

LAW SOCIETY OF ALBERTA
IN THE MATTER OF THE *LEGAL PROFESSION ACT*;
AND
IN THE MATTER OF A HEARING REGARDING
THE CONDUCT OF ARNOLD PIRAGOFF, QC
A MEMBER OF THE LAW SOCIETY OF ALBERTA

Single Bencher Hearing Committee:

W. E. Brett Code Q.C., Bencher

Appearances:

Counsel for the Law Society – Candice Ross

Counsel for Arnold Piragoff – Daniel Chivers

Hearing Date:

October 25, 2016

Hearing Location:

Law Society of Alberta at 800 Bell Tower, 10104 – 103 Avenue, Edmonton, Alberta

HEARING COMMITTEE REPORT

Jurisdiction, Preliminary Matters and Exhibits

1. On October 25, 2016, a Single Bencher Hearing Committee (Committee) convened at the office of the Law Society of Alberta (LSA), and a public hearing was held into citations against Mr. Arnold Piragoff, Q.C., on the basis, among other things, of a Statement of Admitted Facts and an Admission of Guilt.

Statement of Facts and Admission of Guilt

2. Mr. Piragoff faced the following citations, that:
 - a. He operated a law firm without a Responsible Lawyer approval in contravention of the Rules of the Law Society of Alberta (the “Rules”) and that such conduct is deserving of sanction; and
 - b. He practiced law while subject to an administrative suspension for non-payment of fees and that such conduct is deserving of sanction.
3. On July 6, 2016, a Conduct Committee Panel determined that the Statement of Admitted Facts and Admission of Guilt, dated May 31, 2016, was in an acceptable form as contemplated by s. 60(2) of the *Legal Profession Act* (the “Agreed Statement”). That determination permitted this matter to be heard by a single Bencher, pursuant to section 60(3) of the *Legal Profession Act*. The Agreed Statement is attached as Schedule “1” to this Hearing Committee Report.
4. Pursuant to section 60 of the *Legal Profession Act*, acceptance of the Agreed Statement by the Conduct Committee is a conclusion by that committee that the conduct described in the Agreed Statement is conduct deserving of sanction. The hearing before a single Bencher is then conducted to determine what sanction, if any, will be imposed on the member who had been thus found guilty of conduct deserving of sanction in accordance with s. 49 of the *Legal Profession Act*.
5. Counsel made a joint submission on sanction. After hearing submissions regarding sanction, the Hearing Committee agreed that the sanction agreed to by counsel met the requirements for deference by the Hearing Committee.
6. Mr. Piragoff was sanctioned to a reprimand, without costs.

Discussion

7. Mr. Piragoff is 77 years old. He was called to the Bar in Manitoba in 1968. He became a member of the Law Society of Alberta on October 26, 1977. This hearing was held on October 25, one day shy of his 40th anniversary as a member of the Alberta Bar.
8. Mr. Piragoff was recruited to join the LSA by Alberta Justice. In need of prosecutors, the government of Alberta searched out and recruited Mr. Piragoff to be a lead and eventually senior prosecutor, on contract. He was paid a little more than other prosecutors, but did not get benefits and did not get the pension that other government employees enjoy. As a consequence, he was still working, conducting primarily a Legal Aid practice, into his 70s.

9. He continued to practice, because he needed the money. He relies for his income on Canada's Old Age Pension and Canada Pension Plan payments, and whatever he used to earn working Legal Aid tickets. As he aged, his practice shrank, as did his income, but he continued to serve the public interest, acting through Legal Aid for those most in need of legal assistance, those facing jeopardy from the province and without other recourse but to lawyers like him, providing not just access to justice but access to justice through one of the most experienced lawyers in this jurisdiction. Finally, in 2015, when asked to pay the ever-increasing fees of the LSA, he realized that he could no longer afford to practice, and he did not pay the annual fee.
10. Mr. Piragoff had an illustrious career, serving the public, working for the Province of Alberta, and advancing the public interest. He prosecuted over 200 murder cases. He was involved in essentially every murder prosecution in the Edmonton area throughout the 1980s and 1990s, averaging approximately eight murder prosecutions per year. He conducted over 150 jury trials. He lectured at universities and conferences, and he was a founding member of the Canadian Association of Crown Counsel. The scope and nature of his practice, while of real benefit to Albertans and of real reputational significance to the LSA, had some severe personal consequences. As a result of the experiences of Mr. Piragoff, the Crown now restricts the number of murder and other serious prosecution files that any one individual prosecutor can conduct.
11. When Mr. Piragoff could not pay his LSA fee in 2015, he was "administratively" suspended. An administrative suspension happens automatically, by operation of the Rules, without consideration to the actual circumstances of the lawyer's practice at the time or the needs of his or her clients. Mr. Piragoff had clients at the time, and his clients had upcoming Court appearances scheduled. Mr. Piragoff knew he was suspended, believed that he had a two-week grace period during which he was free to practice, and signed undertakings to the LSA on August 6, 2015 (as described in the Agreed Statement).
12. Despite the suspension, Mr. Piragoff appeared for one of his clients on August 4, 2015. The matter had been set for trial. Mr. Piragoff went to Court to assist that client in navigating through a resolution proposal, which had been entirely appropriately offered by the Crown, and he spoke to sentence. The matter was resolved to the benefit of the client, without causing any further delay, or any wasted time or costs to the Crown or the Court.
13. But, Mr. Piragoff had been suspended, administratively. In that circumstance, as matters currently exist, he should have advised the Court that he had been suspended and told the Court that he could not act, leaving his client, the Court, and the Crown to try to resolve next steps without the benefit of his knowledge of the facts, evidence, procedure to date, etc. That, the Conduct Committee found, was conduct deserving of sanction.

14. The next day, Mr. Piragoff attended Court again and did not advise that he had been suspended. He had made the arguments for his client on a bail hearing previously, while he was not under automatic suspension. The Court had reserved. He attended on August 5, 2015, to hear the decision read. He made no further submissions but only listened to the result. The Conduct Committee also found that that conduct amounted to conduct deserving of sanction.
15. His third appearance while under suspension was on a different matter. On that occasion he told the Court that he was suspended.
16. It was alleged, admitted, and found, that he “operated” a trust account while under administrative suspension and while not having a properly approved Responsible Person. During the entire time that that account was “operated”, no trust transactions were undertaken, and no money of any kind flowed into or out of the trust account. The “operation” of that trust account was also found by the Conduct Committee to be conduct deserving of sanction.
17. As to Mr. Piragoff’s intent in committing these acts of conduct deserving of sanction, the LSA said this:

It’s the Law Society’s position that with respect to Mr. Piragoff’s action, there was no malicious intent - - if any intent - - on his part in committing these offences.
18. Mr. Piragoff’s story and history were relayed by his counsel. Mr. Piragoff also personally addressed the Hearing Committee. Neither Mr. Piragoff nor his counsel attempted at any moment or in any way to downplay the admitted facts and, if anything, they each played up the significance of them.
19. Mr. Piragoff realizes that he should have simply gone to Court and advised that he was suspended, that he was not permitted to assist the Court as its officer or his client as his lawyer. He did not want to let his client down, although he realizes that that was an error.

Reprimand

20. The Hearing Committee reprimanded Mr. Piragoff, as follows:

Mr. Piragoff, you are hereby reprimanded.

Concluding Matters

21. The Hearing Committee agreed with the joint submission that no costs be paid, the reason being that the LSA agreed that Mr. Piragoff is impecunious.

- 22.** Hearing exhibits shall be made available to the public, with the exception that they shall be redacted to prevent the disclosure of confidential or privileged information.

Dated at the City of Edmonton in the Province of Alberta, this 18th day of November, 2016.

W. E. Brett Code, Q.C.

SCHEDULE 1:

IN THE MATTER OF:

**THE *LEGAL PROFESSION ACT* and
A HEARING INTO THE CONDUCT OF ARNOLD PIRAGOFF
a member of THE LAW SOCIETY OF ALBERTA**

STATEMENT OF ADMITTED FACTS AND ADMISSION OF GUILT

INTRODUCTION

1. I was admitted to the Law Society of Alberta (“LSA”) on October 26, 1976.
2. I practiced as a Crown Prosecutor for Alberta Justice from 1976 until 2001 and then joined Dawson Stevens Duckett & Shaigec from 2001 to 2008.
3. Since September 1, 2008, I have been a sole practitioner in Edmonton, Alberta practicing exclusively in the area of criminal law.
4. As of April 30, 2015, I sub-let my office space in Edmonton and have been working out of my home.
5. I intend to cease practicing law and resign effective June 30, 2016.

CITATIONS

6. I understand that the following conduct is being referred to a Hearing:
 - a. It is alleged that I operated a law firm without Responsible Lawyer approval in contravention of the Rules of the Law Society of Alberta (the “Rules”) and that such conduct is deserving of sanction.

- b. It is alleged that I practiced law while I was subject to an administrative suspension for non-payment of fees and that such conduct is deserving of sanction.

FACTS

7. I was administratively suspended on July 15, 2015 for non-payment of fees and as a result, pursuant to the Rules, my designation as Responsible Lawyer was terminated.
8. I had until July 31, 2015 to remedy my non-payment of fees. I understood the period from July 15, 2015 to July 31, 2015 to be a “grace period” during which I my suspension was not in effect. Accordingly, I continued to practice law during the period of July 15 – 31, 2015.
9. On August 4, 2015, the LSA wrote to me confirming the revocation of my Responsible Lawyer status and requested that I provide an undertaking to cease using my trust account. I was also advised that if I wished to reapply to operate a trust account and be designated as the Responsible Lawyer, I would have to submit the appropriate application.
10. On August 6, 2015, I made the following undertakings to the LSA:
 - a. To cease to use my trust accounts in any manner;
 - b. To sign any authorizations directed to any bank or financial institution as required by the LSA;
 - c. To provide all unused trust cheques to the LSA; and
 - d. To provide my completed trust reconciliation to the LSA upon request.
11. I made the following court appearances after July 31, 2015 while suspended:
 - a. On August 4, 2015, I appeared in Edmonton Provincial Court for a trial. I assisted my client in entering a guilty plea and spoke to sentence;
 - b. On August 5, 2015, I appeared in Stony Plain Provincial Court to receive a decision on a bail application that was made on July 15, 2015; and
 - c. On August 12, 2015, I made an appearance in Edmonton Court of Queen’s Bench to advise the Court that I was under suspension and unable to proceed with a contested sentencing on that date.

12. I was reinstated as an active member of the LSA on September 4, 2015.
13. I did not immediately submit an application to become a Responsible Lawyer nor did I submit an application to be exempted from operating a trust account.
14. I operated my law firm, Arnold E. F. Piragoff Professional Corporation, without Responsible Lawyer approval or an exemption from September 4, 2015 until December 17, 2015.
15. On December 17, 2015, I submitted an Application for Exemption to the LSA, which application was approved on the same day. I sought an exemption because my practice is almost exclusively conducted on Legal Aid Certificates. I stated in my application that I would not accept any payments for legal fees from my few remaining private clients in advance of issuing statement of account at the conclusion of their matters.
16. I am therefore exempt from the requirement that I obtain and maintain Responsible Lawyer designation.

The Complaint

17. On August 11, 2015, the LSA received an email from a Crown Prosecutor who advised that Mr. Piragoff was appearing in court while suspended.
18. I have cooperated fully with the LSA in response to its communications regarding the above complaints.

Admission of Guilt

19. I admit as facts the contents of this Statement of Admitted Facts and Admission of Guilt for the purposes of these proceedings.
20. I admit that I:
 - a. operated a law firm without Responsible Lawyer approval in contravention of the Rules of the Law Society of Alberta (the "Rules") and that such conduct is deserving of sanction.
 - b. practiced law while I was subject to an administrative suspension for non-payment of fees and that such conduct is deserving of sanction.
21. I admit guilt to the above conduct pursuant to section 60 of the *Legal Profession Act*.

22. I acknowledge that I have had the opportunity to consult legal counsel and provide this Statement of Admitted Facts and Admission of Guilt on a voluntary basis.

THIS STATEMENT OF ADMITTED FACTS AND ADMISSION OF GUILT IS MADE THIS
31 DAY OF MAY, 2016.

“Arnold Piragoff”

Arnold Piragoff