

**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 RYAN RIGLER,
A STUDENT-AT-LAW OF THE LAW SOCIETY OF ALBERTA**

Jurisdiction and Preliminary Matters

1. On July 8th, 2008, a Hearing Committee composed of Vivian Stevenson Q.C. (Chair), Bradley G. Nemetz Q.C. and Dr. Larry Ohlhauser convened at the Law Society offices in Edmonton to inquire into the conduct of Ryan Rigler. Mr. William Roe Q.C. appeared for Mr. Rigler who was also present. The Law Society was represented by Mr. Michael Penny.
2. Jurisdiction of the Committee was established by entering as Exhibits 1 through 4 the Letter of Appointment, Notice to Student, Notice to Attend and Certificate of Status. Counsel for the Student did not challenge the jurisdiction of the Committee and there was no objection to the composition of the Committee.
3. The Certificate of Exercise of Discretion was entered as Exhibit 5. No one was served with a Private Hearing Application Notice and no request was received for a private hearing. Counsel for the Student did not object to the matter proceeding in public and the hearing proceeded in public.

Citations

4. Mr. Rigler originally faced 4 citations which were as follows:
 1. IT IS ALLEGED that you failed to be truthful with the Law Society when using the following wording in a statutory declaration:

“I was returned home to my apartment that evening by a colleague who was a designated driver.”
 2. IT IS ALLEGED that you failed to be truthful with the Practice Review Committee in describing the driving you engaged in on the evening and following morning in question, and that such conduct is conduct deserving of sanction.
 3. IT IS ALLEGED that you failed to be truthful while giving evidence at trial in testifying as to the driving you engaged in on the evening and following morning in question, and that such conduct is conduct deserving of sanction.
 4. IT IS ALLEGED that you failed to be truthful with the Law Society Investigators in describing the driving you engaged in on the evening and following morning in question, and that such conduct is conduct deserving of sanction.

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5. At the opening of the Hearing Counsel for the Law Society presented a Statement of Facts and Admission of Guilt with respect to the first citation which was entered by consent as Exhibit 14.
 6. Counsel for the Law Society submitted that citation 2 should be subsumed into citation one. He also submitted that citation 3 was inherently inconsistent with citation 1 and in view of the admission of guilt with respect to the first citation, should be dismissed. Finally, Counsel for the Law Society submitted that there was insufficient evidence to establish citation four and indicated that he would not be calling any evidence with respect to the same. He invited the Committee to dismiss that citation.
 7. The Committee had before it Exhibits 6 through 14 all of which were entered by consent.
 8. In addition to considering the Statement of Facts and the Exhibits, the Committee heard testimony from Mr. Rigler prior to making a determination as to whether it would accept the admission of guilt and deal with the remaining citations as proposed by counsel.

Facts

9. Mr. Rigler was 30 years old at the time of the hearing. He attended the University of Calgary for his undergraduate degree. However, in January of 2001 while he was attending at that institution, his father passed away unexpectedly. Mr. Rigler went home for the funeral and by the time he returned to school, felt that he had fallen too far behind to catch up and also felt that he was needed at home. He proceeded to complete his undergraduate degree by correspondence through Athabasca University.
10. Following completion of his undergraduate degree, Mr. Rigler applied to a number of Canadian law schools and was offered a scholarship to attend College in Massachusetts. He attended law school there from 2002 to 2004 before being accepted into the Law School at the University of Saskatchewan where he obtained his juris doctorate and his LLB.
11. In November of 2005, while attending the University of Saskatchewan, Mr. Rigler was charged with having care or control of a motor vehicle while his ability to operate the vehicle was impaired or while his blood alcohol concentration exceeded .08. He had previously pleaded guilty to an impaired charge arising out of an incident in August of 2001. He had been charged with another alcohol-related incident in January of 2002 although that charge had been withdrawn.
12. Mr. Rigler graduated from law school in 2006. He decided to apply for articles in Peace River and was offered a position with a firm there. On June 6th, 2006, Mr. Rigler applied to the Law Society of Alberta for admission as a student-at-law. In his application he disclosed the fact that he had a criminal record arising out of the impaired driving offence in August of 2001. He also disclosed the charges arising out of the incident of 2005 which were still pending. Mr. Rigler started working at his firm in mid-June of 2006. He disclosed his criminal record to his Principal and to the other members of the firm.
13. Mr. Rigler indicated that his colleagues were not particularly concerned with his prior record, but were concerned about the pending charges because the firm had several offices and if he were unable to drive between those offices, this would affect his ability to perform his articles.

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14. Mr. Rigler's application to the Law Society for admission as a Student-at-Law was delayed while the Credentials and Education Committee gave it consideration. The delay in granting the application began causing issues at the firm because Mr. Rigler could not appear in Chambers. As time passed, Mr. Rigler became more and more concerned that the delay might impact his continued employment at his firm.
 15. On July 18th Mr. Rigler received a telephone call from a Membership Officer at the Law Society asking that he provide a statutory declaration providing details of his motor vehicle and alcohol-related charges. He was asked to provide that statutory declaration by the next day. Mr. Rigler testified that he left the office at 7:00 p.m. that day, went home, had a quick supper, did some work and then drafted the statutory declaration. He swore the declaration the following day and forwarded it to the Law Society by fax.
 16. Paragraph 5 of the statutory declaration provides as follows with respect to the events of November 24th, 2005:
 - a. Earlier that evening I was out with a number of law school colleagues celebrating the completion of a moot trial. We did have designated drivers. I was returned home to my apartment that evening by a colleague who was a designated driver."
 17. On August 1st, 2006, Mr. Rigler was advised that his application for admission as a Student-at-Law was approved and that his file was being referred to the Credentials and Education Committee to consider whether additional requirements should be imposed upon him.
 18. On July 27th, 2006, Mr. Rigler appeared at trial to face the charges arising out of the alcohol-related incident that had occurred in November of 2005. During the trial Mr. Rigler testified that he had been involved in a night of drinking and drove himself home at around 3:00 a.m. He admitted that he felt he was probably over the legal alcohol limit to be driving. He testified that when he returned home he could not find his apartment key so he returned to his truck to sleep. He was discovered there 2 hours later by the police. After hearing the evidence at the trial, the court reserved its decision.
 19. On August 17th, the Credentials and Education Committee considered Mr. Rigler's application including his statutory declaration. The Committee provided that it be a condition of Mr. Rigler's admission as a Student that he provide an Undertaking to co-operate with the Practice Review Department for such period of time as the Practice Review Department deemed appropriate, whether before or after his enrolment as a Member of the Law Society, and an Undertaking to co-operate with the Practice Review Committee and satisfy any conditions which may be imposed upon him, which conditions should be aimed at the prevention of future alcohol-related incidents.
 20. Mr. Rigler provided the Undertakings requested by the Credentials and Education Committee in September of 2006. In November of 2006 judgment was rendered in Mr. Rigler's criminal trial acquitting him of both charges.
 21. In January of 2007 Mr. Rigler met with a Panel of the Practice Review Committee. Prior to that meeting he had participated in an AADAC assessment at the request of Practice Review and the meeting focused on alcohol-related concerns. The Panel was pleased with the steps that Mr. Rigler had taken to date.

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22. Mr. Rigler met with another Practice Review Panel in June of 2007. At that meeting the Panel asked Mr. Rigler to explain the discrepancy between his statutory declaration and the evidence he gave at trial about driving home on the night of November 24th. Mr. Rigler apparently explained the discrepancy on the basis that on the evening in question he had been driven at one point by someone else, but had then gone out again and had driven home on his own. The Panel expressed concern at the discrepancy but apparently did not press the matter any further and Mr. Rigler did not advise that he had lied in the statutory declaration.
 23. Mr. Rigler was then interviewed on 2 occasions by Law Society Investigators. The answers that he gave during these interviews do not appear to have been entirely consistent, but he admitted on both interviews that he had driven himself home on the night of November 24th.
 24. During his testimony at the hearing, Mr. Rigler admitted that the statement in his statutory declaration that he had been driven home by a designated driver was untrue. His explanation for this untruth was that he was concerned about being directed to a good character hearing by the Credentials and Education Committee and concerned that a further delay in his application might cost him his job. He admitted that he drafted the statutory declaration so as to try to make his conduct appear more favourable in the eyes of the Law Society. He knew that he was facing a third impaired charge and he was afraid that of the impact this would have on his application. He referred to his misleading statutory declaration on more than one occasion as “an error in judgment”.
 25. Mr. Rigler says that he did not tell the Practice Review panel that he lied in the statutory declaration because the question was not put directly to him. He conceded that this had been his first opportunity to “come clean” and that he did not take it.
 26. When Mr. Rigler completed his articles, he moved with his wife to High Level. He was awaiting the outcome of the Law Society proceedings in relation to this matter and so was unable to practice. By August or September of 2007 both he and his wife were collecting Employment Insurance. His wife then returned to substitute teaching and was ultimately offered a teaching position with the Fort Vermillion school district. Mr. Rigler applied to a number of potential employers, but either was underqualified (e.g. he did not have a class one driver’s license) or was over qualified. He became a part-time substitute teacher for the Fort Vermillion school district as well, but the couple ultimately moved back to Grande Prairie for financial reasons.
 27. Mr. Rigler testified about the significant psychological impact that he felt these proceedings have had on him. He was concerned enough about his mental state at one point that he went to a psychologist. He testified that he felt ashamed that he had let down his family. He remained uncertain about his future, and what he would do with two law degrees and starting over again at 30 if his status as a Student-at-Law was terminated. He also testified that the situation took a toll on him in terms of his ability to provide for his family, put strain on his marriage, and forced his wife into a difficult teaching assignment for a year. He had been forced to disclose all of the circumstances surrounding the impaired charges and these proceedings to his family and to try to explain to them how he had risked losing his legal career as a result of his conduct.

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28. Mr. Rigler said that he had learned the importance of admitting his mistakes and resolving them and testified that if he were faced with the same circumstances, he would act differently.

Decision Regarding Citations and Admission of Guilt

29. After hearing the testimony of Mr. Rigler, the Hearing Committee accepted the submission of counsel for the Law Society that Citation 2 was subsumed into Citation 1 and that Citation 3 was necessarily inconsistent with Citation 1 since Mr. Rigler had either told the truth at trial or in the statutory declaration. The Committee dismissed Citation 4 as there was insufficient evidence with respect to that Citation.
30. The Hearing Committee also determined that the Agreed Statement of Facts and Admission of Guilt was in a form acceptable to it and accepted the admission. Pursuant to the provisions of the *Legal Profession Act*, the admission of guilt with respect to Citation 1 is therefore deemed for all purposes to be a finding of the Hearing Committee that the conduct at issue was conduct deserving of sanction.

Decision Regarding Sanction

31. Counsel for the Law Society indicated at the outset of the Hearing that he would be seeking termination of Mr. Rigler's registration as a Student-at-Law or a lengthy suspension.
32. As indicated in the Hearing Guide, the fundamental purpose of the sanctioning process is to ensure that the public is protected and that the public maintains a high degree of confidence in the legal profession.
33. Law Society Counsel submitted that the key consideration for the Committee in this matter was the fact that the Student had lied. In his submission there is no such thing as a "little lie" since the Law Society relies on the honesty of its members in order to govern them and the public also relies on that honesty. Therefore it was the position of Law Society Counsel that Mr. Rigler's registration as a Student-at-Law should be terminated. In effect, as Mr. Rigler had no prior record, Counsel was suggesting that there should be a zero tolerance policy with respect to dishonesty.
34. Mr. Roe on behalf of the Student argued that by taking this position the Law Society was advocating for different treatment for a Student-at-Law than for an active Member of the Law Society. He submitted that previous Hearing Committees had issued suspensions or fines to active Members who had committed similar acts of dishonesty while here Law Society Counsel was seeking termination of the Student's registration, which was akin to disbarment.
35. To assist with its deliberations on sanction, the Hearing Committee was referred to four Law Society decisions dealing with findings of dishonesty: *Law Society of Alberta v. Philion* [1998] LSDD No. 140; *Law Society of Alberta v. Bittner* [2002] LSDD No. 52; *Law Society of Alberta v. Zimmerman* and *Law Society of Alberta v. Terrigno* (both unreported). The sanctions in those four cases ranged from a \$2,500 fine (*Bittner*) to suspension (*Philion* and *Terrigno*) to the termination of registration as a Student-at-Law (*Zimmerman*) and therefore covered the full spectrum of possible sanctions.

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36. Previous decisions are not binding, but may be considered persuasive in determining sanction. A review of the four decisions suggests that in the past an act of dishonesty has generally resulted in a suspension. However, in *Bittner* the Committee did not feel that a suspension was necessary or appropriate where the Member had sworn a false Affidavit. The Committee was satisfied in that case that the Member was a fundamentally honest person who had been duped by his client. The Committee did not consider a fine to be inconsistent with the need for general deterrence as "...if any member were to interpret this decision as a license to swear false Affidavits, they would do so at their peril because a suspension can be generally expected for such conduct." The Committee felt there must be room for exceptions to the general rule.
 37. The Committee in *Zimmerman* terminated the Student's registration after a number of criminal convictions for fraud, forgery and theft. The Committee noted that if a suspension were imposed, it would have to be of significant length and carry a condition that the lifting of the suspension would require confirmation by a quorum of Benchers that the Student had re-established good character. As such, the Committee felt that the practical difference between a suspension and termination of registration was negligible in that case and the only real difference was optics.
 38. Clearly a lawyer must be held to a high standard when it comes to matters of honesty and integrity. However, past Committees had not applied a zero tolerance policy to active Members and this Committee did not feel a zero tolerance policy was appropriate with respect to a Student-at-Law. The Committee was of the view that there may well be circumstances where a termination or disbarment would be appropriate for a first offence, but was not convinced that the circumstances existed here.
 39. In reaching its decision that a termination was not appropriate in this case, the Committee took into account the fact that the Student had admitted his guilt and displayed remorse for his conduct. The Committee also considered it significant that Mr. Rigler had not perpetuated his dishonesty in his testimony at the criminal trial, and that there was no suggestion of any prior history of dishonesty or inappropriate conduct. The Committee noted that Mr. Rigler had prepared and sworn the statutory declaration in a short period of time and had done so without the guidance of more experienced counsel.
 40. The Committee was also of the view that a termination was not necessary for the purpose of deterrence with respect to the Student as it was clear that the experience had already had a major impact on his life and legal career, and indeed he was starting his career with a strike against him. The Committee also noted that Mr. Rigler had complied with the undertakings he had given to the Practice Review Committee and that they had been satisfied with the steps he had taken to address their concerns.
 41. The key consideration for the Committee was whether it was necessary for the protection of the public and the reputation of the legal profession that Mr. Rigler be terminated. The Committee did not feel that it was. In all of the circumstances, the Committee felt that the risk of Mr. Rigler re-offending was negligible and that the imposition of a suspension was sufficient to demonstrate the seriousness with which the Law Society viewed transgressions related to honesty and integrity.
 42. The Committee decided that a three month suspension was appropriate given that this matter involved an issue of integrity and also raised concerns about governability. Mr. Rigler made a false statement in a statutory declaration to his own regulator in an effort

to improve his position and compounded this transgression by failing to disclose this conduct at the earliest opportunity. It should be noted that in determining the length of the suspension, the Committee also took into consideration the significant interruption of Mr. Rigler's legal career that had already resulted from his actions.

43. The Committee advised Mr. Rigler that they were giving him a second chance, but noted that if he were to appear before another Committee in relation to a matter of integrity, he was likely to face disbarment.
44. The Committee also urged Mr. Rigler to begin his practice with another lawyer, or in a firm and directed that if he chose to go into practice as a sole practitioner, that he was to advise the Law Society and that he was to be directed to Practice Review as a formal referral. The Committee noted that Mr. Rigler's undertaking to Practice Review remained in effect notwithstanding the completion of the hearing in any event.
45. Mr. Rigler was directed to pay the actual costs of the hearing within 4 months of service of the Statement of Costs upon him.

Dated this 22ND day of September, 2008.

Vivian Stevenson, Q.C., Chair and Bencher

Bradley G. Nemetz, Q.C., Bencher

Dr. Larry Ohlhauser, Bencher