

**IN THE MATTER OF A RESIGNATION APPLICATION
PURSUANT TO SECTION 32
OF THE LEGAL PROFESSION ACT, R.S.A. 2000, c.L-8
BY RODERICK G. MACGREGOR, A MEMBER
OF THE LAW SOCIETY OF ALBERTA**

Resignation Committee:

Nancy Dilts, Q.C., Chair (Bencher)

Cal Johnson, Q.C. (Bencher)

Louise Wasylenko (Lay Bencher)

Appearances

Karl Seidenz, for the Law Society of Alberta (LSA)

Alain Hepner, Q.C., for Roderick MacGregor

Date and Place of Hearing

May 13, 2016

REPORT OF THE RESIGNATION COMMITTEE

Introduction

1. Roderick MacGregor applied for resignation from the Law Society of Alberta ("LSA") pursuant to section 32 of the Legal Profession Act, R.S.A. 2000, c.L-8 ("LPA"). Because Mr. MacGregor's conduct is the subject of citations issued pursuant to the LPA, this Resignation Committee ("Committee") was constituted to hear this application. At the time of this hearing, Mr. MacGregor was an inactive member of the LSA and had no discipline record with the LSA.
2. Mr. MacGregor was present at the hearing, assisted by his counsel, Alain Hepner, Q.C.. The LSA was represented by Mr. Seidenz. At the conclusion of the hearing, the Committee allowed the application pursuant to section 32 of the LPA with oral reasons and advised that a written decision would follow. This is that written decision.

Jurisdiction/Preliminary Matters

3. The Committee was appointed for the purpose of considering the resignation application. Counsel agreed that the Committee had jurisdiction to consider the application and the Committee determined that it had jurisdiction to consider this application. There were no objections to the constitution of the Committee. The Committee was properly constituted to hear the application before it.

Private Hearing Application

4. At the outset of the application, counsel advised the Committee that Mr. MacGregor sought to have a portion of the hearing and the evidence made subject to a private hearing order. In particular, he sought to have the information under Section E of the Agreed Statement of Facts and Admissions withheld from public disclosure.
5. It is well established that hearings under the LPA ought to be held in public unless a compelling privacy interest requires protection. This principle is intended to promote the transparency of LSA disciplinary proceedings. This principle is reflected in both the LPA at section 78 and the LSA Rules at Rule 98. Upon its own motion or the application of an interested party, including the member, the Committee may direct that all or part of the hearing be held in private. Records pertaining to that part of a hearing held in private are confidential and shall not be made available by the LSA for inspection or copying: Rule 98 of the Rules of the LSA.
6. In the face of a private hearing application, this Committee is required to balance the privacy rights of the member with the public's right to expect transparent LSA proceedings. In this instance, the Committee is satisfied that there is sufficient reason to direct that a portion of the proceedings be held in private. In reaching this conclusion, the Committee looks to two important factors. First, Mr. MacGregor seeks to withhold from publication and public access certain highly sensitive personal information, including medical observations and diagnoses. The Committee had before it adequate expert medical evidence that confirmed that disclosure of this information could have a material negative impact on Mr. MacGregor's emotional and/or physical wellbeing. Second, there is adequate disclosure in the balance of the Agreed Statement of Facts and Admissions to permit the public to gain full understanding of the context under which this Committee has reached its decision.
7. In these circumstances, the Committee is satisfied that Mr. MacGregor has established that there is adequate reason to override the presumption in favour of a full public hearing. The Committee directs that Section E of the Agreed Statement of Facts and Admissions be withheld from public disclosure and that all portions of the hearing record pertaining to Section E of the Agreed Statement of Facts and Admissions be private and not be available to the public.

Exhibits

8. The Committee received and entered into the record Exhibits 1 – 6 as follows:

Exhibit 1 – Appointment Letter

Exhibit 2 – Notice to Attend

Exhibit 3 – Certificate of Exercise of Discretion

Exhibit 4 – Certificate of Status

Exhibit 5 – Member Record

Exhibit 6 – Member's Materials

- Exhibit 6a – Application for Resignation
- Exhibit 6b – Statutory Declaration
- Exhibit 6c – Undertakings and Agreements
- Exhibit 6d – Agreed Statement of Facts and Admissions

Application

9. Mr. MacGregor has been a member of the LSA since May, 2010 practicing criminal law as a sole practitioner in Red Deer.
10. Prior to gaining admission to the LSA, Mr. MacGregor practiced in Ontario from 1979, also practicing in the area of criminal law. Between 1989 and 1996, Mr. MacGregor faced increasing difficulties with the Law Society of Upper Canada (“LSUC”) including multiple administrative suspensions, a suspension following a finding of guilt with respect to professional misconduct, and disbarment in 1996. In 2007, Mr. MacGregor applied for reinstatement to the LSUC and was successfully reinstated as an active practicing member of the LSUC.
11. In 2008, Mr. MacGregor applied for enrollment as a member of the LSA. His application was considered by a panel of the Credentials & Education Committee of the LSA and was approved on conditions, supported by undertakings given by Mr. MacGregor. Those conditions and undertakings were put in place to create structures and safeguards regarding Mr. MacGregor’s illness and included monitoring by medical professionals and Practice Review.
12. Mr. MacGregor assumed active practice in Alberta in May 2010. Unfortunately, by February 2011, Mr. MacGregor suffered a serious relapse. All of the matters that arose subsequently and that are of concern to the LSA arise from and relate to this relapse.
13. At the time of his application for resignation, Mr. MacGregor was voluntarily an inactive member of the LSA and faced several serious citations. Mr. MacGregor provided a Statutory Declaration in support of his application for resignation in which he has sworn that all trust funds he was responsible for were accounted for and paid over to those entitled to the funds. He also stated that his client matters, all of which were for Legal Aid Alberta, were transferred back to Legal Aid Alberta in March 2011.
14. Mr. MacGregor further provided a signed Undertaking dated May 13, 2016, wherein he undertook never to apply for reinstatement to the LSA. In support of his Application for Resignation, Mr. MacGregor executed an Agreed Statement of Facts and Admissions containing details as to his relapse and the complaints received regarding his conduct and practice as a member of the LSA. That redacted Agreed Statement of Facts and Admissions is appended as Appendix “A” to this report.
15. The evidence and Mr. MacGregor’s admissions in the Agreed Statement of Facts and Admissions demonstrate that Mr. MacGregor had engaged in conduct likely to constitute conduct deserving of sanction if the complaints were to proceed to a full hearing. In particular, Mr. MacGregor admitted the following constituted conduct deserving of sanction if the complaints were to proceed to a full hearing:

With respect to complainant AQ:

- i) It is alleged that Mr. MacGregor failed to serve his client in a competent, conscientious, and diligent manner;
- ii) It is alleged that Mr. MacGregor failed to refrain from conduct that impaired his capacity to provide competent services to his client;
- iii) It is alleged that Mr. MacGregor's actions brought the legal profession into disrepute;

With respect to complainant CT:

- iv) It is alleged that Mr. MacGregor failed to serve his client in a competent, conscientious, and diligent manner;
- v) It is alleged that Mr. MacGregor failed to refrain from conduct that impaired his capacity to provide competent services to his client;
- vi) It is alleged that Mr. MacGregor's actions brought the legal profession into disrepute;

With respect to complainant the LSA:

- vii) It is alleged that Mr. MacGregor breached conditions imposed upon him by the LSA;
- viii) It is alleged that Mr. MacGregor exhibited incompetence, or conduct incompatible with the best interests of the public, or which tended to harm the standing of the legal profession;
- ix) It is alleged that Mr. MacGregor is ungovernable;
- x) It is alleged that Mr. MacGregor failed to give written notice to the Executive Director of a charge against him as required by the Rules of the LSA.

Decision

- 16. At the time of his application for resignation, Mr. MacGregor was voluntarily an inactive member of the LSA and faced serious citations arising out of three separate retainers, all of which were Legal Aid criminal matters. Other citations related to Mr. MacGregor's dealings with the LSA during the investigation into his conduct and his failure to discharge his obligations, including his failure to report that he had been charged with a criminal offence.
- 17. Mr. MacGregor appeared before the Committee with the assistance of Mr. Hepner, Q.C., and the visible and important support of his family.
- 18. LSA counsel supported Mr. MacGregor's application for resignation, agreeing that Mr. MacGregor's resignation pursuant to section 32 of the LPA serves the public interest. As such, the Committee considers this application to be tantamount to a joint submission and therefore deserving of deference unless it is demonstrably unfit or unreasonable, or contrary to the public interest.
- 19. The issue to be determined by this Committee is whether it is in the best interests of the public to permit Mr. MacGregor to resign pursuant to section 32 in the face of serious unresolved conduct matters. Under the LPA, a member may apply to resign under either section 32 or section 61. There is a material distinction between an application for resignation pursuant to section 61 of the LPA, where the member's resignation amounts to a deemed disbarment if the application is accepted, and an application for resignation

pursuant to section 32. Under section 32 of the LPA, the application is merely one of resignation.

20. Resignation committees of the LSA have permitted members who face serious conduct proceedings to resign pursuant to section 32 where the public interest may still be served without requiring either a public hearing into outstanding citations or a deemed disbarment. In those cases, resignation committees are satisfied that the member's conduct has been investigated and that certain mitigating factors exist that offer understanding and even explanation for the member's conduct. Equally importantly, in each instance, the applications for resignation are supported by evidence that the member's practice has been appropriately handled, that trust funds are properly accounted for, and that the member has provided an undertaking never to re-apply for admission to the LSA.
21. This Committee is satisfied that the public interest is served by accepting Mr. MacGregor's resignation under section 32 of the LPA. The following mitigating factors are of importance to the Committee in reaching its decision.
22. First, Mr. MacGregor's history shows a history of illness. In his application for resignation, Mr. MacGregor provided medical evidence that assisted the Committee greatly in its understanding of Mr. MacGregor's illness. This Committee is left with no doubt but that the citations outstanding are anchored in Mr. MacGregor's serious and debilitating illness.
23. Second, the Committee received medical evidence that to require Mr. MacGregor to apply for resignation under section 61 of the LPA would have a devastating effect on Mr. MacGregor's health and recovery. There is adequate evidence before the Committee to satisfy it that Mr. MacGregor's recovery is ongoing.
24. Third, Mr. MacGregor undertakes not to make application to the LSA for readmission. There is clear and uncontroverted evidence that Mr. MacGregor's practice has been appropriately unwound and that all trust funds are accounted for.
25. This Committee accepts that the undertakings offered by Mr. MacGregor provide adequate protection of the public interest.
26. As a result, the Committee concludes that it is reasonable and appropriate and in the public interest to permit Mr. MacGregor to resign pursuant to section 32 of the LPA and orders as follows:
 - a. The Agreed Statement of Facts and Admissions is in a form satisfactory to the Committee;
 - b. The proposed Undertakings and Agreements at Exhibit 6c are acceptable;
 - c. The member's application to resign pursuant to section 32 of the LPA is allowed, effective May 13, 2016;
 - d. The Roll shall reflect that Mr. MacGregor's application under section 32 of the LPA was allowed on May 13, 2016;
 - e. Costs are ordered in the amount of \$17,704.59;

- f. Should Mr. MacGregor seek to be relieved of his undertaking to never re-apply for admission to the LSA, he will be required to first pay to the LSA costs in the amount of \$17,704.59 before being permitted to file an application for relief from his undertaking;
- g. The decision, transcript and Exhibits in this hearing are to be made available to the public, save and except for Section E of the Agreed Statement of Facts and Admissions and any portion of the hearing record pertaining to Section E of the Agreed Statement of Facts and Admissions which shall be held in private and shall not be made available to the public; and
- h. A notice to the profession will be issued.

Dated this 15th day of November, 2016

Nancy Dilts, Q.C., Chair

Cal Johnson, Q.C.

Louise Wasylenko

APPENDIX "A"

IN THE MATTER OF THE *LEGAL PROFESSION ACT*
- AND -

IN THE MATTER OF A RESIGNATION APPLICATION BY
RODERICK G. MacGREGOR,
A MEMBER OF THE LAW SOCIETY OF ALBERTA

AGREED STATEMENT OF FACTS AND ADMISSIONS

A. BACKGROUND

1. I was admitted as a member of the Law Society of Alberta (the "LSA") on May 7, 2010.
2. Between May 7, 2010, and March 31, 2014, I practiced criminal law in Red Deer, Alberta, as a sole practitioner. I was suspended on March 31, 2014, for failing to pay my membership fees.
3. Before becoming a member of the LSA, my professional background was as follows:
 - a. In 1976, I graduated with a Bachelor of Laws degree from Osgoode Hall Law School;
 - b. In 1977, I was admitted as a member of the Law Society of Manitoba, although I did not practice law there;
 - c. In 1979, I was admitted to the Law Society of Upper Canada (the "LSUC") and practiced criminal law as a sole practitioner. While I was a member of the LSUC,
 - (1) Between 1989 and 1994, I received ten administrative suspensions for failing to pay fees and insurance premiums;
 - (2) In 1992, I was found guilty of professional misconduct and reprimanded for failing to reply to the LSUC about two complaints;
 - (3) In 1993, I was found guilty of professional misconduct and suspended for five months for having practiced law during three periods of administrative suspensions in 1990 and 1991; and
 - (4) In 1996, I was found guilty of professional misconduct and disbarred for failing to file mandatory financial certificates, failing to fulfill a financial obligation to a client, and for failing to reply to the LSUC about two complaints.

- d. In 2007, I applied successfully to have my law licence reinstated with the LSUC. The reinstatement committee imposed several practice conditions on me, to be discussed *infra*.
4. In 2008, I applied for enrollment as a member of the LSA. On August 26, 2009, a panel of the LSA's Credentials and Education Committee (the "**Committee**") issued a written decision that approved my application on conditions and undertakings that will be discussed *infra*. Shortly after agreeing to comply with the conditions and undertakings ordered by the Committee, I was admitted as a member of the LSA.

B. CITATIONS

5. The citations that form the basis of this hearing arise out three complaints against me. For ease of reference, the citations are repeated here and grouped by complainant:

Complaint File: CO[•] (Complainant: A.Q.)

1. It is alleged that I failed to serve my client in a competent, conscientious, and diligent manner, and that such conduct is deserving of sanction.
2. It is alleged that I failed to refrain from conduct that impaired my capacity to provide competent services, and that such conduct is deserving of sanction.
3. Is alleged that my actions brought the legal profession into disrepute and that such conduct is deserving of sanction.

Complaint CO[•] (Complainant: C.T.)

4. It is alleged that I failed to serve my client in a competent, conscientious, and diligent manner, and that such conduct is deserving of sanction.
5. It is alleged that I failed to refrain from conduct that impaired my capacity to provide competent services, and that such conduct is deserving of sanction.
6. It is alleged that my actions brought the legal profession into disrepute and that such conduct is deserving of sanction.

Complaint CO[•] (Complainant: LSA)

7. It is alleged that I breached conditions imposed upon me by the LSA, and that such conduct is deserving of sanction.

8. It is alleged that I exhibited incompetence, or conduct incompatible with the best interests of the public, or which tended to harm the standing of the legal profession and that such conduct is deserving of sanction.
9. It is alleged that I am ungovernable and that such conduct is deserving of sanction.
10. It is alleged that I failed to give a written notice to the Executive Director of a charge against me as required by the Rules of the LSA and that such conduct is deserving of sanction.

C. STATEMENT OF FACTS

1. Practice Conditions and Undertakings

6. Because of a dependency on alcohol, when I was reinstated to the practice of law by the LSUC, I was directed to comply with the following conditions of practice:
 - a. I was to abstain from the consumption of alcohol and psychoactive substances;
 - b. I was to participate in Alcoholics Anonymous with a sponsor for five years; and
 - c. I was to be monitored by a medical professional for five years, who would provide regular reports to the LSUC.
7. In 2008, when I applied for enrollment as a member of the LSA, the Committee approved my application, but stated the following in its written decision:

The material in evidence before the panel ... indicate [sic] that there is a strong connection between the Applicant's governability, his criminal convictions and alcohol abuse. The Panel is satisfied that the governability issues displayed in the past were related, in large part, if not entirely to the Applicant's substance abuse issues. If the Applicant's rehabilitation and remission is guaranteed, the Panel is of the view that governability will likely not be an issue.
8. The "criminal convictions" to which the Committee referred in the above-noted passage were two guilty pleas in July 2007 to the following offences under the *Criminal Code of Canada*:
 - a. Operating a motor vehicle with more than 80 mg of alcohol in 100 ml of blood [section 253(1)(b)]; and
 - b. Failing to appear in Court [section 145(2)(b)].

9. To deal with potential issues arising out of my dependency on alcohol, the Committee imposed upon me the following seven conditions of practice (three of which were similar to the LSUC conditions) plus one undertaking:
 - a. I was to abstain from the consumption of alcohol and psychoactive substances;
 - b. I was to participate in Alcoholics Anonymous with a sponsor for five years;
 - c. I was to be monitored by a medical professional for five years with regular appointments every two months and random drug and alcohol testing as required;
 - d. I was referred to the Practice Review Committee for ongoing follow up and assessment for five years;
 - e. I was to sign an Authorization and Direction enabling a representative of the LSA to communicate with the medical professional discussed above;
 - f. I was to practice under the supervision of a member of the LSA for five years;
 - g. I was to pass a transfer examination and complete a reading list in criminal law; and
 - h. I was to provide an undertaking that I would restrict my practice to criminal law.
10. I agreed to the above-noted conditions and signed an Authorization and Undertaking on February 8, 2010.
11. I was called to the Bar on May 7, 2010 and started appearing in Court in August 2010. I practiced exclusively on legal aid criminal matters.

2. February 2011 Incidents

12. On February 16, 2011, I suffered a relapse and started binge drinking. That day, I had two Court appearances in Red Deer on behalf of two clients who were being held in custody at the time. When I did not attend Court that morning, the duty counsel adjourned the matters to the afternoon session. When I failed to appear that afternoon, Crown Prosecutor J.S. called me and told me that I was supposed to be in Court. I told him that I could not attend because I had to look after my mother. J.S. offered to have the duty counsel call me to discuss acting as my agent, to which I agreed. After speaking with me, the duty counsel advised the Court that I could not be present, and acted as my agent in adjourning matters for those two clients.
13. I later told LSA investigators that I had taken a muscle relaxant which, in combination with the alcohol, provoked a panic attack. I lied to J.S. when I told him that I had to take

care of my mother that day because I did not want him to know that I had suffered a panic attack.

14. The events described in the two above-noted paragraphs shall be referred to as the **“February 16, 2011 Incidents”**.
15. On the morning of February 17, 2011, I had two Court matters to deal with, one of which involved a young offender who was being held in custody and had been brought to Youth Court for sentencing. Before the start of proceedings, I met with the Crown Prosecutor, D.H., to discuss the matter. I understand that D.H. later reported to the LSA that he had smelled alcohol on my breath during our conversation. After my conversation with D.H., I left the Courthouse without taking steps to deal with the matter myself. As I walked out of the Courthouse, I bumped into A.L., an employee with Legal Aid service in Red Deer, and told her that I had adjourned the matter to that afternoon. I understand that A.L. later reported to the LSA that she had also smelled alcohol on my breath during our conversation. After I left, she learned from D.H. that they were waiting for me in Court to deal with the young offender matter and that it had not been adjourned by me to the afternoon session. A.L. called me and I told her that I had asked the young offender to seek the adjournment to the afternoon session, which the young offender did and the Court obliged.
16. I did not appear in Court that afternoon. I called D.H. at 1:20 p.m. to tell him that I was ill that that I was going to see a doctor. I asked D.H. to act as the young offender’s agent, which he could not do because of a conflict of interest. I understand that D.H. later reported to the LSA that I was slurring my words during our conversation. I then texted another lawyer, K.S., and asked him to act as my agent. However, I did not provide K.S. with the names of my clients or with clear instructions about what to do.
17. The events described in the previous two paragraphs shall be referred to as the **“February 17, 2011 Incidents”**.
18. On February 18, 2011, I did not attend a full-day trial in Red Deer for my client, C.T., who was in custody and facing charges involving property crimes, drug crimes, and breaches of Court orders. C.T. advised the Court that he thought he was there to deal with different charges and did not know why I was not present. The trial was adjourned to February 23, 2011, and then to March 2, 2011, after new counsel had been appointed. The event described in this paragraph shall be referred to as the **“February 18, 2011 Incident”**.
19. On February 18, 2011, [B.C.], Manager of the Practice Review Department of the LSA, received a telephone call from D.H., who alerted her to the February 17, 2011 Incidents, to the February 18, 2011 Incident, and to the fact that he had noticed the smell of alcohol on during several previous conversations with me. Later that day, [B.C.] received a communication from A.L., who alerted her to the February 17, 2011 Incidents and to the February 18, 2011 Incident. A.L. also reported several instances over the past several

weeks where I had not appeared in Court or appeared late after having been called. Shortly after receiving these reports, [B.C.] emailed me seeking an explanation. She followed up with voicemails on February 22, 2011, to which I eventually responded with a telephone call on March 3, 2011.

20. On February 22, 2011, I did not attend a trial that had been scheduled in Rocky Mountain House concerning a youth who had been denied bail. The youth received help from K.S. That same day, I did not attend Court in Red Deer, where I had several clients waiting for me, including one who was in custody and seeking bail. The events described in this paragraph shall be referred to as the “**February 22, 2011 Incidents**”.

3. Complaints and Responses

21. On February 23, 2011, the LSA received a letter of complaint about me from A.Q., the Chief Crown Prosecutor in Red Deer (the “**A.Q. Complaint**”). A.Q. noted that the Crown Prosecutors in his office had brought all of the aforementioned incidents to his attention, and added the following observations:
 - a. During the summer of 2010, D.H. spoke to me and noticed the smell of alcohol on my breath;
 - b. On six or seven occasions in the later part of 2010, D.H. noticed the smell of alcohol on my breath when discussing legal matters with me; and
 - c. On February 10, 2011, Crown Prosecutor A.B. was in Court in Stettler when I was serving as duty counsel. He reported that he detected the smell of “digesting alcohol very strongly” on my breath.
22. On February 24, 2011, [M.D.], the Manager of the Complaints Department of the LSA, wrote to me asking for my response to the A.Q. Complaint.
23. On February 24, 2011, a doctor with Alberta Health Services (“**AHS**”) wrote to the LSA to report that I had been admitted to the hospital for medical reasons and that I would be unable to attend to my employment duties during treatment. In fact, I had been admitted to the hospital on February 23, 2011, and released on March 1, 2011.

24. On March 3, 2011, I telephoned [B.C.] and told her the following:
- a. I had been released from the hospital;
 - b. I had returned all of my files to Legal Aid;
 - c. I was going to take time away from my practice to address my medical issues;
 - d. I had contacted Alcoholics Anonymous, the Alberta Alcohol and Drug Abuse Commission, and Dr. M., the physician who had been supervising my progress;
 - e. I was planning on seeing out psychiatric help;
 - f. I intended to transfer to inactive status; and
 - g. I acknowledged that I would have to address my relapse and my competence before being permitted to return to practice.
25. On March 4, 2011, a panel of the Practice Review Committee met and decided the following:
- a. My practice review file would be closed as soon as I effected the transfer to inactive status; and
 - b. I was to be reminded that I would have to address issues surrounding my relapse.
26. On March 14, 2011, the LSA received a written complaint from C.T. about the February 18, 2011 Incident (the "**C.T. Complaint**"), which can be summarized as follows:
- a. I had been appointed by Legal Aid to represent him and had done so during a trial on January 31, 2011. I was scheduled to do so during separate trials on February 18, 2011, and February 23, 2011;
 - b. C.T. had been incarcerated following the trial in January. I had then delivered further disclosure to him regarding his upcoming trials. C.T. was then unable to contact me;
 - c. I had not attended Court on February 18, 2011, and the trial was adjourned to February 23, 2011. In the interim, C.T. had tried to contact me several times, to no avail;
 - d. The trial scheduled for February 23, 2011, was adjourned to March 2, 2011. I did not appear in Court on either of those dates; and

- e. I had not advised C.T., Legal Aid, or the Court that I would be unable to appear during the trials in February. C.T. believed that this was unfair and prejudicial to him and had caused him to lose confidence in Legal Aid lawyers. C.T. also believed that that he had been mistreated by the Court because he was not represented by counsel.

27. On March 8, 2011, I responded in writing to the A.Q. Complaint, as follows:

The content of the letter [A.Q.] has brought to the attention of the Law Society of Alberta is substantially correct. I further acknowledge that the reported conduct respecting my lapses of sobriety has resulted in my failure to serve my clients, and has inconvenienced the Courts and my colleagues who serve in [A.Q.]'s office.

I am embarrassed about my failures and shortcomings and I apologize. At the same time I express appreciation for the forthright and swift attention they have given to my obvious sudden deterioration. By way of explanation, not excuse, I have become increasingly stressed in matters unrelated to and separate from my practice and particularly family related matters. I have not dealt with these matters constructively and lapsed in my longstanding efforts to maintain sobriety and address alcoholism issues.

On February 23, 2011, I was admitted to the Red Deer Regional Hospital to seek immediate assistance. I was discharged on March 1st. I hope and believe that discharge follow up care will be of assistance to me in addressing my personal problems.

I have made the matter of dealing with my personal situation and recovery my principal objective at this time. Accordingly, I am placing myself on the "Inactive Member" list with the Law Society of Alberta with my undertaking not to practice law while inactive. I am attempting to minimize the impact on clients and I have been undertaking the return of files to counsel who have assumed the representation of my former clients.

Complying with your request about my presentation of this response, I have made efforts to be concise but provide a complete accounting and convey the sincerity of my apology.

Trusting this letter alleviates the concerns of [A.Q.] and the legal community, I remain ...

- 28. On March 14, 2011, I delivered all of my files to a Red Deer lawyer.
- 29. On March 16, 2011, I elected to become an inactive member.
- 30. On March 18, 2011, [M.D.] wrote to me requesting my response to the C.T. Complaint.

31. On March 25, 2011, I replied in writing to the C.T. Complaint, as follows:

Further to your correspondence dated March 18th last and enclosure, which I received earlier this week, I believe the events concerning [C.T.] were referred to in par. (5) of the complaint letter of [A.Q.], to which you have my reply by way of explanation and apology dated March 9th last.

[C.T.] has my deep regret and apology for such unease with the justice system which he may now feel due to my problems.

As you are aware, I have filed a Form 2-20 with Membership Services in Calgary, and can advise that, pursuant to the Rules, I have placed my files in the custody of [L.K.], Barrister, in Red Deer.

32. On June 3, 2011, [G.B.], the Director of Lawyer Conduct with the LSA, issued an investigation order into my conduct. However, the investigation was suspended pending my recovery.
33. On June 6, 2011, the LSA received a letter from Dr. M., which stated in part:

Rod continues to be under my care. I saw Rod for the first time in three months on May 31, 2011. He did have a couple of previous appointments but did not keep them. He kept his appointment on May 31 and was on time. I believe that Rod has been in contact with you. He did have a problem with alcohol intake last February. He admits to being on a binge. He states that he had some difficulty with insomnia after the binge in late February. He took muscle relaxant medication to help him sleep. He became quite anxious. He was taken to the Emergency Department by his family. He was assessed in the Emergency Department and admitted to hospital for psych. evaluation by [Dr. M]. He remained in hospital for several days. Rod did not agree with this hospitalization initially and does feel the same way at present. He has remained off work since his hospitalization.

4. LSA Investigation and Subsequent Events

34. On April 26, 2012, [M.D.] wrote to me, asking me about my future intentions regarding the practice of law and requested that I keep the LSA informed of my efforts to remain abstinent.
35. Over the next two years, I reported occasionally to the LSA about those efforts. Dr. M. also provided occasional reports about my appointments with him. However, I did not keep the LSA apprised of later relapses or hospital admissions.
36. In September 2013, I was admitted to hospital for alcohol dependency following a relapse.
37. On January 5, 2014, I was arrested and charged with the following offences under the *Criminal Code of Canada*:
 - a. Operating a motor vehicle while the ability to do so was impaired by alcohol or a drug [section 253(1)(a)] and
 - b. Operating a motor vehicle with more than 80 mg of alcohol in 100 ml of blood [section 253(1)(b)].(collectively, the “**Impaired Driving Offences**”).
38. On January 24, 2014, [J.D.], an investigator with the LSA, spoke with me over the telephone. He asked me to respond to a letter that he had sent to me pursuant to Part 3 of the *Legal Profession Act* seeking production of records and asking me to get in touch with him to schedule an interview (the “**Part 3 Letter**”). I advised [J.D.] that it was my intention to seek re-instatement and we scheduled a date for an interview. I did not disclose to him that I had been admitted to the hospital in September 2013 following a relapse or that I had been arrested and charged in January 2014 with the Impaired Driving Offences. Nor did I respond to the Part 3 Letter as requested.
39. Over the next two months, [J.D.] attempted four times to get in touch with me. I did not respond to him.
40. On February 28, 2014, I failed to attend the initial appearance for the Impaired Driving Offences, which resulted in a Warrant-to-Hold being issued by the Court.
41. On March 4, 2014, I again failed to appear in Court and the Warrant-to-Hold was released, resulting in an additional charge of failing to attend Court contrary to section 145(5) of the *Criminal Code of Canada* (the “**Failing to Attend Offence**”). Eventually, a warrant for my arrest was issued.

42. On March 13, 2014, [J.D.] served me personally with a copy of the Part 3 letter.
43. On March 25, 2014, I was interviewed by LSA investigators, during which I stated the following:
 - a. I was abstinent until I had dinner with a few lawyers and drank a glass of wine. I did not recall the exact date that this occurred;
 - b. I was admitted to the hospital on February 23, 2011, in part because of my dependency on alcohol and not just because of a panic attack;
 - c. I could not recall when I had had my last drink, but stated that I may have had a drink on New Year's Eve;
 - d. I did not disclose my most recent use of alcohol in early January, nor the resulting criminal charges, despite having the opportunity to do so during the interview; and
 - e. I denied that drinking was the reason I missed Court in February 2011, despite my previous letters to the contrary.
44. On March 26, 2014, LSA investigators spoke with M.S., a lawyer who knew me. I understand that M.S. told them that he had observed me consuming alcohol during dinners with him. M.S. later advised the investigators that he had seen me drink alcohol during Bar Association functions.
45. On March 27, 2014, an LSA investigator came to my residence to speak with me again. During our conversation, I stated the following:
 - a. I admitted that I had been charged recently with impaired driving;
 - b. I stated that I was unaware of the next Court date or whether a warrant had been issued for my arrest for failing to appear; and
 - c. I admitted that I had not reported the criminal charges to the LSA.
46. The LSA conducted interviews with my sister shortly thereafter, who provided them with the following information:
 - a. She had Power of Attorney over our mother's affairs;
 - b. Our mother had been admitted recently to a nursing home;
 - c. I had caused a disturbance during a visit with my mother, resulting in being removed from the premises by the RCMP;

- d. I had sold pieces of my mother's furniture to an antique dealer in Red Deer, some of which my sister was able to recover. The sale of the furniture was being investigated by the RCMP. LSA investigators later confirmed this information with the antique dealer; and
 - e. I was planning to sell my mother's condo and had contacted a realtor to do so.
47. On April 22, 2014, LSA investigators interviewed a caregiver at the nursing home where my mother resides. The caregiver told them the following:
- a. On March 15, 2014, I was noticeably intoxicated during a visit with my mother at the nursing home. The nursing home staff called the RCMP and I was sent home in a taxi;
 - b. On a different occasion in March 2014, I tried to bring my mother to a bank but was prevented by staff from doing so;
 - c. Whenever I visited my mother, I locked the door to her room to prevent staff from entering;
 - d. Staff found empty mini liquor bottles in my mother's room after my visits with her; and
 - e. Night Shift Staff had reported smelling alcohol on my mother's breath after one of my visits.
48. In April 2014, I was charged with the following offences under the *Criminal Code of Canada*:
- a. Section 349(1), which concerns unlawful entry into a dwelling; and
 - b. Section 334(b), which concerns theft under \$5,000.00.
- (collectively, the "**Theft Offences**").
49. I was eventually arrested and spent seven days in jail.
50. On November 12, 2014, a panel of the Conduct Committee referred my conduct to a Hearing Committee, resulting in the aforementioned citations.

D. ADMISSIONS

51. I admit to the following conduct, which I also admit is conduct deserving of sanction as defined in section 49 of the Act.

1. Complaint File: CO[•] (Complaint: A.Q.)

Citation 1: Failure to Serve Clients

52. I admit that in February 2011, I failed to serve my clients in a competent, conscientious, and diligent manner, particulars of which are as follows:

- a. I failed to appear in Court in Red Deer on behalf of my two clients on February 16, 2011;
- b. I failed to appear in Court in Red Deer on behalf of my two clients on February 17, 2011;
- c. I failed to provide clear instructions to the lawyer who agreed to appear as my agent in Red Deer on February 17, 2011;
- d. I failed to attend a trial in Rocky Mountain House on behalf of my client on February 22, 2011; and
- e. I failed to attend Court in Red Deer on behalf of several clients on February 22, 2011.

Citation 2: Failure to Refrain from Conduct that Impaired Capacity

53. I admit that in February 2011, I failed to refrain from conduct that impaired my capacity to provide competent services to my clients particulars of which are that I started binge drinking on February 16, 2011, resulting in:

- a. The February 16, 2011 Incidents;
- b. The February 17, 2011 Incidents; and
- c. The February 22, 2011 Incidents.

Citation 3: Bringing the Legal Profession Into Disrepute

54. I admit that in February 2011, my conduct brought the legal profession into disrepute, particulars of which include causing unnecessary delays in criminal matters, causing inconvenience to witnesses, and causing undue hardship for my clients.

2. Complaint File: CO[•] (Complaint: C.T.)

Citation 4: Failure to Serve Client

55. I admit that in February 2011, I failed to serve my client C.T. in a competent, conscientious, and diligent manner, particulars of which are as follows:
- a. I failed to attend a full-day trial in Red Deer on behalf C.T. on February 18, 2011; and
 - b. I failed to keep C.T. informed of the status of his legal matter, including that I would not be able to appear on his behalf on February 23, 2011, or on March 2, 2011.

Citation 5: Failure to Refrain from Conduct that Impaired Capacity

56. I admit that in February 2011, I failed to refrain from conduct that impaired my capacity to provide competent services to C.T., particulars of which are that I started binge drinking on February 16, 2011, resulting in the February 18, 2011 Incident.

Citation 6: Bringing the Legal Profession Into Disrepute

57. I admit that my conduct with respect to C.T. brought the legal profession into disrepute, particulars of which include that I caused unnecessary delays in his criminal matter, I caused inconvenience to him and to the Crown witnesses, and I caused undue hardship to him.

3. Complaint File: CO[•] (Complaint: LSA)

Citation 7: Breach of Conditions

58. I admit that my conduct was a breach of the conditions imposed on me by the Committee in 2009, particulars of which are that I consumed alcohol on the following occasions:
- a. During the summer of 2010 and on six or seven occasions in the later part of 2010, as described in the A.Q. Complaint;
 - b. On February 10, 2011, as described in the A.Q. Complaint;
 - c. In the weeks leading up to the February 16, 2011 Incidents, as described by A.L.;
 - d. On February 16, 2011, and for several days thereafter;

- e. In September 2013, which relapse resulted in my admission to the hospital;
- f. On December 31, 2013, as described my me to [J.D.];
- g. On January 5, 2014, which relapse preceded the criminal charges against me;
- h. On March 15, 2014, which resulted in my removal from my mother's nursing home by the RCMP;
- i. During dinners and Bar Association functions, as described by M.S.; and
- j. During the occasions prior to my various admissions to hospital and treatment facilities, discussed *infra*.

Citation 8: Conduct Incompatible with Best Interests of the Public or which Tends to Harm the Standing of the Legal Profession

59. I admit that I exhibited conduct that was incompatible with the best interests of the public and which tended to harm the standing of the legal profession, particulars of which are as follows:
- a. On January 5, 2014, I was arrested and later convicted of the Impaired Driving Offences;
 - b. In March 2014, I was arrested and later convicted of the Failing to Appear Offences;
 - c. On March 15, 2014, I was removed from my mother's nursing home by the RCMP for causing a disturbance while visibly intoxicated;
 - d. In March 2014, I took alcohol into the nursing home while visiting my mother;
 - e. In March 2014, I attempted to bring my mother to a bank but was prevented by staff from doing so; and
 - f. In April 2014, I was charged with the Theft Offences.

Citation 9: Ungovernability

60. I admit that my addiction to alcohol and the following conduct have made me ungovernable by the LSA:
- a. Despite a request by the LSA to report on the status of my recovery and despite the opportunity to do so during an interview with LSA investigators on January 24, 2014, I failed to disclose my relapse in September 2013 and the fact that I had been charged with the Impaired Driving Offences;

- b. Despite requests from [J.D.] for an interview and for production of records, I failed to respond to him for a period of two months in 2014, when he was conducting an investigation into my conduct;
- c. During the interview with LSA investigators on March 25, 2014, I failed to disclose my use of alcohol in January 2014 and that I had been charged with the Impaired Driving Offences; and
- d. I failed to report to the LSA my various admissions to the hospital and treatment facilities, discussed *infra*.

Citation 10: Failure to Give Notice of Charges

- 61. I admit that I failed to give a written notice to the Executive Director of charges against me as required by Rule 105 of the LSA, particulars of which are as follows:
 - a. I failed to report that I had been charged with the Impaired Driving Offences;
 - b. I failed to report that I had been charged with the Failing to Attend Offences; and
 - c. I failed to report that I had been charged with the Theft Offences.

E. [HEADING AND PARAGRAPHS 62 - 63 REDACTED AT THE DIRECTION OF THE RESIGNATION COMMITTEE]

62. [•]

63. [•]

F. COMPLAINT HISTORY

64. The LSA has recorded a total of three complaints against me, all of which are the subject matter of this application for resignation.

G. SUMMARY

65. I am bringing this application to resign as a member of the LSA to:

- a. Avoid inconveniencing witnesses and adjudicators by having to attend a lengthy hearing into the merits of these complaints;
- b. Avoid a lengthy hearing into the merits of these complaints; and
- c. Bring these long-standing matters to a conclusion.

H. INDEPENDENT LEGAL ADVICE

66. I agree that:

- a. I have received independent legal advice regarding the implications of this application; and
- b. I have signed this Agreed Statement of Facts and Admissions voluntarily and without any compulsion or duress.

ALL OF THESE FACTS ARE ADMITTED TO THIS "13th" DAY OF "May" 2016.

Witness to the Signature of
Roderick G. MacGregor

"Roderick G. MacGregor"
Roderick G. MacGregor