

LAW SOCIETY OF ALBERTA
IN THE MATTER OF THE *LEGAL PROFESSION ACT*;
AND
IN THE MATTER OF AN APPLICATION TO RESIGN PURSUANT TO SECTION 61
OF THE *LEGAL PROFESSION ACT*,
BY NATHAN DAVID STEED
A MEMBER OF THE LAW SOCIETY OF ALBERTA

Resignation Committee:

Gillian Marriott, Q.C., Chair (Bencher)

Adam Letourneau, Committee Member (Bencher)

Amal Umar, Committee Member (Lay Bencher)

Appearances:

Counsel for the Law Society – Rocky Kravetsky

Counsel for N. David Steed – Dennis McDermott, Q.C.

Hearing Date:

May 28, 2015

Hearing Location:

Law Society of Alberta at 500, 919 – 11th Avenue S.W., Calgary, Alberta

RESIGNATION COMMITTEE REPORT

Jurisdiction and Preliminary Matters

1. The following exhibits were admitted:
 - i. Exhibit 1 – Letter of Appointment, May 28, 2015;
 - ii. Exhibit 2 – Formal Citations;
 - iii. Exhibit 3 – Certificate of Exercise of Discretion, May 25, 2015;
 - iv. Exhibit 4 – Certificate of Status, February 27, 2015
 - v. Exhibit 5 – Member’s Record, April 29, 2015
 - vi. Exhibit 6 – Application for Resignation, May 5, 2015
 - vii. Exhibit 7 – Statutory Declaration, May 5, 2015
 - viii. Exhibit 8 – Undertaking, May 5, 2015
 - ix. Exhibit 9 – Statement of Facts, May 28, 2015
 - x. Exhibit 10 – Certificate of Enrollment (not included)
 - xi. Exhibit 11 – Estimated Statement of Costs

2. The parties had no objection to the composition of the Committee.

3. The Committee was advised that no party intended to apply to have the application held in private. The application proceeded in public.

4. A Statement of Facts was entered as Exhibit 9, signed by the Member. It contained certain information which was made part of the Member’s application to resign. It was effectively a Joint Submission as to the appropriateness of the resignation under section 61 of the Act in the face of the extant investigation and the admissions made in the Statement of Facts. While the Member did not admit all of the allegations against him, he did make admissions that certain findings were made by the LSA during the course of their investigation, which, if proven, would have resulted in disbarment from his membership with the LSA. The Committee was aware that such a joint submission should receive the deference of a committee such as this unless that submission is unfit, unreasonable in the circumstances, or contrary to the public interest.

Analysis

5. The Member's application was brought under section 61 of the Act, being an application by the Member to resign from the LSA while his conduct is being investigated under Part 3 of the Act.
6. The Member acknowledges that he is facing 51 citations and that the LSA is continuing to investigate his involvement in a number of transactions.
7. The issue to be determined by the Committee is whether, given the totality of the evidence, the Member's application pursuant to section 61 of the Act should be granted. Further, the Committee is to consider whether it is in the best interest of the public and members of the LSA to permit the Member to resign prior to the resolution of the outstanding matters of concern or under review by the LSA as set forth in the Resignation Guideline at paragraph 21.
8. The LSA has been involved in the investigation of this Member respecting, what they have alleged, reflects conduct which, should this matter have proceeded to hearing, ought to have attracted a disbarment of this member -- the ultimate penalty that the LSA can impose.
9. Although the Member does not "admit" to all of the conduct alleged by the LSA, he admits to sufficient conduct that the Committee accepts that his conduct would be such as to warrant disbarment as the only outcome of a Hearing, if such had occurred.
10. The Statement of Facts is not appended to these reasons. To summarize, the Member faced 51 citations directed by the Conduct Committee Panels. The citations arose from 16 separate complaints. The general nature of the citations in the complaints include the following allegations:
 - a) The Member assisted a client or clients in an improper purpose;
 - b) The Member failed to serve his clients, including mortgage lenders and purchasers;
 - c) The Member witnessed or commissioned documents when he was not present to see the client sign or to take the client's declaration;
 - d) The Member engaged in loan transactions with clients where he failed to

- recommend legal advice or where the transactions were not fair or reasonable;
- e) The Member failed to cooperate with LSA investigators and failed to be candid with the LSA;
 - f) The Member failed to supervise his staff;
 - g) The Member misled a lender;
 - h) The Member breached his undertaking to the LSA not to engage in loan transactions with clients;
 - i) The Member acted in a conflict of interest or potential conflict of interest without obtain client consent or when it was not in the best interests of his clients;
 - j) The Member altered a transfer of land with the client's authority;
 - k) The Member failed to follow accounting rules of the LSA;
 - l) The Member failed to honour undertakings and trust conditions;
 - m) The Member failed to respond to a complainant;
 - n) The Member failed to comply with lenders' instructions;
 - o) The Member failed to provide an accounting to clients on a timely basis;
 - p) The Member commissioned a client's oath when he knew or ought to have known it was untrue;
 - q) The Member failed to fulfil a financial commitment incurred on behalf of a client;
 - r) The Member failed to be candid with another lawyer and with an investor;
 - s) The Member withdrew fund from a client's trust account without authorization;
 - t) The Member failed to ensure that an investor understood the capacity in which the Member was acting with regard to a development project;
 - u) The Member failed to account for funds received in trust;
 - v) The Member made improper use of the firm's trust account.

The foregoing is not a complete list of the citations, nor were all of them admitted. This Report does not specify each admission made by the Member in the Statement of Facts as it is unnecessary to do so.

- 11. Given the facts which the Member has admitted, it is the finding of the Committee that it is in the best interests of the public and the LSA to accept the resignation of the Member.
- 12. The Member was questioned by the Chair, and did confirm at the time of this hearing that he understood that the effect of his resignation under section 61 did constitute "disbarment" in accordance with subsection 1(c) of the *Act*.

13. The most serious sanction available to the LSA respecting misconduct of one of its members is disbarment – to effectively say, "You have acted in such an egregious manner that we no longer will allow you to be a member of our profession."
14. In some cases – as perhaps such is the case in this matter – disbarment is not of sufficient consolation to those who have been wronged or hurt by the lawyer's conduct. Unfortunately, however, our role as a regulator of our profession does not extend to awarding damages for inappropriate conduct or to impose harsher penalties against a member as might be available in a criminal prosecution.
15. Some will, no doubt, suggest this is too little consequence for the conduct imputed to the member. To this, we would affirm that from the point of view of the LSA, it is the most serious consequence that we have the authority to impose.
16. There may be other courses of retribution for those hurt by the Member through criminal or civil actions – but those efforts would be outside of the purview of this Committee and the LSA.
17. The Member, through his counsel, did request that the notice to the profession and the public exclude the reference to "disbarment". Counsel for the Member made representations to the panel that the reference was not necessary or warranted. The Committee disagreed with the submissions and determined that it was in the public interest that the notice include the reference to the section 61 application as equating to disbarment under the Act.

Decision

18. In the circumstances, the Committee has considered the representations of counsel for the Member and for the LSA, and does accept the application for resignation tendered under section 61 of the Act, which amounts to disbarment under section 1(c) of the Act, or the termination of his membership with the LSA.

19. The Committee finds that the Member's conduct is incompatible with the best interests of the public. As a result, this application is allowed.

20. It is noted that the Member has not undertaken to not practice law in the future. Counsel for the LSA has indicated that the Member was not willing to provide that undertaking. He noted that as this is a section 61 Resignation and is, in fact, disbarment, it will appear as such on any future reinstatement application and this protects the public, such that he was not compelled to force the matter. The Committee makes note of this in accepting the application and is confident that if a reinstatement is sought by the Member, these proceedings will be of import to the panel hearing such.

21. Counsel for the Member made submissions that costs should be reduced on the basis that the Member was actually admitting to a significant number of the citations, although not admitting to others. Notwithstanding these submissions, the Member's admissions, and the fact that a lengthy hearing was therefore avoided, we direct the Member to pay the actual costs as submitted by the LSA, once the appropriate adjustments have been made.

22. Those costs, which have been estimated at approximately \$342,967.17, are significant and shall therefore be paid prior to any application for readmission to the LSA.

23. The Committee directs the following matters which are collateral to these proceedings:
 - a) all exhibits in these proceedings shall be available for inspection and copying, subject to redaction of names of third parties for privacy purposes;
 - b) the Committee accepts the Member's undertaking to make his best efforts to locate his certificate of enrollment, and should it be found, to surrender same to the LSA;
 - c) a Notice to the Profession and the Courts shall be given in accordance with the discretion of the Executive Director of the LSA;
 - d) the details of this decision shall be noted in the roll, including the conditions relating to the Member's resignation and the statement of facts as put before this panel.

e) there shall be no referral to the Attorney General.

Dated at the city of Calgary, in the Province of Alberta, this 17th day of February, 2016

Gillian D. Marriott, Q.C (Chair)

Adam Letourneau (Bencher)

Amal Umar (Lay Bencher)