

**Jodie K. Holder**

**Hearing Committee Report**

**In the matter of the *Legal Profession Act*, and in the matter of a hearing regarding the  
conduct of Jodie K. Holder, a Member of the Law Society of Alberta  
Hearing Number HE20100025**

**Law Society of Alberta Disciplinary Hearing February 14, 2011**

**A. Jurisdiction and Preliminary Matters**

1. A Hearing Committee of the Law Society of Alberta (LSA) held a hearing into the conduct of Jodie K. Holder on February 14, 2011. The Committee consisted of Frederica L. Schutz, Q.C., Chair, Fred Fenwick, Q.C., Committee member and Amal Umar, Committee member. The Law Society of Alberta was represented by Tracy Davis. The member was present and was represented by Phillip G. Lister, Q.C.
2. Exhibits 1 through 4, consisting respectively of the Letter of Appointment of the Hearing Committee, the Notice to Solicitor with acknowledgement of service, the Notice to Attend with acknowledgement of service and the Certificate of Status of the Member, established the jurisdiction of the Committee and were admitted into evidence by consent.
3. There was no objection by the Member's counsel or counsel for the LSA regarding the membership of the Committee.
4. The Certificate of Exercise of Discretion was entered as Exhibit 5. No request for a private hearing had been received and therefore the hearing proceeded in public.
5. Exhibits 6 through 14, contained in an exhibit binder provided to the Committee members, were admitted into evidence by consent. The following additional exhibits were also entered into evidence, during the course of the proceedings, by consent:
  - Exhibit 15 – 2 page letter dated January 17, 2010 from R. Gregory Busch, Director, Lawyer Conduct for the Law Society of Alberta;
  - Exhibit 16 – Personal and Confidential Treatment Information concerning the Member in respect of treatment undertaken by the Member;
  - Exhibit 17 – Statement of Facts and Admission of Guilt dated February 14, 2011 and signed by the Member; and
  - Exhibit 18 – Estimated Statement of Costs.

**B. Citations**

6. The Member faced two citations:
1. IT IS ALLEGED that you breached the duty of confidentiality owed to your client and that such conduct is conduct deserving of sanction.
  2. IT IS ALLEGED that you engaged in personal conduct which brought the profession into disrepute and that such conduct is conduct deserving of sanction.

**C. Agreed Statement of Facts and Admission of Guilt**

7. The Agreed Statement of Facts and Admission of Guilt (Exhibit 17), an original signed copy provided to the Committee, states as follows:
1. Jodie Holder is a member of the Law Society of Alberta, having been admitted to membership on April 23, 1999. At all times relevant to these citations he was suspended pursuant to Section 83(7) of the *Legal Profession Act*.
  2. In September 2010 the following citations were directed by the Conduct Committee Panel arising from the complaint of a former client, S.H.;
    - a. IT IS ALLEGED THAT you breached the duty of confidentiality owed to your client and that such conduct is conduct deserving of sanction.
    - b. IT IS ALLEGED THAT you engaged in personal conduct which brought the profession into disrepute and that such conduct is conduct deserving of sanction.

Mr. Holder admits guilt in respect to Citation 2.

3. The matter stems from Mr. Holder's representation of a client, S.H., for whom he had acted as far back as the spring of 2003. S.H. had retained Mr. Holder to act for her in relation to her separation from her then husband R.H., now deceased.
4. S.H. attended a Halloween Party on the evening of November 1, 2008 as a volunteer bartender for a Minor League Hockey fundraiser, at the Shriner's Club in the City of Edmonton. The instructions given to the bartenders at the function were that party-goers were to purchase drink tickets at the front table that they would then provide to the bartenders in exchange for their drinks. Bartenders were specifically instructed not to accept cash in exchange for drinks.
5. An individual, later identified as Mr. Holder, approached the bar where S.H. was working and demanded a drink in return for the cash he was offering; he was wearing a costume that included a mask covering his face. S.H. was wearing a

costume as well but was not wearing a mask. S.H. explained the process for purchasing drink tickets; the response was to call her a “bitch” and to “just take the money”.

6. Eventually Mr. Holder left the bar to buy drink tickets and returned with his tickets and was given a beer, there were 10-15 people standing around the bar. S.H.’s brother J.G. was also working as a volunteer bartender that night and was close enough that he could overhear Mr. Holder. Upon this second dealing at the bar, Mr. Holder said “I know things about you” to S.H. who was understandably confused as at that time she had no idea who the masked individual was.
7. Mr. Holder approached S.H. numerous subsequent times throughout the evening and the verbal abuse and intimation of “knowing things” continued. S.H. asked her brother to deal with the masked man for the balance of the party.
8. J.G. attempted to de-escalate the situation by reasoning with Mr. Holder but that was not successful. Mr. Holder asked J.G. if he knew R.H., which of course he did as he was J.G.’s former brother-in-law.
9. Mr. Holder went on to say that he did not want to represent S.H., and would have preferred to act for R.H. He went on to say that S.H. had ruined R.H.’s life, caused his death and then “ripped off” R.H.’s estate. It was during this time that S.H. realized that her lawyer was behind the mask. This was said in front of numerous persons around the bar as well as S.H. and J.G.
10. The individual in charge of the party instructed the bartenders to discontinue serving alcohol to Mr. Holder and asked him to leave the premises. J.G. asked Mr. Holder to leave the party at which time he grabbed J.G. by the throat and tried to choke him. Another person came over to assist but Mr. Holder continued to fight, during which time his mask was removed and he was identified by J.G. and other party-goers who knew him. They put Mr. Holder in a taxi and sent him on his way.
11. On July 23, 2008 Mr. Holder pled guilty to an impaired driving charge and was sentenced to 30 days of incarceration to be served on weekends, he was prohibited from driving for two years and was placed on a period of probation for two years. Mr. Holder was bound by this Probation Order on the night of the party.
12. Mr. Holder was intoxicated that evening and has no current recollection of the events at issue. As a result he has no additional information with respect to the events and is not in a position to dispute the facts as outlined.
13. Mr. Holder acknowledges that this conduct falls below the standards of the profession and is deserving of sanction and he apologizes for it.

**ALL OF THESE FACTS ARE ADMITTED THIS 14TH DAY OF FEBRUARY, 2011.**

“original signed”

Jodie Holder

**D. Decision as to Citation**

8. The Hearing Committee determined that the Agreed Statement of Facts and Admission of Guilt (Exhibit 17) in respect of Citation 2 was in acceptable form. Consequently, pursuant to s.60(4) of the *Legal Profession Act* the admission of guilt is deemed for all purposes to be a finding of the Hearing Committee that the conduct of the Member, as stated in Citation 2 is conduct deserving of sanction.
9. The Hearing Committee notes that Mr. Holder has acknowledged his conduct and guilt in his Statement of Facts and Admission of Guilt and has apologized for his conduct. The Member admitted that he engaged in personal conduct which brought the profession into disrepute and that such conduct is conduct deserving of sanction.
10. Mr. Holder has taken responsibility for his misconduct and prior to his admission of guilt was a suspended member.
11. The conduct about which this Member admits guilt raises serious concerns about the protection of the public from lawyer conduct that falls below that which is demanded by the Law Society of Alberta as regulators. The Member’s conduct also raises serious concerns about the effect of alcohol abuse on the Member’s judgment, behaviour and memory.
12. We accept Mr. Holder’s apology for this serious lapse of judgment but nonetheless note that s.49 of the *Legal Profession Act* states that any conduct of a member that is incompatible with the best interests of the public or of the members of the Law Society of Alberta or that tends to harm the standing of the legal profession generally, is conduct deserving of sanction. That test obligates us to analyze the conduct from the perspective of the effect it has or could have on the reputation of the legal profession generally. In the view of the Hearing Committee, the Member’s conduct could and, in fact did, have a negative effect on that reputation.

**E. Decision Regarding Sanction**

13. The Hearing Committee heard from counsel for the Law Society of Alberta and counsel for the Member who made a joint submission regarding sanction.

**F. The Reprimand**

14. The Hearing Committee decided that the joint submission of counsel be accepted. Accordingly, the Hearing Committee imposes a disciplinary suspension of a duration of six months, commencing February 14, 2011.
15. The Hearing Committee also directs that any re-instatement panel be provided with all of the Exhibits referred to herein and also be provided with the written decision of this Hearing Committee.

**G. Fine and Costs**

16. In addition to the sanction imposed, the Member is ordered to pay costs of this hearing in the amount of \$2,000.00, payable on or before the date of the Member's re-instatement.

**H. Concluding Matters**

17. There will be no referral to the Attorney General.
18. The exhibits and proceedings will be available for public inspection, including the provision of copies of exhibits for a reasonable copy fee, except that the identities and other identifying information about clients will be redacted from those exhibits.

Dated this 21<sup>st</sup> day of March, 2011.

---

Frederica L. Schutz, Q.C. – Chair and Bencher

---

Fred Fenwick, Q.C. – Bencher

---

Amal Umar – Bencher