones was required to do this. But he elected not to do so, claiming that the complaint made against him involved a debt matter over which the Grievance and Ethics Committee did not have jurisdiction.

We do not agree that this is a debt matter in the contemplation of the law. Rev. Allison did not credit Counsellor Jones. Under the circumstance, we accept Rev. Allison's explanation over Counsellor Jones' conflicting positions that the amount of six thousand, one hundred

and thirty stated in words in Counsellor Howard's letter to Counsellor Jones is an error. We further accept the amount of sixty two thousand one hundred and thirty United States dollars (US\$62,130.00) as the remaining balance Counsellor Jones still has in his possession for Rev. Allison and his children.

This Court has held that where a matter is well pleaded requiring a response, the failure to state a response is deemed an admission. *Kromah vs. Badio and Hills*, 34 LLR 85 (1986); *Washington vs. Sackey*, 34 LLR 324 (1986); *Liberia Agricultural Company vs. Reeves and Tarr*, 36 LLR 867 (1990).

Counsellor Jones' failure to state and establish what he believes the actual balance of the money for Rev. Allison and his children amounts to an admission. And his failure to produce evidence to the contrary means that any assertions made by him were without proof.

Counsellor Jones has further argued that he never served as a trustee for Rev. Allison or his family; that the services he rendered for Rev. Allison over the period of nine years are moral services based on sheer gratuity rather than legal service. We do not agree. We hold that what existed between Counsellor Jones and Rev. Allison was a client-lawyer relationship. Counsellor Jones counseled Rev. Allison, contacted Kenya Airways, as well as the lawyers and insurers of Kenya Airways abroad in respect of the wrongful death claim of Rev. Allison's wife. These are services that lawyers render clients. Then when the money for settlement was paid, he charged a fee which he received. This is not service on gratis. We hold further that when a lawyer receives funds for his client, he is obligated to hold said funds in trust for his client. In the case before us Counsellor Jones admitted receiving funds for Rev. Alison; he admitted depositing the funds in his personal account. It was not necessary that there be a special trusteeship agreement between him and Rev. Allison. The obligation to hold funds in trust for his client is imposed on a lawyer by operation of law, not by a written agreement.

We must now comment on the act of Counsellor Jones walking out while the proceedings of the Grievance and Ethics Committee were going on which he did not deny. As stated above, the Grievance and Ethics Committee is one of two important organs of the Judiciary that deals with allegations of unethical and unprofessional conducts of members of the legal profession in our country. The other organ is the Judicial Inquiry Commission which sits and hears cases against judges. These two institutions are an extension of the courts to insure ethical conducts of lawyers and judges.

We hold, therefore, that all lawyers owe duty to maintain respect to the Grievance and Ethics Committee and the Judicial Inquiry Commission, the same as they owe to the courts. No lawyer or judge will be permitted to engage in any conduct that will disrupt the dignity and decorum of the proceedings of these institutions. Even where a lawyer or a judge disagrees with the proceeding or position of any of these bodies, he or she must remain civil and respectful, as

there is a remedy available in the event a matter is not properly handled. Let this be a warning to all lawyers and judges.

Counsellor Marcus R. Jones is not just an ordinary lawyer, he has occupied high positions in Government and in the legal community; he was County Attorney for Montserrado County and one time Acting Solicitor General of Liberia. He was President of the Liberian National Bar Association, a two-time presidential aspirant of Liberia and he currently serves as a professor of law, Louis Arthur Grimes School of Law, University of Liberia. He is certainly one of the lawyers that other lawyers, especially the young lawyers, look up to for good examples and guidance. But his conduct complained of in this case, as well as his behavior before the Grievance and Ethics Committee is not one to emulate.

In view of what we have said herein above, we hold that Counsellor Jones committed ethical and professional misconduct against his client. He mishandled, commingled and misapplied his client's funds.

Section 62, 7AM JUR 2d, Attorney At Law provides:

The court employs three different culpability standards when evaluating the mishandling of clients funds: (1) commingling, which takes place when client money is intermixed with an attorney's personal funds; (2) simple conversion, which occurs when a lawyer applies a client's money to a purpose other than that for which it was entrusted to the lawyer; and (3) misappropriation, the most serious infraction, which involves an act of conversion, or similar wrongful taking, when an attorney purposefully deprives a client of money by way of deceit and fraud. Absent mitigating circumstances, the appropriate discipline in cases of attorney misappropriation, conversion or commingling of client funds is typically disbarment.

The Supreme Court has the inherent power as head of the Judiciary, to regulate the practice of law in Liberia. This includes disciplinarian measures taken against lawyers who are found in violation of professional ethics. The purpose of disciplining lawyers is not to punish per se; it is to protect the public as well as the legal profession and preserve the confidence of the general public in the integrity and trustworthiness of lawyers. It is important, therefore, that a judgment of a disciplinary proceeding be fair to the lawyer and to the public, being sufficient to punish a breach of ethics, to deter other lawyers from engaging in similar acts, and at the same time encourage reformation.

Arrogance, failure to cooperate, or attempting to thwart or impede disciplinary proceedings, and disrespectful conducts are aggravating factors in deciding the penalty in such cases. As we indicated above, Counsellor Jones at some point became disrespectful to the Grievance and Ethics Committee by walking out while proceedings were going on at the Committee. And we observed, during argument before us, that he was not penitent and remorseful for his actions complained of.



However, previous good character is a mitigating factor. In this regard, we take note of the dossier of enviable achievements of Counsellor Jones while occupying positions of trust as enumerated above. So, we will opt for his suspension instead of disbarment subject, however, to the proviso that he pays the amount of sixty two thousand one hundred and thirty United States dollars (US\$62,130.00) to Rev. Allison and children within three months as of the date of the delivery of this opinion.

WHEREFORE, and in view of the above, we affirm the findings of the Grievance and Ethics Committee and endorse the recommendations of the said Grievance and Ethics Committee with modifications that Counsellor Marcus R. Jones be, and he is hereby suspended from the practice of law directly and indirectly in Liberia for the period of five (5) years. He is ordered to pay the amount of sixty two thousand one hundred and thirty United States dollars (US\$62, 130.00) to Rev. Allison and his children in three months as of the date of the delivery of this opinion, and furnish receipt of payment to the Marshall of this Court, failing which his suspension will automatically become disbarment.

The Clerk of this Court is ordered to send a mandate to all courts of the Republic informing them of this decision and to have Counsellor Jones similarly informed of this decision; to have all of the appropriate authorities informed to ensure compliance with the decision of this Court and that they will act consistent with law. Costs are disallowed. It is so ordered.

COUNSELLORS EMANUEL B. JAMES AND COOPER W. KRUAH APPEARED AS AMICI CURIAE.

COUNSELLOR MARCUS R. JONES APPEARED PRO SE.