

**THE LAW SOCIETY OF ALBERTA
HEARING COMMITTEE REPORT**

**IN THE MATTER OF THE LEGAL PROFESSION ACT
AND IN THE MATTER OF A HEARING REGARDING
THE CONDUCT OF KATHERINE JUNE KOSKA,
A MEMBER OF THE LAW SOCIETY OF ALBERTA**

Introduction

1. A Hearing Committee composed of Scott A. Watson, Q.C., chair, James A. Glass and Frederica L. Schutz was scheduled to convene September 21, 2009 at the Law Society office in Edmonton to consider the conduct of Katherine June Koska (the "Member"). Preliminary applications were heard on June 10, 2009 and September 21, 2009. The hearing into the conduct of the Member was held September 21, November 30, December 16 and 17, 2009. The Law Society of Alberta ("LSA") was represented by Garner A. Groome. The Member was represented by Phil G. Lister, Q.C. The Member was not in attendance at the preliminary application June 10, 2009. The Member was otherwise present throughout the hearing. The entire hearing proceeded in public.

Citations

2. The Member faced three Citations:

Citation 1: It is alleged that you failed to produce to the Complainant or his solicitors or agents his client files within a reasonable time, thereby breaching the Code of Professional Conduct, and that such conduct is conduct deserving of sanction.

Citation 2: It is alleged that you failed to properly account to the Complainant for his funds in trust, and failed to return the balance of his retainer in a timely manner, thereby breaching the Code of Professional Conduct, and that such conduct is conduct deserving of sanction.

Citation 3: It is alleged that you failed to pay a judgment of the Court, thereby breaching the Code of Professional Conduct, and that such conduct is conduct deserving of sanction.

Jurisdiction

3. The hearing into the conduct of the Member had been scheduled to commence September 21, 2009. Prior to such date, the Hearing committee convened June 10, 2009 to address a preliminary application for disclosure brought on behalf of the Member. Prior to hearing the preliminary application, Exhibits 1, 2 and 3, being the Letter of Appointment of the Hearing Committee members, the Notice to Solicitor setting out the three citations, and the Certificate of Status certifying the Member was on the active/practising list of the LSA were entered by consent. Mr. Lister further acknowledged he had no objection to the Hearing Committee's composition or its jurisdiction to deal with the matters being brought before it.

4. Exhibits 4 and 5, being the Notice to Attend, directing the Member to attend the hearing, acknowledged by Mr. Lister, and the Certificate of Exercise of Discretion, referencing the complainant, were entered by consent September 21, 2009, thereby establishing jurisdiction.

Preliminary Application as to Disclosure June 10, 2009

5. The Member was not in attendance June 10, 2009 and Mr. Lister applied to adjourn his preliminary application for disclosure to a date when the Member was available. Mr. Lister's application was denied. Mr. Lister had advised that it was not the Member's intent to give evidence at the application for disclosure and that he was otherwise ready to proceed with his application. The Hearing Committee found that proceeding with the preliminary application for disclosure, in the absence of the Member, would not be prejudicial to the Member.

6. Mr. Lister then proceeded with his application for an order compelling the LSA to disclose the names of all lawyers the complainant had previously complained to the LSA about during the period 2001-2008 on the basis that the Member might wish to speak with such lawyers and obtain information that might be of use in her defence. If such application was denied, Mr. Lister sought an order compelling the LSA to at least disclose the total number of lawyers the complainant had complained about during the same period. He submitted the LSA had an obligation to examine their records to detect this information and that the LSA's Executive Director ought to then write each of those lawyers advising them that the complainant had made a complaint against the Member, and request their permission to disclose their name to the Member and her counsel. Mr. Lister argued that he could not get details of such complaints from any other source. He acknowledged that the information sought would indeed be relevant to Citations 1 and 2 but admitted it would not be relevant to Citation 3.

7. Mr. Groome argued that such information as to previous complaints by the complainant, including even the total number of complaints he may have made, was irrelevant as it had no bearing on the present allegations against the Member. He argued that such information about a complainant was confidential and that Rule 45 of the Law Society did not allow the LSA to disclose it. Rule 45(13) provides that, subject to certain prescribed exceptions, all information contained in the records of the LSA is confidential, regardless of the form that information may take. Further, as the complainant will be testifying, Mr. Groome argued the Member would have an opportunity to question the complainant on other complaints if she wished. He argued there was merit in the LSA keeping such information private so as to not cause the public to lose confidence in the LSA's complaint system. Mr. Groome argued that an application for such disclosure must balance the Member's ability to make a full answer and defence against the confidentiality and potential misuse of the information sought. He also added that any order to compel such disclosure would be an administrative burden to the LSA to detect all such information from its records.

8. Both branches of the Member's application were denied. The Hearing Committee was not convinced that there was a reasonable possibility that the information sought by the Member was logically probative in light of the particular Citations facing the Member. In coming to this decision, the Hearing Committee weighed the salutary and deleterious effects of the production order and found the decision to not grant the Member's application would constitute a reasonable limit on the ability of the Member to make full answer and defence to the Citations facing her.

9. The Hearing Committee ordered that prior to release of the June 10, 2009 transcript to the public, the name of the complainant be redacted.

Preliminary Application as to Composition of Hearing Committee September 21, 2009

10. Prior to September 21, 2009, the members of the Hearing Committee held a conference call to review a letter dated September 16, 2009, that had been delivered to them by Mr. Groome. The letter related to the proposed disqualification or recusal of Ms. Schutz on the basis of a latent conflict of interest based on her law firm's involvement in defending related litigation involving the complainant. The Hearing Committee was also provided with a letter from Mr. Lister indicating Ms. Schutz ought to recuse herself. Neither counsel attended on the conference call, held September 17, 2009.

11. Mr. Groome's letter indicated that in 2002, the complainant retained the Member on a matter that the complainant had previously retained another lawyer to handle. The complainant eventually sued the first lawyer in connection with the matter and that claim remains before the Courts. The first lawyer was represented by the firm of which Ms. Schutz is a partner. Mr. Groome's submission acknowledged that Ms. Schutz was not the responsible lawyer for the matter, nor had she ever directly been involved in the defence of the complainant's claim. The Hearing Committee noted that neither Mr. Groome nor Mr. Lister alleged any actual or real bias. Rather, Mr. Groome's written submission was centered on an apprehension of bias.

12. On September 21, 2009, when the Hearing Committee reconvened, Ms. Schutz was not in attendance. The Chair advised those in attendance at the hearing that Ms. Schutz had told the Hearing Committee that while she knew nothing of the complainant's file being handled by her law firm and did not feel she was in a conflict of interest, for purposes of fairness, she took it upon herself to recuse herself from the Hearing Committee so as to avoid an apprehension of bias. The Chair further advised those at the hearing that the remaining members of the Hearing Committee had accepted the resignation of Ms. Schutz.

13. Mr. Lister argued the remaining two Hearing Committee members had no jurisdiction to continue because the hearing had not yet commenced. He contended that only after a hearing has commenced can a Hearing Committee drop from three to two members. Mr. Lister acknowledged that the jurisdictional documents entered June 10, 2009 indicate the Hearing Committee was appointed and constituted and that citations were in existence, but he argued that a hearing does not commence until the Hearing Committee begins to hear evidence, a witness takes the stand or a document is introduced into evidence with respect to the citations and the member is at some risk. He argued that what took place on June 10th was simply pre-hearing argument on procedural issues. Mr. Lister further argued that even if the hearing had commenced June 10th, the Hearing Committee ought not to proceed as the Member should be entitled to the verdict of three Benchers, not just two, to ensure a fair hearing and to avoid a non-unanimous decision.

14. Mr. Groome argued that the hearing commenced when Exhibits 1, 2 and 3 were entered by consent immediately prior to the Member's preliminary application for disclosure on June 10, 2009. He argued that a Hearing Committee cannot accept jurisdiction for some reasons but not for others. He argued that with the recusal of Ms. Schutz, the Hearing Committee ought to

continue with its remaining two members as it is specifically permitted to do so under the *Legal Profession Act* (“LPA”).

15. Section 59(5) LPA provides:

59(5) An allegation of bias affecting a Hearing Committee,

(a) if raised before commencement of the hearing, is to be dealt with by the chair of the Conduct Committee;

(b) if raised at or after commencement of the hearing, is to be dealt with by the Hearing Committee unless the Hearing Committee refers the matter to the chair of the Conduct Committee. (*emphasis mine*)

16. Mr. Groome further argued that while 3 members are, for practical reasons, often the norm, there was nothing preventing the Chair of the Conduct Committee from appointing more members, nor was there anything preventing the Chair of the Conduct Committee from appointing an “even” number of members to a Hearing Committee. He further argued that there was nothing inherently unfair about continuing with the two remaining members on the Hearing Committee.

17. The Hearing Committee found that the allegation of bias was raised after the hearing commenced on June 10, 2009 and that the Hearing Committee was therefore able to continue the hearing with its two remaining members.

18. The Hearing Committee, initially comprised of 3 members, convened on June 10, 2009 to address a preliminary application brought on behalf of the Member. At that time, jurisdictional exhibits were entered into evidence, the Hearing Committee began hearing preliminary applications, heard argument from both counsel and began rendering decisions.

19. The Hearing Committee also considered section 74(1) of the LPA, which provides:

74(1) On completing its hearing and deliberations, a Hearing Committee shall

(a) prepare a written report that sets out

(i) each of its decisions and the reasons for its decisions,

(ii) the findings of fact and the conclusions of law, if any, and

(iii) any order made by that Committee,

and

(b) give a copy of the report to the chair of the Conduct Committee and to the Executive Director.

20. Section 74(1) obligates the Hearing Committee to produce a report including the details of any applications, decisions and orders it makes. Although the applications on June 10, 2009 may be characterized as preliminary, they would still form part of the hearing report and are subject to appeal.

21. Neither party indicated that they had or wished to take steps to put the allegation of bias in front of the Chair of the Conduct Committee to deal with pursuant to section 59(5)(a) of the LPA.

59(5) An allegation of bias affecting a Hearing Committee,

(a) if raised before commencement of the hearing, is to be dealt with by the chair of the Conduct Committee;

(b) if raised at or after commencement of the hearing, is to be dealt with by the Hearing Committee unless the Hearing Committee refers the matter to the chair of the Conduct Committee. (*emphasis mine*)

22. Instead, the allegation of bias was brought solely to the Hearing Committee to consider, which was consistent with a finding of the hearing having commenced June 10th.

23. Section 66(3) of the LPA makes it clear that after a hearing commences, the Hearing Committee may continue with two members.

66(3) If after the commencement of a hearing the membership of a Hearing Committee is reduced, the remaining members of the Hearing Committee may continue to act as the Hearing Committee if at least 2 members of the Committee remain. (*emphasis mine*)

24. Nor does a Hearing Committee have to be comprised of an uneven number to avoid non-unanimity. Section 59(1)(b) of the LPA provides:

59(1) If the Conduct Committee directs that the conduct of a member is to be dealt with by a Hearing Committee,

...

(b) the chair of the Conduct Committee shall appoint a Hearing Committee consisting of 3 or more Benchers other than the President or any Benchers disqualified from sitting on the Committee, and... (*emphasis mine*)

25. While there was indeed a possibility that a Hearing Committee with an even number of members may fail to come to a unanimous decision, this possibility was not in and of itself reason enough to forgo proceeding.

Exhibits

26. On September 21, 2009, Exhibits 6 to 29 were entered by consent. A further binder of documents was entered by consent as Exhibit 30, except for certain documents within the binder and identified by numbers 94 through to and including 97. Further Exhibits 31 to 39 were entered by consent.

27. Mr. Lister sought to enter the documents numbered 94 through to and including 97. Mr. Groome objected on the grounds of relevance and that such documents may be prejudicial to third parties persons identified in them.

28. The Hearing Committee permitted such documents to be entered. The issue of relevance has a very low threshold and probative value is to be weighed against other competing interests and considerations. The Hearing Committee was persuaded by Mr. Lister's argument and entered the documents on the basis the third party names be redacted from them.

Evidence

29. Prior to introducing evidence as to the Citations, Mr. Groome notified the Hearing Committee that he would not be pursuing conviction on Citation 1.

30. The Member was sworn, gave evidence and was cross-examined by counsel for the Law Society.

31. The Member was retained in the spring of 2002 by the complainant on a variety of legal matters. The relationship ended March 26, 2003 and the complainant requested his files be returned to him by April 3, 2003. It was the Member's evidence that by June 10, 2003, she had determined she held \$3,380.73 of the complainant's money in her trust account (Transcript, pages 210 and 233).

32. The complainant took steps to have the Member's legal bills examined by the taxing officer. The taxation process occurred over the period June 10, 2003 to December 18, 2003. The Member issued her final account to the complainant June 24, 2003. On June 30, 2003, the Member sent an accounting to the taxation officer and to the complainant's lawyer stating she owed \$3,380.73 to the complainant.

33. During the course of 2003, the Member's bank accounts were examined by the LSA. This too contributed to the Member's delay in returning the funds. The LSA audit report issued November 26, 2003 did not disclose any significant discrepancies. No evidence was presented during the hearing to suggest the Member's records nor did the LSA's audit put the \$3,380.73 amount owing to the complainant, in doubt.

34. During this same time, the Member's husband had been diagnosed with cancer.

35. The Member testified that the delay in paying the funds to the complainant was due, in part, to her desire to first conclude the taxation process as she believed it might reveal an error in her calculation of the true amount owing to the complainant. The taxation officer rendered a decision December 18, 2003. No error was revealed during the taxation process.

36. The Member's testimony also disclosed reluctance in returning the funds without first obtaining the complainant's agreement as to the precise amount owing. The Member claimed she was concerned that any miscalculation on her part may lead the complainant to accuse her of theft, misappropriation, or fraud.

37. The Member also expressed reluctance in returning funds without first confirming who the funds ought to be returned to; the complainant or the complainant's company.

38. The Member also testified the delay was due, in part, to her being unsure whether to return the funds to the complainant's home address, his business address, the complainant's

lawyer, or to the LSA's office. On January 22, 2004 (Exhibit 22) and again on January 27, 2004 (Exhibit 33) the LSA instructed the Member to prepare a cheque in the name of the complainant and make it available for pickup by the LSA's courier.

39. The Member ultimately returned the complainant's \$3,380.73 on January 29, 2004 being seven months after she had first determined the amount owing.

40. Regarding Citation 3, the Member submitted to the Hearing Committee, her statement of admission of guilt of conduct deserving of sanction. Namely, that the Member had failed to pay a judgement of the Court in favour of the complainant since May, 2005, that she had no professional excuse for not paying the judgement, and she acknowledged that it was a breach of the Code of Professional Conduct and a breach of her ethical obligation to honour the judgement. The judgement stems from a Certificate of Taxation that was entered as a formal judgement in the Court of Queen's Bench. The Certificate of Taxation and the judgement arising from it was appealed by the Member and upon the Court of Appeal denying her application for leave to appeal the costs matter in May, 2005, the issue of whether or not that was a legitimate judgement had ended. The Member had not made payment on the judgement since 2005 and the complainant had to retain legal counsel to take steps to try and collect on the judgement. The Member submitted her written undertaking to the complainant, and to the LSA, to pay the judgement, together with interest and costs, over time (Exhibit 29). The complainant and his legal counsel were present at this portion of the hearing and the complainant advised the Hearing Committee that the payment arrangement with the Member was satisfactory.

Submissions of LSA Counsel

41. Mr. Groome submitted that Citation 2 was made up of two elements. The Citations alleged the Member (a) failed to account to the complainant for funds she held in trust for him, and (b) she failed to return the balance of those funds to the complainant in a timely manner. Given that the Member sent an accounting to the complainant in June, 2003, Mr. Groome conceded that part (a) of Citation 2 was not made out.

42. As for part (b) of Citation 2, Mr. Groome submitted that the Member knew the amount owed in June, 2003 yet despite repeated demands from both the complainant and the LSA, she failed to return the funds for seven months. There was simply no reason, he argued, why the Member did not return the funds in June, 2003.

43. The Member waiting for the taxation to conclude on the basis her accounts may be increased by the taxing officer, may be theoretically possible but unlikely, especially since the Member never gave notice that she would be seeking any increase at taxation, he argued. To withhold money for seven months on the basis that there might be a concern over her calculations or some allegation of misappropriation was not reasonable. Mr. Groome argued the Member's claim that she was waiting for the taxation to be concluded before releasing the funds is also inconsistent with the facts as the Member appealed the taxing officer's decision and the issue was not resolved until well after the Member had ultimately released the funds to the complainant. Further, he argued the entire basis of waiting for taxation to be concluded was flawed as the taxing officer's role is not to confirm the accuracy of money the Member may yet retain in her account, his function is to assess the acceptability of legal bills the Member had issued the complainant.

44. As to holding a client's funds pending conclusion of the LSA audit, Mr. Groome argued that the audit report was issued November, 2003, and the Member still waited two months before releasing the funds. Despite an LSA audit, he maintained the Member remained obligated to honour the LSA's accounting rules and an audit is not a reasonable excuse for failing to repay client monies.

45. As for waiting for the complainant to confirm agreement as to the amount before returning it, the Member has the obligation to keep track of the amount owed, not the client. Mr. Groome argued that the LSA should not be suggesting to the public that the public bears some responsibility for confirming the accuracy of their lawyer's trust account records. This would result in a loss of confidence in the LSA's ability to maintain the integrity of its members trust accounts. Besides, the Member was confident that the amount calculated in June, 2003 was indeed correct. There were no competing claims for the money nor were there conflicting instructions. He argued the Member should have paid funds out and, if the amount was later challenged, she had her accounting records to back her up. In the end, the complainant never did communicate his agreement with the Member's calculations, yet the Member returned the funds.

46. Mr. Groome argued that regardless of who she made the cheque out to, namely, the complainant or the complainant's company, it would have created little if any risk. As to the lack of address, she could have sent the cheque to the LSA who had been requesting she pay since August, 2003.

47. Mr. Groome admitted that while the Member had not been accused of using the funds for an unauthorized purpose, her delay in returning the funds lowered the reputation of the profession. As a result the conduct ought to be sanctioned.

Submissions of the Member's Counsel

48. Mr. Lister argued the delay between when the taxation was concluded, being December 18, 2003, and the day the Member ultimately issued the complainant the cheque, January 29, 2004, was fairly trivial and fairly prompt given the realities of practice at that time of year. Mr. Lister argued Citation 2 should be based on the delay from June to December, 2003. He argued that the Hearing Committee ought to take into account that during this time frame the Member's husband was dying from cancer and the Member was under considerable stress dealing with this and her children.

49. Mr. Lister argued that the Member wanted to get her accounting ratified as part of the taxation process. He argued the Member was not required to give notice of her intent to seek an increase in her legal bills during the taxation process.

50. He further argued that the Member was faced with a very difficult and litigious client and all she was trying to do was protect herself from him. He argued the Member did not want to overpay the complainant as she would have been unable to recover the overage. The Member was trying to avoid having a complaint being made against her. All the complainant had to do, Mr. Lister argued, was to confirm the amount owing and the Member would have paid the funds out.

51. Mr. Lister argued the Member was not accused of doing anything nefarious with the money; she wasn't moving it around, nor using it for other purposes; she had never denied holding it. She had disclosed she held the funds in June, 2003 and continued to hold the funds while trying to get confirmation that the complainant agreed with her calculations and attempted to confirm who the money ought to be returned to and where. The complainant was refusing to answer.

Decision as to Citations

52. Citation 1 is hereby dismissed based on Mr. Groome's invitation to do so.

53. Citation 2 is comprised of two parts. The Member (a) failed to account to the complainant for funds she held in trust for him, and (b) she failed to return the balance of those funds to the complainant in a timely manner. Given that the Member sent an accounting to the complainant in June, 2003, Mr. Groome conceded that part (a) of the citation was not made out. We agree and dismiss part (a) of Citation 1. As for part (b), we find the Member guilty of failing to return the balance of funds to the complainant in a timely manner and that such conduct is conduct deserving of sanction.

54. The Member's lawyer/client relationship with the complainant ended March 26, 2003 and the complainant requested his files be returned to him by April 3, 2003. The complainant requested his funds be returned in April, 2003. The Member knew the amount she owed the complainant on June 10, 2003. The funds were ultimately paid to the complainant in January 29, 2004.

55. Neither the ongoing taxation of the Member's accounts nor the intervening audit of her accounts by the LSA permitted the Member to delay the performance of her obligation to repay those funds to the complainant. Rule 4 of Chapter 14 of the *Code of Professional Conduct* provides:

Upon withdrawal or dismissal, a lawyer must promptly render a final account and must account to the client for money and property received from the client.

56. The commentary related to this Rule provides:

All of the foregoing must be executed promptly upon withdrawal or dismissal. Unreasonable delay in accounting to the client, returning money or property to the client or delivering the file to a successor lawyer is unethical conduct. (*emphasis mine*)

57. It is the Member's responsibility to ensure that she accounted for her client's money. It is also the Member's responsibility to know exactly how much of her client's money had been deposited to, withdrawn from and otherwise held in her trust account. It is also the lawyer's responsibility to keep track of the name of individual or other entity she received the funds from and to whom they are owed. Clients do not bear any responsibility to verify the accuracy of what funds are held by the lawyer as a precondition to having them repaid.

58. While we recognize the complainant may have been a difficult client, he was entitled to expect his lawyer to abide by the rules of the Law Society. None of the circumstances warranted

a delay in returning the funds. We find the Member failed to return the balance of the complainant's funds to the complainant in a timely manner and that such conduct was conduct deserving of sanction.

59. Regarding Citation 3, the Hearing Committee finds the Member's statement of admission of guilt to be in an acceptable form and accepts it pursuant to section 60 of the *Legal Profession Act*. Accordingly, the Hearing Committee finds that the Member failed to pay a judgment of the Court, thereby breaching the Code of Professional Conduct, and that such conduct is conduct deserving of sanction.

Submissions and Considerations on Sanction

60. Mr. Groome submitted that the LSA seeks to take a purposeful approach to sanctioning. In particular, the LSA seeks to protect the public and maintain the reputation of the profession. He submitted maintenance of the reputation of the profession ought to be the primary focus in this case, as it grounds all of what we do as lawyers. He argued the sanction ought to discourage future behaviour which will have the effect of protecting the public from similar conduct. He acknowledged there was nothing in the Member's conduct that posed any immediate risk to the public. He submitted that neither disbarment nor suspension was in order, and that neither imposition of a fine nor conditions were warranted. Mr. Groome submitted a reprimand on both citations and an order to pay the actual costs of the hearing would be in order.

61. Mr. Lister supported the reprimand. He submitted that the Member had made previous effort to negotiate a resolution and payment plan with the complainant's agents but it came to nothing. He argued that the September 21st hearing, which dealt with the issue of recusal of Ms. Schutz and issue of continuation with only two panel members, was to some extent not the Member's fault. He argued those issues were systemically caused and that the Member ought not to bear the full brunt of the costs related to that. He also argued that two of the four allegations (Citation 2 contained two allegations) were dismissed and ought to weigh in favour of the Member.

62. The Hearing Committee considered the aggravating and mitigating factors. Aggravating factors include the client was out of pocket \$3,380.73 which the Member continued to hold in her trust account for seven months. The taxation officer had reduced the Member's legal bill by approximately \$15,000 (fees and taxes). After the certificate of taxation was issued the Member failed to repay the funds owed. Even after the certificate of taxation was turned into a judgement she failed to pay it. Nor was the judgement paid even after the Member's unsuccessfully appealed it. The complainant was required to hire a lawyer to collect on the judgement, and it was not until the matter was brought to this hearing that the Member worked out a settlement with the complainant to repay the judgement.

63. Mitigating factors include the Member not having a previous disciplinary record with the LSA. She pled guilty to Citation 3 which saved the complainant, who suffers from brain-injury, from the aggravation and inconvenience of attending as a witness and being subjected to cross-examination and questioning. The Member entered into an agreement to pay the complainant the \$3,380.73 by December 15, 2009 which she has fulfilled. She has entered into a written undertaking in favour of both the complainant and the LSA to retire the balance of the judgement owed to the complainant by the end of 2011.

Sanction and Orders

64. The Hearing Committee accepts the submissions of both counsel as to sanction and agree the Member's conduct deserving of sanction warrants a reprimand. The Chair delivered the reprimand.

65. The Hearing Committee ordered the Member to pay \$8,000.00 in costs.

66. Mr. Lister requested the Member be given 30 months to pay and Mr. Groome had no objection. The Hearing Committee ordered that the Member pay the costs on or before June 30, 2012 failing which the Member shall stand suspended.

Concluding Matters

67. Exhibit 18, Tabs 2 and 3, being details of the complainant's accounts together with that portion of Exhibit 31 that include details of the complainant's accounts, shall be kept private, the account numbers on copies of all cheques be redacted, all third party names and identifying information such as addresses be redacted or otherwise removed from publication in any Hearing Committee report, any production of the exhibits or any transcript arising from these proceedings.

68. No separate notice to the profession is ordered.

69. No referral to the Attorney General is required in this matter.

Dated this 8th day of March, 2010.

Scott Watson, QC – Chair and Bencher

James Glass, QC - Bencher