

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

**IN THE MATTER OF THE LEGAL PROFESSION ACT, R.S.A. 2000, C. L-8
AND IN THE MATTER OF A HEARING REGARDING THE CONDUCT OF
MURRAY MACKAY
A MEMBER OF THE LAW SOCIETY OF ALBERTA**

Panel:

Neena Ahluwalia, Q.C. – Chair
Larry Ackerl, Q.C.
Wayne Jacques

Counsel Appearances:

J. McCready – For the Member
B. Gifford – For the Law Society of Alberta (LSA) March 11, 2013
M. Naber-Sykes – For the LSA May 28, 2013

Hearing Location: 500, 919 11th Avenue SW, Calgary, AB

HEARING REPORT

Murray MacKay is a Member of the Law Society of Alberta and was admitted to the Alberta Bar in 1978. He practices in Calgary, Alberta.

This matter was scheduled to proceed on March 11, 2013. On that date, Ms. McCready informed the panel that Mr. MacKay was unable to attend because of injuries that he had sustained on the weekend before the hearing.

The member signed an agreed Statement of Facts dated March 1, 2013 and that was entered as an Exhibit (10) on March 11.

On both occasions, neither party had objections to the composition of the panel, nor any jurisdictional issues.

The facts are as follows:

- a. In February of 2010, the LSA received information from Alberta Lawyers' Insurance Association (ALIA) that MacKay had failed to report a claim matter in a timely manner and had also failed to produce information, despite promises to provide that information.

- b. A letter was sent to MacKay pursuant to s. 53 of the Legal Profession Act requesting his response to the complaint in late February, 2010.
- c. A follow-up letter (dated March 11, 2010) was sent informing MacKay that failure to immediately respond could result in both a hearing for failing to respond and an adverse inference being drawn on the original complaint.
- d. Another letter (dated April 8, 2010) was sent reiterating the urgency and necessity of a response.
- e. MacKay finally contacted the LSA by phone on April 28, 2010 and requested an extension to April 30, 2010. The extension was granted, but MacKay did not provide a response.
- f. MacKay advised that he suffered anxiety upon receiving the LSA communications and that he sought counseling services through the Lawyer's ASSIST Program in April 2010. He has been meeting with a registered psychologist on a semi-regular basis since that time.
- g. The LSA received a letter from that psychologist dated December 2012. The letter provides a summary of his assessment of MacKay and his progress in dealing with his issues. That letter is attached to the Agreed Statement of Facts.
- h. The LSA had contacted ALIA in January 2012 to determine whether MacKay had improved with communication and reporting. ALIA responded that MacKay was more cooperative.
- i. MacKay apologized for his past conduct and has made efforts to improve his reporting and cooperation including participating in the Trust Accounting program, providing particulars of his trust accounts directly to the LSA and several improvements to his practice including better staffing and office procedures.

The hearing committee found the Agreed Statement of Facts to be in a form acceptable to it and accepted MacKay's admission of guilt and ruled that he was found to have failed to respond to the Law Society of Alberta.

On March 11, 2013, MacKay appeared before the Hearing Committee for sanction.

MacKay had a prior discipline record with the Law Society of Alberta (Exhibit 12). On March 28, 1994 he was found guilty of two counts of failing to respond to the Law Society and one count of failing to pay an insurance deductible.

The joint submission on sanction proposed by counsel was that the Committee reprimand MacKay and order he pay the actual costs of the hearing.

The Committee asked MacKay to answer questions that it had under affirmation. He was asked general questions with respect to his practice. He was also asked about his support systems in place to ensure that this type of behavior would not be repeated.

The Committee was generally satisfied with his answers and made several suggestions that MacKay assured the Committee he would follow up on. These include discussions

with other lawyers in the office space that he shares and ensuring that his assistant will open LSA mail to assist him in responding.

The Chair then issued a reprimand reminding MacKay that a self governing profession is founded on a principle that each member will be diligent and cooperative in engaging with their governing body. When a member refuses to do so, the profession lacks the authority to assert that we act in the public interest.

While mindful of the past discipline record, the Committee was satisfied that MacKay recognized the personal and professional stressors in his life and the impact they had on his practice. The Committee urged MacKay to continue with counseling sessions and commended to him various programs at the LSA that could assist him with office management issues.

The Committee ordered actual costs be awarded. MacKay will pay those costs within six months of receiving the statement of costs.

Dated this 11th day of July, 2013

Neena Ahluwalia Q.C

Larry Ackerl Q.C.

Wayne Jacques