



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 SAMUEL EATON  
a Member of The Law Society of Alberta

**INTRODUCTION**

1. On June 15, 2007, a Hearing Committee of the Law Society of Alberta (“LSA”) convened at the Law Society offices in Edmonton to inquire into the conduct of Samuel Eaton (also known as William (Sam) Osborne). The Committee was comprised of Carsten Jensen, Q.C., Chair, Ron Everard, Q.C., and John Higgerty, Q.C. The LSA was represented by Garner Groome. The Member was present for the hearing. The Member was represented by his counsel, Percival E. Odynak.

**JURISDICTION AND PRELIMINARY MATTERS**

2. Exhibits 1 through 4, consisting of the Letter of Appointment of the Hearing Committee, the Notice to Solicitor, the Notice to Attend, and the Certificate of Status of the Member, established the jurisdiction of the Committee.
3. There was no objection by the Member’s counsel or counsel for the LSA regarding the composition of the Hearing Committee.
4. The Certificate of Exercise of Discretion and an Affidavit of Service were entered as Exhibit 5.
5. There was an application by counsel for the Member to hold the hearing in private as the anticipated exhibits and argument would refer to private health concerns of the Member. That application was opposed by counsel for the LSA. The Hearing Committee directed that the hearing proceed in public.

**BACKGROUND AND CITATIONS**

6. At the date of the hearing into this matter the Member was under an administrative suspension as a result of the non payment of fees. The Member has not been engaged in the active practice of law for some time.
7. The citations against the Member arose as a result of his failure to pay an account for legal research undertaken by CM, another member of the LSA. The Member faced the following citations:

Citation 1: IT IS ALLEGED that you, without reasonable excuse, failed to pay a financial commitment incurred in the business aspect of the

practice of law, and that such conduct is conduct deserving of sanction.

Citation 2: IT IS ALLEGED that you failed to respond on a timely basis and in a complete and appropriate manner to communications from the Law Society which contemplated a reply, and that such conduct is conduct deserving of sanction.

Citation 3: IT IS ALLEGED that you sought to interfere with the Law Society conduct process by seeking to have a complaint against you withdrawn by the Complainant, and that such conduct is conduct deserving of sanction.

8. Counsel provided the Hearing Committee with an Agreed Statement of Facts and Admission of Guilt dated June 14, 2007 and signed by the Member. The Hearing Committee determined that the Agreed Statement of Facts and Admission of Guilt was satisfactory to it, and that document was entered as Exhibit 17 in these proceedings.
9. Exhibit 17 made it clear that the Member held a genuine, though erroneous belief that he had a meritorious defence to the claim by CM for payment of her fees, and that those fees were eventually paid in full. In addition, CM had herself engaged the process of the Law Society in an effort to recover the fees properly owing to her, after which the Member sought to have the LSA complaint withdrawn when payment was finally made.
10. The full text of Exhibit 17, being the Agreed Statement of Facts and Admission of Guilt in this matter, is as follows:

*GENERAL BACKGROUND*

*1. The Member is a sole practitioner in Edmonton, Alberta. He was admitted to the Bar on December 5, 1986. The Member legally changed his name on or about August 26, 2003. He was suspended on March 31, 2004, for non-payment of fees and remains suspended to date.*

*CITATIONS*

*2. On March 14, 2006, the Conduct Committee referred 3 citations to hearing:*

*IT IS ALLEGED THAT you, without reasonable excuse, failed to pay a financial commitment incurred in the business aspect of the practice of law, and that such conduct is conduct deserving of sanction;*

*IT IS ALLEGED THAT you failed to respond on a timely basis and in a complete and appropriate manner to communications from the Law Society which contemplated a reply, and that such conduct is conduct deserving of sanction;*

*IT IS ALLEGED THAT you sought to interfere with the Law Society conduct process by seeking to have a complaint against you withdrawn by the Complainant, and that such conduct is conduct deserving of sanction;*

*3. In June of 2003 the Member retained the services of the Complainant to carry out legal research on separate issues and files in which he was involved. There was no written retainer agreement between the Member and the Complainant. In late July, early August of 2003 the Member contacted the Complainant and*

*advised that the Member was retaining the services of William Shores to assist him in one of the legal matters for which the Complainant was engaged and that although Mr. Shores was on vacation for August of 2003 the Complainant was to perform such research and eventually provide it to Mr. Shores. Mr. Shores eventually completed the balance of the legal work on the matter in question.*

*4. The Member had been diagnosed with a chronic medial illness of a life-threatening nature in February of 2001 and had been under medical care since that time. In spring of 2003, the Member experienced rapid physical deterioration and was advised to substantially reduce his workload in the ensuing months because of poor health (Exhibits 6 - 8).*

*5. On September 9, 2003 the Complainant sent to the Member a Statement of Account in the amount of \$1,455.20 on a research project completed by the Complainant at the request of the Member in a matter pertaining to a non-arms length client, of which he was also a corporate officer, involved in a dispute with the Town of Vegreville (Exhibit 9). The account was not paid immediately.*

*6. The Member did not pay the account as it was his position that liability for the account was incurred by the client directly or, alternatively, by other counsel involved on the file who took over conduct of the file at or near the time the work described in the account was performed.*

*7. Several written demands for payment were made by the Complainant, including a demand dated December 10, 2003, which indicated a complaint to the Law Society would be made if payment was received by December 31, 2003 (Exhibit 10). The Member neither responded nor paid the account.*

*8. On January 6, 2004, the Complainant made a complaint to the Law Society. The Member advised the Law Society shortly thereafter that he denied responsibility for the account.*

*9. On March 12, 2004, the Complainant issued a civil claim against the Member which was defended. The matter went to a hearing on September 29, 2004, and after a discussion with the presiding judge monies were paid into court and the Complainant made application to have the monies paid out to her. The application was unopposed by the Member and the Complainant received the monies in satisfaction of her account.*

*10. Prior to the trial, the Member offered settlement on conditions that included the withdrawal of the Law Society complaint against the Member (Exhibit 11).*

*11. On May 18, 2004, the Member was assessed by a psychiatrist and was diagnosed with a major depressive disorder and began to take medication. He was also referred to a psychologist for cognitive testing as part of his treatment (Exhibits 12 - 16).*

*12. The review of the Law Society complaint continued past the conclusion of the trial. The Member was slow in responding to requests for information from the Law Society, required repeated reminders as to his obligations to respond, and was not complete and forthright in the answers he provided, including initially denying receipt of the account in question from the Complainant and failing to disclose the full extent of his dealings with the Complainant leading up*

*to the account in issue.*

*13. The Member's dealings with the Complainant with respect to the account lacked the level of professionalism and courtesy expected of members of the Law Society but the Member held a genuine – though erroneous – belief that he had a meritorious defence to the claim against him for payment.*

**ADMISSION OF FACTS AND ADMISSION OF GUILT**

*14. The Member admits as fact the statements contained within this Agreed Statement of Facts.*

*15. The Member acknowledges his conduct as described in the within Agreed Statement of Facts is conduct deserving of sanction with respect to Citation 2.*

*16. The Member makes these admissions as an admission of guilt to Citation 2 as contemplated by Section 60 of the Legal Profession Act.*

**THIS AGREED STATEMENT OF FACTS AND ADMISSION OF GUILT IS MADE THIS \_\_\_\_\_ DAY OF JUNE, 2007.**

*(original signed)*

*Samuel Eaton*

11. At the opening of the hearing, counsel for the LSA asked that Citations 1 & 3 be dismissed. That application was granted, and the hearing proceeded with respect to Citation 2 only.

**SUMMARY OF RESULT**

12. In the result, on the basis of the Agreed Statement of Facts and Admission of Guilt, the Hearing Committee found that Citation 2 was proven and that the Member was guilty of conduct deserving of sanction in respect of Citation 2. After hearing argument on the question of sanction, the Hearing Committee directed that the Member be issued a reprimand, and that he pay the actual costs of the hearing within one year.

**EVIDENCE**

13. Exhibits 1 - 5 (the jurisdictional exhibits) were entered by counsel for the LSA with the consent of counsel for the Member.
14. Exhibits 6-17 were entered by agreement.
15. Exhibits 18-19, being the Record of the Member and the Estimated Statement of Costs for the hearing, were entered by counsel for the LSA, with the consent of counsel for the Member.
16. The Hearing Committee did not hear any oral evidence. The Member did not testify, although he was present throughout the hearing.

**DECISION AND ANALYSIS**

17. Exhibit 17, being the Agreed Statement of Facts and Admission of Guilt, makes it clear

that the Member was slow in responding to requests for information from the Law Society, that he required repeated reminders in order to prompt a response, and that he was not complete and forthright in the answers initially provided to the Law Society. These are serious matters which bring into question the ability of the LSA to govern the Member. The Panel was mindful that the self governing status of the legal profession requires that members of the LSA cooperate fully and promptly with the processes of the LSA.

18. The Panel was particularly concerned in this case because the record of the Member includes the following, for which he was reprimanded, fined, and ordered to pay costs:
  - (a) 1998- Breaching the oath of office as a barrister and solicitor by acting without truth and integrity; and
  - (b) 2001- Failing to advise a client to obtain legal advice, wrongfully converting trust funds, breaching the accounting rules of the Law Society of Alberta, and breaching a trust condition.
19. However, the Hearing Committee noted that the Member had in February of 2001 been diagnosed with a chronic medical condition of a life threatening nature. The Member experienced a rapid physical deterioration in the spring of 2003, and he began to suffer from a major depressive disorder in this timeframe which was subsequently diagnosed in May, 2004. These concerns were an obvious factor in the Member's dealings with CM, and in his responses to the LSA.
20. The Hearing Committee noted that the Member's failure to cooperate and respond to the LSA, coupled with his prior record, would ordinarily give rise to a reprimand, a substantial fine, and a direction to pay the actual costs of the hearing. However, given the extraordinary circumstances present in this case, specifically the near collapse of the Member's health and psychological status in the relevant timeframe, the Hearing Committee directed that the Member be issued a reprimand and be directed to pay the actual costs of the hearing. The Member was not directed to pay a fine.
21. The Chair of the Hearing Committee proceeded to issue the reprimand. In the reprimand the Member was advised that his failure to respond to the LSA in a timely fashion and his failure to be candid with the LSA were both serious matters. The Member's conduct was incompatible with the best interests of the public and harmed the standing of the legal profession generally. The Member was reminded of the importance of responding to the LSA fully, completely and promptly, as that is an essential duty to be fulfilled by all members of a self governing profession. The Member was admonished that in the future he must respond to the LSA fully and promptly whenever called upon to do so, and that he must hold himself to a higher standard in meeting his professional obligations as a barrister and solicitor.

## **CONCLUDING MATTERS**

22. The Hearing Committee directed that there be no report to the Attorney General with respect to the conduct of the Member in this matter, and no Notice to the Profession.
23. The Hearing Committee directed that the personal addresses in Exhibit 5 be redacted from that document prior to any publication of that document. The Hearing Committee further directed that Exhibit 6-8 and 12-16 remain private as those exhibits contained personal details of the Member's health condition. The balance of the exhibits will be available to the public subject to the redaction of names and private information

according to the ordinary processes of the LSA.

Dated this \_\_\_\_ day of June, 2007

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Carsten Jensen, Q.C., Bencher  
Chair

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Ronald Everard, Q.C., Bencher

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John Higgerty, Q.C., Bencher