

IN THE MATTER OF THE LEGAL PROFESSION ACT  
AND IN THE MATTER OF A HEARING REGARDING THE CONDUCT OF  
**CHANTAL CATTERMOLÉ, A STUDENT-AT LAW OF THE LAW SOCIETY OF ALBERTA**  
**REPORT OF THE HEARING COMMITTEE**

On January 18, 2008, a Hearing Committee composed of Bradley G. Nemetz, Q.C., (Chair), Steven Raby, Q.C., and John Higgerty, Q.C., convened at the Law Society offices in Calgary to inquire into the conduct of Chantal Cattermole. Mr. Robert Maxwell appeared for the member who was also present and Mr. Michael Penny appeared for the Law Society.

## **INTRODUCTION**

[1] Ms. Cattermole was an Articling Student in the 2006/07 articling year and commenced the CPLED course in January of 2007. She plagiarized a portion of her ethics assignment (copying another student's material). The instructor discovered the plagiarism and reported it to Ms. Copps, Deputy Director of the CPLED Program. She in turn emailed Ms. Cattermole asking for an explanation. Ms. Cattermole went in to see her principal, denied plagiarizing, and the two of them telephoned Ms. Copps and again Ms. Cattermole denied the plagiarism. However, before the end of the day, Ms. Cattermole ceased her denials, and admitted, with explanation, that she had violated the CPLED's integrity policy.

[2] Ms. Cattermole testified before us, again admitting to receiving and using another student's material and admitting to lying to her principal and to the Administrator of the CPLED course.

[3] She provided an extensive explanation of the personal circumstances that led to this incident, the fact that the incident had resulted in her being expelled from the CPLED program, her being fired by the firm, and her career being effectively setback by two years. She has since moved back to British Columbia, a firm with whom she had previously worked as a summer student has agreed to accept her for articles, and she has made application for admission as a student-at-law to the Law Society of British Columbia. That application is in abeyance awaiting our decision.

[4] We found Ms. Cattermole guilty of conduct deserving of sanction and, having regard to her expulsion from the CPLED program, the effective two-year delay that this will have in her career plans, we have decided that a reprimand together with an order for costs, payable in three years, is the appropriate disposition of this matter.

## **JURISDICTION**

[5] Jurisdiction was established by entering as exhibits the Letter of Appointment, Notice to Solicitor, Notice to Attend, Certificate of Status and Certificate of Exercise of Discretion. Further, Ms. Cattermole's counsel accepted the jurisdiction and composition of the panel.

## **PRELIMINARY MATTERS**

[6] The hearing was held in public.

## **THE CITATION**

[7] The member was charged with the following citation:

IT IS ALLEGED that in breaching CPLED Program's Professional Integrity Policy and the CPLED Program Agreement, you conducted yourself in a manner that brings discredit to the profession, and you thereby breached the *Code of Professional Conduct*, and that such conduct is conduct deserving of sanction.

## **EVIDENCE**

[8] Ms. Cattermole is 28 years old and commenced her articles with Brownlee LLP in the summer of 2006. She and Mr. Ryder were students in Brownlee's Calgary office.

[9] Mr. Ryder took the fall semester session of the CPLED course, Ms. Cattermole took the winter session of the course which commenced in January of 2007. In preparation for that course, she signed the CPLED Program Agreement by which she explicitly acknowledged her ethical obligations to only submit original work, and which Agreement prohibited the sharing of material with other students.

[10] The in-class portion of the winter CPLED program took place on January 8<sup>th</sup> to 12<sup>th</sup> 2007. Ms. Cattermole missed these classes due to the death of her father; his funeral took place on January 13<sup>th</sup>. She received a deferral from CPLED for the in-class sessions. She returned to Calgary on January 13<sup>th</sup> and returned to work on January 16<sup>th</sup>. The first of her on-line assignments was an assignment in ethics and it was due on January 22<sup>nd</sup>. CPLED was also prepared to give her a deferral of this assignment. She would have had to have made up both the in-class sessions and the ethics assignment later in the year. The make-up for the assignment was not available until August 2007.

[11] Ms. Cattermole's principal suggested that she not take this second deferral as it would put her behind Mr. Ryder in her call to the Bar. Ms. Cattermole reluctantly agreed, although she still felt overwhelmed.

[12] Ms. Copps had suggested that Ms. Cattermole could benefit from a discussion of the on-line aspects of the course with Mr. Ryder. Unfortunately, more than merely discussing the on-line aspects of the course and showing her how to navigate the website, Mr. Ryder provided Ms. Cattermole with his assignments in the area of ethics, which he had submitted during the fall session, ostensibly for the purpose of allowing her to see the form and format of the assignment. The sharing of this assignment was explicitly contrary to the CPLED rules applicable to collaboration.

[13] The questions and the material covered in the first ethics assignment undertaken by Mr. Ryder and the first assignment undertaken by Ms. Cattermole were quite similar. Ms. Cattermole did not work on the assignment until the weekend of January 20<sup>th</sup> and 21<sup>st</sup>, as she was busy with a back log of work which had piled up during her absence over Christmas and during her time off in January attending the funeral of her father. She submitted the material online on January 21<sup>st</sup>. The material she submitted included two paragraphs and one heading from Mr. Ryder's assignment. Due to the change in names the plagiarism was identified and on January 24<sup>th</sup> Ms. Copps sent Ms. Cattermole concerning the findings.

[14] Ms. Cattermole and Mr. Ryder met to discuss the CPLED email. Mr. Ryder was concerned that he had violated the CPLED rules and suggested an untruthful response and explanation. Each of them told their principals that there had been no sharing of information. Later that day, when Mr. Ryder and Ms. Cattermole were in the office of Ms. Cattermole's principal to discuss the matter, Mr. Ryder started providing the untruthful explanation. Ms. Cattermole interrupted and acknowledged the plagiarism. Following that meeting the CPLED Deputy Director, Ms. Copps, was advised and Ms. Cattermole wrote her the following letter, explaining the situation:

Please accept this letter as a formal apology and explanation regarding my egregious conduct on Module 2 Assignment 1.

As you are aware, I was unable to attend Module 1 and the in-class sessions the week of January 8-12, 2007 due to my father's sudden passing. During our conversation of January 16, 2007, you outlined the deferral procedure and requirements; being that I would have to send a letter to you outlining the reason(s) for my absence as application for deferral. Pursuant to this requirement I sent a letter addressed to you as application for my deferral on January 17, 2007.

During this conversation, you outlined the general procedure and operation of the CPLED program, the online requirements, and my password. From our conversation, I understood that I could seek the assistance of Jonathan Ryder, Brownlee's other articling student, to assist me in understanding the general methods of obtaining information from the CPLED website.

After our conversation on January 16, 2007, I logged onto the CPLED website with the assistance of Jonathan and obtained all the materials needed for Module 2 Assignment 1. I also printed out all the additional readings and learning assignments in an attempt to gain knowledge on the subject that was taught during the week in which I was absent.

I started my assignment on January 17, 2007 and struggled with the unit. After we discussed the difficulty I was having with the unit, Jonathan offered me a copy of his assignment solely for the purposes of demonstrating the general format and structure of a response. Jonathan and I engaged in a conversation regarding the CPLED and Law Society Protocols and it was understood between us that the assignment was merely to be used as a formatting and structural example. We both clearly understood that plagiarism of any kind is against the CPLED Protocol and Policies, the Alberta Law Society rules, and was especially morally unacceptable.

While preparing my assignment on January 20, and 21, 2007, I reviewed Jonathan's assignment and copied portions of Jonathan's assignment into mine. I am extremely sorry for having copied his assignment, and have no explanation for why I did this other than my personal circumstances caused me to feel stressed and overwhelmed.

This experience has taught me that situations will arise which can overwhelm me and when I am feeling overwhelmed, I need to seek help rather than trying to take a shortcut and trying to deal with the situation alone. I also realize that I should have simply deferred the assignment or sought help from my principal or my group advisor. Under no circumstances should I have compromised the integrity of a fellow student, my firm, CPLED, the Law Society or myself.

On January 24, 2007, I received an email from you questioning the authenticity of my assignment. I immediately informed my principle Joanne Klauer of this email, at which point she and I called you directly. While speaking to you on the phone regarding my assignment I lied when I stated that I was never in possession of, nor had I ever seen any previous assignment. I was embarrassed by my earlier conduct and can't explain why I didn't admit my mistake immediately to you or my principle. I am sorry for not admitting my indiscretion and mistakes immediately. I realize that by further lying to both you and my principle on the phone I merely made a bad situation worse. Furthermore, I realize that lying to you and my principle has not only discredited my integrity with CPLED but has also impacted the relationship and trust I had established with my principle. I realize that my acts impact not only me but my principle and the firm. I accept full responsibility for my acts.

I am aware that my actions have consequences both with CPLED and my firm and am willing to accept full responsibility for them. Please accept this letter as a formal and sincere apology, with the assurance that it will not happen in the future.

[15] Mr. Ryder was subject to Law Society disciplinary process which ended with a Mandatory Conduct Advisory. Ms. Cattermole was expelled from the CPLED program, was fired by Brownlee LLP, and moved back to British Columbia where she is living with her mother and working to repay her student loans.

[16] Some mention of Ms. Cattermole's past and the circumstances leading up to her plagiarism is necessary to understand this committee's disposition of the citation. Before us, counsel for the Law Society submitted that the appropriate sanction for the Committee was the termination of Ms. Cattermole's registration as a student-at-law with the Law Society. This would effectively be disbarring Ms. Cattermole. Suspending Ms. Cattermole would have no effect as Ms. Cattermole has no intention to resume articles in Alberta and has moved to British Columbia where she will be seeking admission as a student-at-law. In addition, Law Society counsel urged that we order that Ms. Cattermole be responsible for the costs of the hearing, those costs being estimated by the Law Society to be approximately \$3,000. Ms. Cattermole's counsel suggested that an appropriate disposition would be a reprimand and no costs. On the issue of no costs he urged the committee to consider Ms. Cattermole's difficult financial situation.

[17] But for the extenuating circumstances, this Committee would have sanctioned Ms. Cattermole for this breach of ethics by giving her either a lengthy suspension or disbarment.

[18] It is clear that Ms. Cattermole has come from a difficult background and has worked hard to get her education and articles.

[19] Ms. Cattermole comes from a broken family. Her father suffered from mental illness, had difficulty supporting the family, and eventually left the family. Ms. Cattermole has a younger sister and felt responsible for her sister and for helping the family. Even when her father was living with the family and Ms. Cattermole was in school, she paid the mortgage on the home for several months.

[20] Ms. Cattermole graduated from the University of British Columbia with an arts degree in 2001, having put her herself through school on scholarships, working at Safeway and summer jobs. She entered Queen's University Law School in 2003, again supporting herself by working at Safeway, summer jobs and student loans. Her summer jobs included working for the British Columbia Supreme Court, with the law firm Epstein Wood, a litigation boutique in Vancouver specializing in insurance litigation and professional liability litigation, and working at an investment insurance firm.

[21] Throughout her years in school she had a serious relationship with a boyfriend and they planned to marry and move to Calgary where he had obtained a job and she had obtained articles. He called off the engagement just before she moved to Calgary. She had no friends or relatives in Calgary. Her work with the Brownlee firm proceeded well and before Christmas both she and Mr. Ryder had been offered positions at the conclusion of their articles. While stressed with the move, the breakdown in the relationship, the new job and the new city, she obviously impressed her principal and the firm.

[22] On January 6, 2007 she received a telephone call from her mother informing her that her father had died. Her mother had learned of the death from a friend who had read an obituary printed by the father's side of the family. Her father was 54 years old, had died from a heart attack and had been discovered in his home by a painter.

[23] Since her father left home there had been a rift between her father's family and her mother. This rift resulted in her father's side of the family not letting her mother, her or her sister learn of the death. Ms. Cattermole flew to Vancouver and there was unpleasantness associated with her, her sister and her mother being able to attend the funeral home and attend the burial. Intervention by others was necessary in order to allow for those attendances.

[24] Following these stressful circumstances Ms. Cattermole returned to Calgary. On the weekend when she was preparing her CPLED assignment she received a telephone call from her younger sister who was distraught. Her sister had been called by a member of her father's family who told her that her father hated them and had wanted to have nothing to do with them. Ms. Cattermole was shocked by this and spent much of the weekend consoling her sister.

[25] It was in these circumstances that she completed the assignment. She was unable to advise the committee just how the sections of Mr. Ryder's material came to find their way into her material. She described herself as being in "a fog" during the weekend and during the preparation of the material.

[26] The Committee also had before it testimonial letters from Ms. Cattermole's former employers. These indicated that she had always been a completely trustworthy employee. Of most significance to the Committee was the fact that the law firm with which she was a

summer student in Vancouver was prepared to take her on as an articling student notwithstanding the experience that she had here in Alberta.

[27] Further, the Committee was provided a letter from Ms. Cattermole's doctor which stated that Ms. Cattermole suffered an acute depressive disorder as a result of her father's death and the stresses caused by that and the related events. In addition, Ms. Cattermole testified that she had been seeing a psychologist who had been assisting her with respect to her current psychological state as well as addressing more fundamental issues including the setting of boundaries and dealing with stressful situations generally.

## **DISCUSSION**

[28] It is clear from the evidence and the admissions that Ms. Cattermole is guilty of conduct that discredits the profession and is deserving of sanction. If the public and other lawyers cannot rely on the honesty and integrity of a lawyer the entire underpinnings of the legal profession are at risk.

[29] Next to stealing, cheating and lying are the most egregious activities a lawyer can engage in. It also strikes at the foundation of the CPLED course as that course has been changed such that a large proportion of the courses and evaluations is now conducted online and the integrity of the system depends, to a large extent, on students being ethical and submitting their own work.

[30] There is no doubt about Ms. Cattermole's knowledge of the rules. She signed an agreement that stated, *inter alia*,

- I will be bound by CPLED's Professional Integrity Policy (attached hereto).
- All work I submit to CPLED will be my own original work.
- I will not lend, give or sell my CPLED work or materials to any other students, prospective students or individuals. If I am found to have participated in another student's plagiarism, I may be subject to disciplinary action by CPLED or the Law Society of Alberta.
- Plagiarism is not tolerated by CPLED and may result in investigation, suspension, failure in the program and disciplinary action by CPLED, or referral to the Law Society of Alberta for investigation and disciplinary action.

[31] The CPLED Professional Integrity Policy states:

Students must complete all assignments, competency evaluations and examinations with professional integrity. All assignments, competency evaluations and examinations must be the **student's own original work**. Examples of violation of this policy on professional integrity include:

1. Copying, paraphrasing or plagiarizing all or any part of a current or former student's assignments, competency evaluations to examinations in form, in content, or with only minimal changes.
2. Incorporating all or any part of an assignment, competency evaluation or examination prepared by current or former students, or using "model" answers.

**Plagiarism or any form of cheating will not be tolerated.**

The Director may take such action under this policy as appears appropriate, including investigation, forfeiture of marks, suspension, failure in the program, or referral to the Law Society.

[32] Her expulsion from the CPLED course was entirely appropriate in the circumstances. Ms. Cattermole not only plagiarized, she also lied to the Deputy Director of the CPLED Program and to her principal. With respect to the lies told to Ms. Copps, Director of the CPLED Program, we set out below a portion of the letter that Ms. Copps wrote to the Law Society concerning this issue:

Shortly after I sent the email to Ms. Cattermole on January 24<sup>th</sup>, Joanne Klauer telephoned me to discuss the "allegations" she said I had made against her student. Ms. Cattermole was in the office with her. I asked Ms. Klauer to put her call on speaker phone. Ms. Cattermole stated that she did not know anyone in her group or many students in the Program because she did not go to law school in Alberta. She stated that she did not use an assignment from a student in her class.

I advised Ms. Cattermole and Ms. Klauer that my concerns had first been aroused because her assignment contained the name of a character from the First Session of this year's program. Ms. Cattermole told us that she had sent her assignment to a friend in Vancouver to edit; she suggested that perhaps the friend had included the character reference. I told Ms. Cattermole and her principal that the act of sending her assignment to anyone, even for editing, was a breach of CPLED's Professional Integrity Policy and the CPLED Program Agreement.

I indicated to them that the assignment which she used was from a student in the First Session of the 2006-2007 CPLED Program. Ms. Cattermole continued to deny any knowledge of what I was talking about. Ms. Klauer asked that I send her the other student's assignment for her to review. I replied that I would not send her another student's work. The conversation ended with my suggestion that they might wish to deal further with this matter internally.

[33] We were provided with a decision of a Panel of the Credentials and Education Committee of the Law Society of Alberta dated May 17, 2006 where a student similarly copied portions of another student's material and submitted it as her own work. Due to the late submission of the assignment the student was required to swear a statutory declaration concerning the events surrounding the late submission. The student was reluctant to do this and suggested instead that she would accept a "Competency Not Yet Demonstrated" grade which would have allowed her to submit further or new materials to obtain a pass on the assignment. Two days later, before the plagiarism was detected, the student confessed. She was suspended from the program and then sought reinstatement.

[34] The Panel of the Credentials and Education Committee dealing with her reinstatement accepted a joint submission by counsel for the student and the Law Society that the student's suspension from the program should be ended. Counsel for the Law Society submitted that the Panel should also require that the student undergo a good character hearing before she was admitted to the Law Society as a lawyer. The Panel declined to order such a hearing, finding that it could ascertain the student's good character on the basis of the information before it. The Panel considered the circumstances surrounding the event, the self-reporting, the student's own admission, and the sanction that had been effectively leveled to that point in time (effectively requiring the student to redo the entire CPLED course which would in turn result in a significant delay in the student completing articles and becoming a lawyer). It concluded that the single event did not warrant further inquiry into the character of the student.

[35] The Panel characterized the matter as a lapse of judgment followed by the good behaviour of self-reporting. But for the self-reporting the Panel would not have been as lenient. The report of this Credentials and Education Committee sets, in our view, one extreme of the spectrum of punishment for cheating.

[36] The Hearing Committee was also provided with the decision *Law Society of Upper Canada v. Burgess* [2006] L.S.D.D. No. 81, which sits at the other extreme of this continuum.

[37] Ms. Burgess faced a good character hearing arising out of plagiarism and lying about plagiarism. She had been caught plagiarizing while in university. On her application to the Law Society of Upper Canada she falsely reported on the misconduct, she continued to give a false account of the incident to the law society investigators, and she sought character

references from individuals while repeating to them the false account of the incident. In that case the Law Society of Upper Canada made the following comments that are germane to our consideration:

The plagiarism, the lies told to the Law Society, and the lies told to her character references, go to the very heart of who lawyers are, and what lawyers do. Integrity is fundamental to the competence of a lawyer; competence necessarily includes integrity. The applicant was not of good character from at least April 2001 until April 26, 2005. The question for the admissions panel is whether the applicant has changed since April 2005 and is now of good character.

The purpose of the good character requirement is to ensure that the Law Society can protect the public and maintain high ethical standards in the lawyers that the Law Society admits to practice. Any decision about this application must serve to protect the public and maintain high public confidence in the Law Society's self-governance.

The definition of good character is set out in previous decisions of the Law Society panels, and is an evolving definition. The definition is not exhaustive, and refers to a bundle of attributes which, when taken together, amount to good character:

Character is that combination of qualities or features distinguishing one person from another. Good character connotes moral or ethical strength, distinguishable as an amalgam or virtuous attributes or traits which would include, among others, integrity, candour, empathy and honesty.

[38] We agree with these passages. The Law Society of Upper Canada found that the combination of the initial plagiarism coupled with the subsequent lies to a number of individuals over an extended period of time showed the student to be of bad character. It noted from the *Law Society of Upper Canada v. Peryra* [2000] L.S.D.D. No. 60 para. 43 decision that, "the transition from being a person not of good character to one of good character is a process, not an event".

[39] We note that the loss of good character is similarly a process not an event. A person of good character can be overwhelmed and behave inappropriately in an isolated incident without the fundamental character of the individual being corrupted.

[40] Ms. Cattermole's history shows strength of character and a commitment to her career and to others. This is the first incident of bad behaviour to our knowledge and is to be balanced by much behaviour that is to be commended. The circumstances leading up to the plagiarism reveal a high level of stress and isolation for someone so young. She was caught, she did lie about the events when initially confronted. However, such denials lasted less than a day and then she accepted responsibility for her actions.

[41] Stress is not an excuse for lying. Lawyers must learn to handle stress as it is part of the every day life of a lawyer. As was said by a Hearing Committee of the Law Society of Alberta in the case of the disbarment of Mr. Zinkhofer,

Before us the connection between stress and inappropriate behaviour is direct. When confronted with a challenging case and a challenging client/witness he fell back into the same pattern. This is a pattern that he exhibited at the outset of his legal career when, as an articling student, he misled a client. The history of his member reveals a fundamental character flaw, the inability to deal honestly with a difficult situation. This character flaw is absolutely inimical to the practice of law.

The Committee concludes that the member's character flaw makes him incapable of honesty under pressure. The law involves stress and pressure. Mr. Zinkhofer cannot adhere to the law and the rules of this profession and is not suited to the demands of this profession. Disbarment is the only remedy available which will adequately protect the public and the profession. The Committee is unanimous in its decision to disbar Mr. Zinkhofer.

## **SANCTION**

[42] Ms. Cattermole has made her first step down Mr. Zinkhofer's path. The Hearing Committee is satisfied that the combination of being removed from the CPLED Program, being fired by her law firm, having the commencement of her articles delayed effectively by two years (assuming the Law Society of British Columbia allows her to register as a student-at-law and take the Bar Admissions Course that will likely begin in September of this year), the humiliation of having the firm know of these events and the fact that the Law Society of British Columbia has learned of these events are sufficient specific sanction to prevent her from repeating such behaviour and a sufficient general deterrent to other students to strongly dissuade them from yielding to the temptation to lie and cheat.

[43] The fact that Ms. Cattermole is relocating to British Columbia and will not be a lawyer in Alberta does not affect our decision. If she were to stay in Alberta we are of the opinion that she should be allowed to re-article without any further review of her character.

[44] We have also decided that she should not be relieved of the costs that the Law Society has incurred as a result of her misconduct. We allow Ms. Cattermole 3 years to pay, taking into account her personal financial circumstances and the year of articles that lies ahead of her.

[45] We administered a reprimand to Ms. Cattermole in which we stressed that she had committed a serious breach of ethics, that she now starts her legal career with a disciplinary record involving integrity, and that disbarment is the likely result of a second conviction involving honesty.

[46] The Committee hopes that its faith in Ms. Cattermole's ability to learn from this experience and to handle the stress of practice and personal life is well placed.

**CONCLUDING MATTERS**

[47] This was a public hearing and the exhibits will be made available with names of clients redacted. There is no need for notice to the profession or referral to the Attorney General.

Dated this 4<sup>th</sup> day of February, 2008

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Bradley G. Nemetz, Q.C. (Chair)

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Steven Raby, Q.C.

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John Higgerty, Q.C.