

THE LAW SOCIETY OF ALBERTA
IN THE MATTER OF THE *LEGAL PROFESSION ACT*
AND
IN THE MATTER OF A HEARING REGARDING
THE CONDUCT OF DAVID TORSKE,
A MEMBER OF THE LAW SOCIETY OF ALBERTA

Hearing Committee:

W .E. Brett Code, Q.C., Chair (Bencher)
Anthony G. Young, Q.C., Committee Member (Bencher)
Glen Buick, Committee Member (Lay Bencher)

Appearances:

S. E. Heine, Counsel for the Law Society
David Torske, appearing on his own behalf

Hearing Dates:

March 3, 2016

Hearing Location:

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

HEARING COMMITTEE REPORT:

COSTS

Summary of Decision

1. We were presented with a draft Statement of Costs, prepared in accordance with Rule 99 of the Rules of the Law Society of Alberta. Submissions were made by Mr. Torske and by counsel to the Law Society regarding the applicable law and circumstances. After considering those submissions, we decided that Mr. Torske must pay the actual costs of the proceedings, as set out in the draft Statement of Costs, in the amount of \$67,351.59.
2. We also decided, based primarily on the impecuniosity of Mr. Torske, that payment of those costs is not a condition precedent to his reinstatement at the end of his 18-month suspension, but that he must pay those costs within two years of his actual reinstatement.

Summary of Previous Decisions on Guilt and on Sanction

3. Mr. Torske developed an addiction to painkillers. He injured his knee, sought treatment, and was legally prescribed potentially addictive opioid painkillers. During the 14-month wait for orthopaedic surgery and through no fault of his own, he developed what came to be diagnosed, and was described before us by the experts, as Substance Dependence disorder. After the surgery, Mr. Torske's pain continued to be controlled with legally prescribed opioids. Aware of the addiction, Mr. Torske sought his doctor's advice, and was abruptly tapered off his opioid medication over a one-week period. That abrupt withdrawal heightened his addictive cravings. Soon after that, he was stabbed and beaten while defending a break-in by two men in his garage. He was again prescribed opioids for the pain. Shortly afterward, his prescription was again discontinued abruptly. He could not stay away from the painkillers.
4. Craving the opioids to which he had become addicted iatrogenically, and unable to obtain further opioids legally, he made a bad choice, an illegal, criminal choice, consciously: he created a false prescription pad, forged his doctor's signature, and forged 40 to 50 prescriptions and obtained thousands of pills improperly.
5. His doctor found him out, threatened him, and required that he stop forging prescriptions, which he did for a time. He started up again, and was found out again. The second time, his doctor told him that he would be informing the police, which he did in June of 2011.

6. Mr. Torske then called ASSIST, a voluntary and confidential assistance program for lawyers, to seek help for his addiction issues.
7. His employer, the Crown, filed a complaint with the Law Society in July of 2011. The Law Society and the police were investigating simultaneously. Criminal charges were laid in April of 2012. Mr. Torske was convicted on one count of uttering a forged document and given a conditional discharge with one year of probation. The Crown appealed and, on April 16, 2013, the Court of Appeal granted the appeal and substituted a 9-month conditional sentence for the conditional discharge.
8. Mr. Torske was suspended by letter dated June 5, 2013, with the suspension being made retroactive to April 16, 2013. His suspension continued through the date of the release of our report on guilt and sanction.
9. On April 11, 2014, a Committee of Benchers heard an application, brought by Mr. Timothy Foster under section 108 of the *Legal Profession Act*, RSA 2000, c. L-8 (hereinafter referred to either as the *Act* or as the *Legal Profession Act*) and agreed, by way of a unanimous Resolution, signed April 21, 2014, that Mr. Torske could work as a paralegal in Mr. Foster's office.
10. Several citations alleged by the Law Society against Mr. Torske then came on for hearing before us. The hearing commenced on February 23, 2015. On that morning, we heard evidence and submissions on the question of guilt. We found Mr. Torske guilty of two citations and not guilty of a third.
11. We then proceeded immediately to the hearing on sanction. We heard lay and expert evidence on February 23, 24, 25, and 26, 2015. The parties closed their cases on February 27, and we heard the arguments of counsel that day. At the end of those oral arguments, we asked for written submissions on several issues. After receiving those written submissions, we decided, on April 20, 2015, that we would like to hear further oral submissions. After some scheduling difficulties, we re-convened on July 8 and heard the final oral submissions of the parties.
12. After reserving our decision and after full deliberation and full consideration of the evidence and the submissions of counsel on sanction, we decided that Mr. Torske would not be subject to disbarment but that he would instead be suspended for 18 months, commencing July 8, 2015.

The Costs Hearing

13. Near the conclusion of our Hearing Committee Report, we said the following concerning costs:

As a condition of any future reinstatement at the expiry of the 18-month suspension, Mr. Torske must pay actual costs of the hearing and the investigation, in amounts to be agreed by counsel. If counsel cannot agree, they may approach the Hearing Committee or, in the alternative, if they are agreed, the Chair of the Hearing Committee.

14. The parties were not able to agree on costs, and they sought an appearance before us. Prior to the hearing on March 3, 2016, both Mr. Torske and Law Society counsel provided us with various case authorities, and we were provided with a draft Statement of Costs by the Law Society.
15. At the hearing, the Law Society conceded that the language quoted in paragraph 13 above from our prior Report did not mean that we were without jurisdiction, and the Law Society agreed that we were free still to exercise our discretion over costs. We agreed. The draft Statement of Costs was entered as an Exhibit, and we heard the submissions of the parties.

Submissions of the Parties

16. Mr. Torske presented us with several cases, highlighted some of the principles regarding costs awards in professional conduct cases, and provided us with his submissions as to how those principles might be applied by us here.
17. Mr. Torske recognized and agreed that, in the ordinary course, actual costs are to be paid by the member whose conduct is subject of the proceedings.
18. Mr. Torske also did not dispute that the costs listed in the draft Statement of Costs were the actual costs incurred by the Law Society.
19. Mr. Torske essentially asked us to exercise our discretion to reduce the amount of costs payable by him on the basis of:
 - a) his cooperation throughout the investigation and the hearing;
 - b) his success in having us find him not guilty of Citation 3;
 - c) the novelty of the issues before us and their importance to the Law Society, its members, and the public; and
 - d) his impecuniosity.
20. Mr. Torske did not ask us to award no costs. He submitted that we should award costs in the range of \$10,000 to \$15,000.

21. The Law Society sought costs in the full amount set out in the draft Statement of Costs: \$67,351.59.
22. Law Society counsel took us through various jurisdictional provisions, which we discuss further below. She conceded that costs are discretionary but seemed to indicate that our discretion might be limited by express statements in the Rules of the Law Society of Alberta that list the types of costs that must be included in a Statement of Costs.
23. The Law Society agrees that we should be guided by principles when exercising our discretion on costs but cautioned us to be careful not to apply principles that properly apply to the determination of sanction when we are determining the appropriate amount of costs.
24. The prime principle advocated for by the Law Society is that hearing expenses incurred in the exercise of a statutory duty by the Law Society are appropriately charged to the lawyer whose conduct is under scrutiny. That principle's corollary, also advocated for by the Law Society, is that the members of the Law Society should not be expected or required to pay those costs.

Legislation, Rules, Guidelines

25. Section 72(2)(c) of the *Legal Profession Act*, RSA 2000, c. L-8, creates the following statutory discretion in a Hearing Committee:

72(2) In addition to an order under subsection (1), the Hearing Committee may make one or more of the following orders:

. . . .

(c) an order requiring the payment to the Society of all or part of the costs of the proceedings within the time prescribed by the order.

26. The Rules of the Law Society of Alberta were most recently updated as of February 4, 2016. The rules regarding costs are set out in Rule 99 and applied throughout these proceedings. Rule 99 states the following:

99 (1) Unless the Hearing Committee directs that there will be no order for costs, or the member is found to be not guilty of conduct deserving of sanction on all citations, the Executive Director shall, as soon as possible after the conclusion of its hearing, prepare a statement of costs showing the following charges, costs and expenses incurred in connection with the proceedings against the member to that time:

- (a) investigators' and audit professionals' fees and expenses incurred in carrying out any inquiries or investigations;
- (b) hearing charges at a rate prescribed by the Benchers or by the Audit and Finance Committee, per day or half day of hearing, or part thereof;
- (c) any other expenses incidental to the hearing including, without limitation:
 - (i) fees and expenses of all witnesses, including experts,
 - (ii) fees and expenses incurred in preparing and serving any documents on any person pursuant to Division 1 of Part 3 of the Act,
 - (iii) court reporter fees and charges for transcripts;
- (d) fees and expenses of the counsel for the Society, other than the Society's Discipline Counsel,
- (e) reasonable costs for the indemnification of the Society for the cost of services performed by the Society's Discipline Counsel in connection with proceedings, other than those referred to in clause (g),
- (f) adjournment charges at a rate or rates prescribed by the Benchers or by the Audit and Finance Committee; and
- (g) if the Hearing Committee has directed the Executive Director to include them in the statement, any costs and expenses incurred by the Society in connection with all or any proceedings respecting the member's conduct under section 54, 56, 58, 60, 61 or 63 of the Act, including reasonable compensation for the indemnification of the Society for the cost of services performed by investigators, audit professionals, the Society's Discipline Counsel or other counsel for the Society in connection with those proceedings.

(2) A Hearing Committee's order for costs

- (a) may be made on the basis of the statement of costs prepared by the Executive Director or may be otherwise referable to that statement and
- (b) in a case where the Committee orders payment of the costs of the proceedings,
 - (i) shall be based on the costs and expenses referred to in subrule (1)(a) to (f), and
 - (ii) may, where the Committee so directs, include all or part of the costs and expenses described in subrule (1)(g).

27. Rule 99(1) applies to the Executive Director, and he duly prepared the draft Statement of Costs, exercising his discretion as to the amounts that would be included for each applicable line item in the Statement of Costs.
28. Rule 99(2)(b) may be said to require a Hearing Committee to include the costs set out in Rule 99(2)(b)(i) and may be said to create a discretion only with respect to the cost items set out in Rule 99(2)(b)(ii). We do not think that that is the proper interpretation of those provisions, for it seems to us that mere Rules such as these are legally incapable of fettering the statutory discretion set out in section 72 of the *Legal Profession Act* to require payment of all or part of the costs of the proceedings.
29. The likeliest interpretation of Rule 99(2) is that it is intended to guide the deliberations and consideration of a Hearing Committee that is going to award costs against a member found guilty by it. That is what we have done: “based” our costs decision on the costs and expenses referred to in subrules 99(1)(a) through (g), by particular reference to the document created by the Executive Director in compliance with his obligations under Rule 99.
30. We have also had reference to the appropriate sections of the Hearing Guide.

Facts

31. While accepting that we have a discretion on costs, the Law Society urged us to recognize an important distinction between what she described as out of pocket costs, being cash costs actually incurred and paid by the Law Society, and other costs, often costs based on a calculation, such as the cost for investigators and lawyers working on the matter. She advised that, of the total costs sought in the amount of \$67,351.59, fully \$42,886.59 were out of pocket costs.
32. The out of pocket costs incurred were for the expert medical reports, expert witness fees, court reporter and transcript costs, and certain investigation costs.
33. Of the total of the investigation costs (\$5,562.38), \$1,047.38 were out of pocket costs. The remainder is a measure of investigator time, charged at \$100 per hour.
34. All of the costs for Law Society counsel both for preparation (\$11,156.25) and to conduct the hearing (\$4,593.75) are calculated costs, being the measure of lawyer time at \$125 per hour.
35. Prior to Ms. Heine taking over this matter, external legal counsel had been retained to prepare for and conduct the proceedings, including all discussions regarding settlement. While the fees paid to that lawyer are obviously out of pocket costs to the Law Society, the Executive Director decided not to include them in the draft Statement of Costs, likely

out of a natural sense of fairness. Those costs are borne therefore by the members of the Law Society, a benefit to Mr. Torske.

36. Mr. Torske did not contest any of the amounts in the draft Statement of Costs.

Analysis

37. Mr. Torske and Law Society counsel agreed on the default rule that, in the ordinary course, the member found guilty of conduct deserving of sanction should be required to pay the actual costs of the proceedings that led to the finding of guilt. We agree.
38. In her submissions, Ms. Heine frequently referred to that default rule and noted that it arose from something in the nature of a self-regulating profession. In our view, that “something” is this: the conduct process is paid for entirely and exclusively by its members, who are not only self-regulated (that is, independently-regulated) but also self-funded. No taxpayer funds are contributed to the revenues of the Law Society; its members pay entirely for the costs of their own regulation, including the costs of investigation and prosecution, all done in the public interest. That is one of the costs (and only one) of independent regulation for the lawyers of Alberta.
39. Once a member has been found guilty of conduct deserving of sanction by a Hearing Committee, however, section 72 of the *Legal Profession Act* permits the Law Society, essentially on behalf of its members, to try to recover the costs incurred in investigating and proving that member’s guilt, and to recover them from that member specifically.
40. It may be important to focus on what section 72 does in permitting the Hearing Committee to assess costs against a guilty member. It does not require that such costs be awarded against the member; it creates only a discretion to so award them. In so doing, however, and understood in the context of the independent regulation of the profession being self-funded, it does create what we consider to be the default position, which is that the guilty member should pay the costs of the proceedings that led to the finding of his or her guilt, and likely sets the framework for the Committee’s discretion not to award all of those costs when the circumstances for non-payment are appropriate.
41. What most treat as the leading authority on this issue is the “Memorandum of Judgment” of the Alberta Court of Appeal in *Cartledge v. Alberta Veterinary Medical Association*, [1999] A.J. No. 458 (C.A.). The following passage is cited at paragraph 92 of the Hearing Guide, without explanation, interpretation, or analysis:

13 Counsel also criticizes the amount of the costs, \$8,451. That is one half, in recognition of the appellant's acquittal on some other charges. As those other

charges arose late, they cannot have affected the investigation, and must have lengthened the hearing by little. So the split was very fair to the appellant.

14 No one suggests that \$16,902 was not actually spent. If the appellant did not pay his half, then all the members of the respondent would pay them, in the long run. Such expenses will not disappear by wishing them away or ignoring them. They were incurred in the exercise of a statutory duty, not hobby litigation. One must also keep up with the shrinking value of a dollar. \$8,500 was once a large sum of money, but it does not buy nearly so much today. We cannot call the sum unreasonable.

15 Nor is this a fine or other punishment; it is simply what it says: costs. In other words, reimbursement of (half) of the actual expense of the proceeding.

16 Therefore, we also affirm the costs order.

42. One can be forgiven for not appreciating the ambiguity in the expression “hobby litigation”. We do not understand its meaning, other than that it is set off in clear contrast to the statement that the “expenses” giving rise to the costs award “were incurred in the exercise of a statutory duty”. That is the situation before this Hearing Committee: we are assessing costs pursuant to the statutory obligation of conducting the hearing into the citations laid, also pursuant to statute, and now considering, pursuant to statute, the costs that must be paid by Mr. Torske to reimburse the Law Society for the costs incurred in investigating and successfully prosecuting him. We believe therefore that that decision of the Court of Appeal supports the default rule set out above and agreed upon by Law Society counsel and Mr. Torske.
43. Perhaps the most useful portion of the above-cited quotation is the definition of “costs” as “reimbursement of the actual expense of the proceeding”. The important phraseology is “actual expense”, and we take that to mean, from the context in which it is set out by that Court, that actual costs are not only reimbursable but ought to be reimbursed. From that point of view, we think, it would have been appropriate for the Executive Director to seek the out-of-pocket costs that he forgave when he decided to pursue reimbursement for the cost of the external litigation counsel who preceded Ms. Heine on the file.
44. We were provided with one decision of a Hearing Committee of the Law Society of Alberta that expressly cited that case in support, *LSA v. Hoffinger*, [2008] L.S.D.D. No. 169, in which the Hearing Committee said the following at paragraph 83:

83 [15] In the normal course, a Lawyer found guilty of conduct deserving of sanction after a contested hearing ought to pay the actual costs of the hearing. *Cartledge v. Alberta Veterinary Medical Association*, [1999] A.J. No. 458 (C.A.)

supports the proposition that hearing expenses incurred in the exercise of a statutory duty by the LSA are appropriately charged to the Lawyer whose conduct is under scrutiny, rather than expecting all of the Members of the LSA to absorb the costs in the long run. The Hearing Committee was of the view that while the facts raised in argument may be relevant to a determination of the appropriate sanction, they were not sufficient to justify departure from the usual rule concerning payment of costs.

45. We conclude therefore that the default rule is that agreed upon by the parties before us. That being the case, we consider that Mr. Torske bore the burden of persuading us that that rule ought not to apply and that we ought to alter it in his favour.
46. In his submissions, he tried to persuade us to exercise our discretion to reduce the amount of the actual costs from \$67,000 to \$10,000 or \$15,000, on the basis of the four principles highlighted above, that is, of:
 - a) his cooperation throughout the investigation and the hearing;
 - b) his success in having us find him not guilty of Citation 3;
 - c) his impecuniosity; and
 - d) the novelty of the issues before us and their importance to the Law Society, its members, and the public.

A. Cooperation

47. It is apparent that Mr. Torske did cooperate with the investigation, and his admissions prior to the hearing shortened the proceedings, obviating the need to call various witnesses such as the family doctor who initially prescribed the addictive opioids and who is referred to by the experts when they speak of the iatrogenically caused addiction.
48. We agree with Law Society counsel on this issue. While we should not be creating policies or procedures that discourage cooperation, we do not believe that awarding costs discourages cooperation. Were costs a form of further sanction, punitive, or prejudicial, it would be otherwise. But costs that do no more than reimburse the Law Society and its members for costs actually incurred ought to be expected by and agreed to by every member found guilty of conduct deserving of sanction. Certainly, we do not credit in any way the idea that awarding costs would cause members to submit in the face of citations or to plead guilty when they are not (or do not believe themselves to be) to avoid a costs award.

49. Members of the Law Society of Alberta must cooperate and should not expect to be rewarded by reduced costs, at the expense of all other lawyers, when they do no more than fulfill their duties of honesty and cooperation towards their regulator.
50. We also agree with the Law Society that cooperation is likely more often a consideration when it comes to sanction. Cooperation is specifically mentioned as a mitigating factor on sanction in paragraph 70(h) of the Hearing Guide. There likely are circumstances where it is clear that cooperation has avoided costs, and it may be appropriate in such circumstances to reduce the amount of reimbursement required, but that is not this case.
51. Both parties set out for us versions of the settlement process. They agreed on more than they disagreed on, and the differences in those versions were not particularly significant. Throughout the process, Mr. Torske was ready, and offered, to plead guilty, particularly when it appeared, as it did at an earlier stage, that the Law Society would not be seeking disbarment. No agreement was reached at that early stage, as the Law Society wanted first to fulfil its obligations to the public and its members by seeking independent medical advice from an addictions expert. It obtained the opinion of Dr. Els, and, based on his interpretation and analysis, the Law Society, again in the public interest, sought disbarment. All of this was reasonable, expected, and correct. We preferred the evidence of Dr. Duska in the end, but the Law Society's retainer of and reliance on Dr. Els was reasonable, and its approach to sanction was also reasonable. A hearing was required.
52. As cooperative as Mr. Torske was, he would not, also quite reasonably, agree to disbarment, and the process took its course. The costs of that process, involving those experts was reasonable. That Mr. Torske cooperated may have reduced the cost. If so, he is the beneficiary of that cooperation now, for he is asked only to reimburse the costs incurred, and not the costs that might have been incurred had he not cooperated.
53. For example, if Mr. Torske had resisted the idea of an independent medical examination by an addictions expert, it may well have been necessary, again in the public interest and that of the profession, for the Law Society to seek a Court Order to cause Mr. Torske to submit to such an examination. That would have increased assessable costs significantly. That all that was not needed as a result of his cooperation throughout the process has had the positive actual effect of reducing the costs that must be paid by Mr. Torske in accordance with the default rule.
54. It may well be that, in other circumstances, a hearing committee may find that the Law Society took advantage of a member's cooperation or used it to increase costs unreasonably. In that rather unlikely circumstance, cooperation would be a reason to reduce costs. On the facts before us, Mr. Torske's level of cooperation is not a reason to alter the default rule regarding costs.

B. Success on Citation 3

55. Over approximately one-half day of evidence, the Law Society failed to meet its burden of proof on citation 3, and we found Mr. Torske not guilty. In several cases provided to us, including *Cartledge, supra*, divided success has resulted in reduced costs. Mr. Torske therefore suggested, again quite reasonably, that his costs should be reduced.
56. Of the five and a half days of hearing and argument time devoted to this matter before us, one-half a day was devoted to the question of guilt on Citation 3. During that morning, Mr. Torske testified and, as is obvious from our previous Report, he used that opportunity well to impress us with his honesty as set out in our finding of credibility in his favour. That hearing time was also useful and necessary for us so that we could fully understand the background and context to the sanction issues. We are persuaded that, even if there was no Citation 3, much of the evidence elicited during the morning dedicated to it would have been needed as background and as context to the hearing on sanction, which occupied us for the remainder of the hearing.
57. In the circumstances facing us, therefore, Mr. Torske's success in having himself found not guilty of Citation 3 does not cause us to alter the default rule on costs.

C. Impecuniosity

58. Mr. Torske was suspended for his conduct, automatically, by operation of law once he was sentenced to a period of incarceration by the Court of Appeal. Since then, as a result both of his suspension and his addiction, he has not earned much income. His wife was forced to return to work to support the family. Mr. Torske cannot pay the actual costs of the proceedings.
59. We are very sympathetic to his plight, and we are impressed and moved by the support of his wife and children. We thank them for that.
60. That said, we do not think that his current impecuniosity is a reason to alter the default rule on costs. We do think that it is a reason to change our original Order, which was to make payment of actual costs a condition precedent to reinstatement, and to order instead that the costs assessed be paid after reinstatement, within two years from the time that he is actually permitted to practice again as an active member of the Law Society of Alberta.

D. The novelty of the issues before us and their importance to the Law Society, its members, and the public

61. The Law Society conceded that this was an important case to the Law Society. Counsel agreed that the issues were novel, particularly insofar as the Law Society was grappling

with how to account for mental health issues and addiction issues in respect of sanction, particularly when the conduct at issue might otherwise be cause for disbarment, as was the case here.

62. Law Society went further and conceded that the previous Report has value to the Law Society going forward and will assist it in other cases in future. That value is real, she said, and she invited us to take it into consideration in the exercise of our discretion to alter the default costs rule.
63. The costs for test cases in courts are often reduced for similar reasons, as the benefit to be gained by the successful party is spread out over time and over other, similar cases. In those circumstances, it is sometimes thought to be unfair to fix the person who served as the test defendant with all of the costs, particularly where, as here, extensive expert witnesses are needed to assist the decision-maker in coming to the decision.
64. We agree with that principle, but we have decided not to apply it here. The focus of that principle is fairness to the defendant, and, in Law Society conduct matters, fairness to the member. We have decided that the costs sought by the Law Society are fair to Mr. Torske, that they have already been discounted for other fairness purposes, and that they should not be discounted further as a result of the general helpfulness of the Report and of our decision on sanction.
65. The expert evidence elicited was necessary, was focused specifically on Mr. Torske and his specific issues, and was helpful to Mr. Torske and will continue to be of assistance to him personally as he proceeds through the process of treating and recovering from his addiction and Bipolar II Disorder and as he approaches reinstatement with the Law Society.
66. As stated above, the Executive Director, out of a sense of fairness to Mr. Torske, did not include the costs of the external litigation counsel who had carriage of this matter for the Law Society until Ms. Heine took over from her. We do not know the amount of those out of pocket fees but we expect that they were substantial. While not directly related to the issue being discussed here, the removal of those costs is fair, and we think that fairness is the focus of this aspect of the exercise of our discretion on costs. The removal of those costs means to us that the Law Society has sought only those costs that ought in fairness to be paid. We therefore do not make any further reduction based on the novelty of the issues heard and determined by us.

Conclusion

67. The default rule regarding costs in a Law Society conduct hearing is that, in the normal course, a member found guilty of conduct deserving of sanction after a contested hearing ought to pay the actual costs of the hearing.

68. The burden of persuasion to cause a hearing committee to alter that default rule falls to the member.
69. The discretion to alter the default rule is an open one, not limited by any particular factors, lists, legislation, rules, or guidelines. The discretion must be exercised judiciously, by reference to principles of analysis that flow from the facts and circumstances of the actual case before the hearing committee.
70. In all the circumstances and having considered all of the submissions of counsel to the Law Society and of Mr. Torske himself, we concluded that Mr. Torske must pay the costs as set out in the draft Statement of Costs that was put before us, in the total amount of \$67,351.59. We also decided that that amount must be paid within two years of Mr. Torske's actual reinstatement.
71. After the hearing, on March 9, 2016, the Statement of Costs was signed by the Chair of the Hearing Committee. That signed Statement of Costs is attached as a Schedule to this Hearing Report on costs.
72. As agreed by counsel to the Law Society, no costs were awarded for the hearing on costs.
73. As we did in our prior Report, we wish again to thank Mr. Torske and Ms. Heine for their excellent preparation and their thorough and fair submissions to us. We are extremely grateful for the professionalism and expertise with which the issues were presented and handled, which assisted us in doing our duty here.

Dated at Calgary, Alberta, as of the 2nd day of May, 2016.

W. E. Brett Code, Q.C.
(Chair)

Anthony G. Young, Q.C.

Glen Buick, B.A.

IN THE MATTER OF THE *LEGAL PROFESSION ACT*

AND

IN THE MATTER OF A HEARING REGARDING
THE CONDUCT OF **DAVID TORSKE**,
A MEMBER OF THE LAW SOCIETY OF ALBERTA**STATEMENT OF COSTS****February 23 – 27, 2015**

Investigation Costs (including GST)	\$5,562.38
Expert Medical Reports (including GST)	\$24,392.66
Expert Witness Fees (including GST)	\$9,749.41
Law Society Counsel (Sharon Heine @ \$125/hr)	
• preparation (85 hours including GST)	\$11,156.25
Law Society Counsel (Sharon Heine @ \$125/hr)	
• hearing (35 hours including GST)	\$4,593.75
Court Reporter & Transcript (including GST)	\$7,259.18
<i>Per diem</i> hearing expenses - in effect February 5, 1998	
• \$500.00 for each day in excess of four (4) hours of hearing (plus 5% GST) x 5 days	\$2,625.00

July 8, 2015

Law Society Counsel (Sharon Heine @ \$125/hr)	
• Written submissions and preparation for July 8 th appearance (8 hours including GST)	\$1,050.00
Law Society Counsel (Sharon Heine @ \$125/hr)	
• hearing (2 hours including GST)	\$262.50
Court Reporter & Transcript (including GST)	\$437.96

GST 12317 6091

Per diem hearing expenses - in effect February 5, 1998

- \$250.00 for each day up to and including four (4) hours of hearing (plus 5% GST) \$262.50

TOTAL COSTS * **\$67,351.59**



W.E. Brett Code, QC - Chair
Hearing Committee

Dated at the City of Calgary, in the Province of Alberta
this 9th day of March, 2016.

* Pursuant to the decision of the Hearing Committee, **David Torske** was ordered to pay actual costs of the hearing in the amount of \$67,351.59. Costs are payable within two years of reinstatement.