

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

**IN THE MATTER OF THE *Legal Profession Act*,
and in the matter of an Application by NED EPHRAIM FROHLICH, a Member of the
Law Society of Alberta to Resign while Facing Citations**

On November 21, 2014, the Member made an application to the Benchers of the LSA to resign as a Member of the LSA pursuant to s. 61(1) of the LPA. Mr. Frohlich, on the date of this Application, was a suspended Member of the LSA. The Application was granted.

Counsel: Ms. Nancy Bains, counsel for the Law Society of Alberta (LSA)
Mr. Alexander D. Pringle, QC, counsel for Ned Ephraim Frohlich.

INTRODUCTION

1. On **November 26, 2014**, the Resignation Application of Ned Ephraim Frohlich (the Member) was heard at the Law Society of Alberta (LSA) offices in Edmonton, Alberta.

EXHIBITS

2. Exhibit 1 Letter of Appointment of Resignation Committee dated November 24, 2014;
- Exhibit 2 Certificate of Exercise of Discretion dated November 25, 2014;
- Exhibit 3 Certificate of Status dated November 14, 2014;
- Exhibit 4 Member's Record dated November 13, 2014;
- Exhibit 5 Estimated Statement of Costs dated November 26, 2014;
- Exhibit 6 Member's Application Materials;
 - Tab A Application for Resignation dated November 21, 2014;
 - Tab B Statutory Declaration declared November 21, 2014;
 - Tab C Undertakings dated November 21, 2014;
 - Tab D Member's Statement of Facts dated November 21, 2014;
- Exhibit 7 Agreed Statement of Facts (from Criminal Trial);

- Exhibit 8 Certificates of Conviction from Court of Queen's Bench; and
- Exhibit 9 Draft Notice to the Profession.

FACTS

3. In support of his resignation, the Member agreed to the following Statement of Facts dated November 21, 2014:

1. I was admitted to the Alberta Bar on October 17, 1984.
2. I maintained non-practising status with the Law Society of Alberta from the date of my call until March 31, 2011.
3. I commenced employment as a Trust Officer with the Office of the Public Trustee of the Province of Alberta on July 21, 1986. November 1, 1997, I was appointed as Senior Trust Officer.
4. Between April 11, 1997 and May 6, 1998, I engaged in an estate fraud scheme involving an estate I was in charge of administering as Trust Officer, which cost the estate and the Alberta government in excess of \$295,000. I plead guilty to sections 334(a) and 380(1) of the Criminal Code, both indictable offences, on March 1, 2013 and was sentenced by Justice Sterling Sanderman to 16 months in prison.
5. A detailed account of the estate fraud scheme leading to my criminal conviction is provided in Exhibit 7, which is the "Agreed Statement of Facts" that was filed with the Court of Queen's Bench as the basis for my guilty plea and sentencing in the matter.
6. My criminal activities resulted from a combination of depression, helpless addiction to gambling, a rocky marriage and disgruntlement with work because I believed I had been passed over for deserved promotions.
7. I did not self-report the charges or the conviction to the Law Society.
8. I have served my prison sentence.
9. I have been suspended since March 31, 2011 for non-payment of fees. On March 1, 2013, I was further suspended due to being convicted of indictable offences, pursuant to Section 83(7) of the *Legal Profession Act*.
10. I will not be returning to the practice of law.
11. No citations have been issued against me in relation to my criminal conviction.

Conclusion

12. I have applied to resign as a member of the Law Society of Alberta pursuant to Section 61 of the *Legal Profession Act* and I admit all of the contents of this Statement of Facts and of Exhibit 7, which together are tendered as an admission of facts in support of my resignation application.
 13. I further acknowledge that I have read Section 61 of the *Legal Profession Act* and have considered that my resignation application is a deemed disbarment pursuant to the definition of “disbar” in Section 1(c) of the *Act*. **(Exhibit 6D)**
4. On March 1, 2013, the Member signed an 11 page Agreed Statement of Facts **(Exhibit 7)** in relation to the criminal proceedings he was facing. He admitted the following for the purpose of dispensing with formal proof thereof in respect of a guilty plea:
- Count 1
- Between the 1st day of April, 1997 and the 6th day of May, 1998, both dates inclusive, at or near Edmonton, Alberta, or elsewhere in the Province of Alberta, did unlawfully steal money and property of a value exceeding \$5,000.00, the property of W.T., contrary to section 334(a) of the *Criminal Code of Canada*.
- Count 4
- Between the 11th day of April, 1997 and the 6th day of May, 1998, both dates inclusive, at or near Edmonton, Alberta or elsewhere in the Province of Alberta, did by deceit, falsehood, or other fraudulent means, defraud G.A. of money and property of a value exceeding \$5,000.00, contrary to section 380(a) of the *Criminal Code of Canada*. **(Exhibit 7)**
5. Following his admission of guilt on Counts 1 and 4, the Member was incarcerated on Order of the Honourable Mr. Justice S.M. Sanderman.

STATUTORY DECLARATION

6. In addition to the Statement of Facts as set out in **Exhibit 6E**, the Member signed the following Statutory Declaration on November 21, 2014:

I, Ned Ephraim Frohlich, of the City of Edmonton, in the Province of Alberta, DO SOLEMNLY DECLARE THAT:

1. I was born [REDACTED].
2. I was admitted to the bar in the Province of Alberta on October 17, 1984.
3. I reside in Edmonton, Alberta.
4. I was suspended for non-payment of fees on March 31, 2011. On March 1, 2013, by virtue of conviction of an indictable offence pursuant to Section 83(7) of the *Legal Profession Act*, I was automatically suspended.
5. I was employed as a Trust Officer with the Office of the Public Trustee of the Province of Alberta between July 21, 1986 and February 28, 2011 at which time my employment was terminated.
6. My status history is as follows:

Inactive/Non-Practising	October 17, 1984 to March 31, 2011
Suspended, non-payment of fees	March 31, 2011 to current
Suspended, indictable offence [s.83(7)]	March 1, 2013 to current
7. I have never been an active member nor engaged in the practice of law and therefore, have never maintained trust accounts, handled trust funds or other client property.
8. I am not aware of any claims against me in my professional capacity.
9. I have read Section 61 of the *Legal Profession Act* concerning resignation, and considered Section 1(c) of the *Act*, the definition of "disbar" and am aware of the effect of my resignation. **(Exhibit 6B)**

UNDERTAKINGS

7. On November 21, 2014, the Member signed the following Undertaking:

I, Ned Ephraim Frohlich, undertake and agree to cooperate with the Law Society of Alberta and the Alberta Lawyers' Insurance Association in respect to any claim made against me or the Assurance Fund regarding me now or in the future.

I undertake and agree to pay any deductible with respect to any claim paid by the Alberta Lawyers' Insurance Association and to pay the Law Society of Alberta any amount of any claim paid by the Law Society's Assurance Fund.

I undertake to locate and surrender to the Law Society of Alberta the Certificate of Enrolment issued by the Law Society of Alberta pertaining to my admission to the bar.

I undertake and agree never to reapply for admission to the Law Society of Alberta.

I undertake and agree that I will not seek employment with nor be employed by an active member of this Law Society or professional corporation of such member as would offend Section 106(3) or Section 108 of the *Legal Profession Act*. (**Exhibit 6C**)

ISSUE

Given the totality of the evidence as set out in Exhibits 6A, B, C and D, ought the Member's application, pursuant to s. 61(1) of the *Legal Profession Act*, be granted?

DECISION ON THE MEMBER'S APPLICATION

8. Counsel for the LSA did not oppose the Application of the Member. Following submissions by Counsel for the LSA and Counsel for the Member, the Resignation Committee went into recess to deliberate on whether or not the Resignation Committee would grant the Member's application.
9. Given the Facts which the Member has admitted, the Statutory Declaration and the Undertakings of the Member, it is the finding of the Resignation Committee that the best interests of the public and the LSA are served with the acceptance of the Resignation of the Member. The Member's application to resign is granted.

SUBMISSION ON COSTS

10. **Exhibit 5** sets out the estimated statement of costs in the amount of \$2,187.50.
11. Following submissions on costs of which there was no dispute, the Chair delivered the Resignation Committee's Decision that costs are payable within 6 months of the date of the signing of the Statement of Costs by the Chair.

CERTIFICATE OF ENROLLMENT

12. The Member has been unable to locate his Certificate of Enrollment but has undertaken to surrender it if and when it is found.

CONCLUDING MATTERS

13. All Exhibits shall be available to the public following redaction.
14. There shall be no referral to the Attorney General.
15. The usual Notice shall be issued to the Profession.

DATED this 9th day of December, 2014.

ROSE M. CARTER, QC
Chair

KATHLEEN RYAN, QC

ROBERT DUNSTER