

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

**IN THE MATTER OF THE LEGAL PROFESSION ACT  
AND IN THE MATTER OF A HEARING REGARDING  
THE CONDUCT OF PHYLLIS VAN CAMPENHOUT  
A MEMBER OF THE LAW SOCIETY OF ALBERTA**

**Introduction**

1. A Hearing Committee composed of Scott Watson, Q.C., Chair, Donald Scott and Wayne Jacques convened September 7, 2011 at the Law Society of Alberta ("LSA") office in Edmonton to consider the conduct of Phyllis Van Campenhout (the "Member"). The LSA was represented by Ms. Tracy Davis. The Member was represented by Ms. Laura K. Stevens, Q.C. The Member was present throughout the hearing and the entire hearing proceeded in public.

**Citations**

2. The Member faced three Citations:

Citation 1: It is alleged that you breached an undertaking and that such conduct is conduct deserving of sanction.

Citation 2: It is alleged that you failed to disclose the breach of undertaking in a timely manner to the lawyer to whom the undertaking was made and that such conduct is conduct deserving of sanction (*as amended*).

Citation 3: It is alleged that you failed to respond to another lawyer in a timely manner and that such conduct is conduct deserving of sanction.

**Jurisdiction and Exhibits**

3. Exhibits 1 through 5 were entered by consent, namely, the Letter of Appointment appointing the Hearing Committee members, the Notice to Solicitor with acknowledgement of service setting out the three citations, the Notice to Attend with acknowledgement of service directing the Member to attend the hearing, the Certificate of Status certifying the Member was an active member of the LSA, and the Certificate of Exercise of Discretion. The foregoing exhibits established jurisdiction of the Hearing Committee.
4. Neither party objected to the composition of the Hearing Committee.
5. Remaining Exhibits marked 6 through 18, were entered by consent during the course of the hearing.

6. An agreed statement of admission of guilt (the “Agreed Statement”) was entered as Exhibit 6. As part of the Agreed Statement, the LSA sought to amend Citation 2 from:

“It is alleged that you misled another lawyer and that such conduct is conduct deserving of sanction.”

to:

“It is alleged that you failed to disclose the breach of undertaking in a timely manner to the lawyer to whom the undertaking was made and that such conduct is conduct deserving of sanction.”

7. The Member agreed to the amendment to Citation 2 and admitted guilt to both Citation 1 and Citation 2, as amended.
8. LSA counsel led no evidence in respect of Citation 3.

### **Decision as to Citations**

9. The Hearing Committee accepted the amendment to Citation 2.
10. The Hearing Committee accepted the Member’s statement of admission of guilt of conduct deserving of sanction in respect to Citation 1 and Citation 2, as amended, contained in the Agreed Statement as being in an acceptable form.
11. Pursuant to section 60 of the *Legal Profession Act*, the Member’s admissions are deemed to be findings of this Hearing Committee that the conduct of the Member is deserving of sanction in respect to Citation 1 and Citation 2, as amended.
12. Accordingly, the Hearing Committee finds that the Member breached an undertaking and that the Member failed to disclose the breach of undertaking in a timely manner to the lawyer to whom the undertaking was made and that such conduct is conduct deserving of sanction.
13. As no evidence was led in respect of Citation 3, the Hearing Committee dismissed Citation 3.

### **Submissions on Sanction and Costs**

14. Ms. Davis presented the joint submission of counsel. The Member had no record with the LSA, had cooperated in the hearing process and had agreed to a statement of admission of guilt of conduct deserving of sanction. On that basis, counsel’s joint submission was that the Member ought not to be disbarred, fined nor suspended, but rather reprimanded.
15. The joint submission of counsel was that the Member pay costs in an amount equal to those estimated in Exhibit 18.

## Decision on Sanction and Orders

16. Conduct deserving of sanction is conduct that is incompatible with the best interest of the public or the members of the LSA or conduct that tends to harm the standing of the legal profession generally (section 49 *Legal Profession Act*).
17. The Hearing Committee considered the mitigating factors which included the Member not having a previous disciplinary record with the LSA, the Member's otherwise exemplary conduct, the Member's cooperative nature during the hearing process, the Member's clear admission of fault, the Member identifying her mistakes, the Member having expressed an appreciation of the risks resulting from her failures, that there was no actual resulting prejudice from the Member's failure, and the Member's expression of remorse.
18. The LSA seeks to take a purposeful approach to sanctioning. In particular, the LSA seeks to protect the public and maintain the reputation of the profession. The sanction ought to discourage future behaviour which will have the effect of protecting the public from similar conduct. The Hearing Committee considered there was a low risk of recurrence by the Member. Based on all the foregoing, the Hearing Committee accepted the joint submission of counsel as to sanction and agreed the circumstances indeed warranted a reprimand.
19. The Chair delivered the following reprimand:

Ms. Van Campenhout, the Law Society of Alberta governs the profession in the public interest. Self-regulation through an independent law society is a privilege which our profession enjoys. That privilege is only preserved if lawyers firmly commit to and honor the ethical tenets of our profession. Here, you failed in your ethical obligations.

You failed to honor an undertaking and then you failed to disclose this fact in a timely manner to the lawyer you had given the undertaking to. You did not exercise your professional judgment in a satisfactory way. You failed to obtain a registerable postponement, nor did you obtain a caveat holder's agreement to postpone the caveat before advancing funds. In these respects you failed your clients and your profession.

Lawyers in Alberta have come to rely on the word of another lawyer. An undertaking of a lawyer allows commerce to proceed efficiently. Without the ability to rely on a lawyer's undertaking, the wheels of commerce would be much less efficient. The public interest we serve demands more of you. Your standard of conduct fell short in this case and you invited public derision of you and your profession. That loss of confidence is not easily regained and your professional colleagues, quite frankly, expected more of you. Your professional obligations are paramount.

Today you have the opportunity to move forward with your career. You have a long career ahead of you. You have the opportunity to proceed with greater care and to demonstrate that you can emulate the best traditions of our profession. We hope and expect, Ms. Van Campenhout, that this will be the last time you appear before the Benchers in this type of proceeding.

20. The Hearing Committee ordered the Member to pay costs in an amount equal to those estimated in Exhibit 18 within thirty (30) days of service of the statement of costs.

**Concluding Matters**

21. The Exhibits will be made available for inspection by the public provided names are first redacted.
22. No separate notice to the profession is ordered.
23. No referral to the Attorney General is required in this matter.

Dated this 27<sup>th</sup> day of October, 2011.

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Scott Watson Q.C. – Chair and Bencher

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Donald Scott, Bencher

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Wayne Jacques, Bencher