

IN THE MATTER OF the *Legal Profession Act*,
AND IN THE MATTER OF a hearing regarding the conduct of Victoria Adamson,
a Member of The Law Society of Alberta

The Law Society of Alberta
Hearing Committee
J. S. Peacock, Q.C. (Chair) Julia Turnbull, Q.C. and Yvonne Stanford

Report of the Hearing Committee

A Hearing Committee of the Law Society of Alberta convened on October 24, 2006 to enquire into the conduct of Victoria Adamson (the “Member”). The Hearing Committee was comprised of J. S. Peacock, Q. C. (Chair), J. A. Turnbull, Q. C. and Yvonne Stanford. The Law Society was represented by Elizabeth Soper. The Member was not in attendance.

I. Jurisdiction and Preliminary Matters

1. The Jurisdiction of the Hearing Committee was established by Exhibits 1 to 4. There were no objections to the jurisdiction or the composition of the Hearing Committee. There was no application for a private hearing and, consequently, the hearing proceeded as a public hearing.

II. Citations

2. The Member faced the following Citations:

1. IT IS ALLEGED that you failed to provide DM and JB with reporting and accounting documentation in a timely fashion, or at all, and that such conduct is conduct deserving of sanction.
2. IT IS ALLEGED that you failed to respond to the Law Society on a timely basis, and that such conduct is conduct deserving of sanction.

3. The case for the Law Society consisted of the evidence of J.B., one of the complainants, and Katherine Whitburn, Manager of Complaints for the Law Society of Alberta. In addition, Exhibits 5 through 10 were entered into evidence.

III. Evidence

4. J.B. and her partner retained the Member in April 2005 to act on their behalf in the purchase of a property. The purchase closed in June 2005. Ms. B. and her partner did not hear from the Member and, in particular, did not receive a closing report or accounting.

5. Over the course of the next couple of months, they tried three or four times to speak with the Member. They telephoned and left messages, however, their telephone calls were not returned. At one point, they spoke to someone in the Member's office who advised them that the Member would respond. They did not receive a response.

6. Ms. B. and her partner filed a complaint with the Law Society on August 29, 2005. In the complaint they wrote as follows:

“The closing date on our real estate [sic] was June 1/05. To date we have received no paperwork from our lawyer although she promised to send it to us several times. We have no title papers or even an accounting of her bill.”

7. By letter dated September 23, 2005, Ms. Whitburn, in her capacity as Manager of Complaints of the Law Society of Alberta, wrote to the Member and, pursuant to Section 53 of the *Legal Profession Act*, c.L-8, R.S.A. 2000, asked for a response to the complaint. The Member did not respond to this letter.

8. By letter dated November 4, 2005, Ms. Whitburn sent a reminder letter to the Member. The Member did not respond.

9. In February 2006, the Member sent Ms. B. and her partner documentation concerning the sale. Ms. B. recalls receiving documentation in February 2006, however, she does not believe that the documents were complete nor does she believe that she received a statement of account. She does acknowledge receiving a cheque in a small amount.

10. In correspondence dated October 17, 2006, the Member wrote:

“The final reporting letter, statement of monies received and disbursed, the final refund cheque and all reporting documents were completed and mailed to Mr. M. and Ms. B. on February 10, 2006.”

11. This is the only information concerning this complaint that the Law Society has from the Member. It was provided in response to the notice of hearing. The Member also informed Ms. Soper that she did not intend to appear. This letter was entered and marked as Exhibit 10.

IV. Decision on Citations

12. The Committee considered the evidence and found that the conduct alleged in the Citations had been proven and held that the conduct was conduct deserving of sanction.

V. Sanction

13. Counsel for the Law Society tendered into evidence a Notice of Suspension relating to the Member, which set out that the Member was suspended on July 26, 2006

pursuant to Section 79(1) of the *Legal Profession Act* for failing to pay an Order of the Hearing Committee for fines and costs amounting to \$4,583.18 within the period prescribed by the Order.

14. In addition, the Member's discipline record was tendered into evidence. It disclosed that the Member had previously been found guilty on two occasions. On the first occasion, on April 3, 2003, the Member admitted guilt to one count of conduct deserving of sanction relating to a failure to diligently, conscientiously and candidly serve a client. The Member was fined \$500.00 and directed to pay the actual costs of the hearing, and received a reprimand.

15. On the second occasion, on February 8, 2006, the Member admitted guilt with respect to three counts of conduct deserving of sanction, consisting of failing to serve a client, failing to respond to a client and failing to respond to the Law Society. The Member was fined \$2,500.00, directed to pay the actual costs of the hearing, and received a reprimand.

16. The Hearing Report relating to the proceedings in February 2006 was also entered into evidence.

17. Counsel for the Law Society took the position that an appropriate sanction in this case was a fine on each count of \$2,000.00, together with a reprimand and a direction that the Member pay the actual costs of the hearing.

18. After considering the evidence and the submissions of counsel, the Hearing Committee directed, with respect to the first count, that the appropriate sanction was a fine in the amount of \$2,000.00 and, with respect to the second Citation, the appropriate sanction was a fine of \$4,000.00, together with the actual costs of the hearing. In the result, the Member's sanction is fines totalling \$6,000.00 and liability for the actual costs of the hearing.

19. In reaching this decision, the Hearing Committee was mindful of the conduct giving rise to the previous sanctions against the Member, and the Member's failure to respond at all to the Law Society in connection with the Citations before the Hearing Committee until a week before the hearing. This left the Hearing Committee with the distinct impression that the Member no longer considers herself answerable to the Law Society. This conduct suggests that the Member is ungovernable.

20. This is a case where the Hearing Committee might have considered a suspension, had that been sought by the Law Society. However, in the circumstances, the Hearing Committee decided that it was appropriate to impose significant fines to impress upon the Member the seriousness of her conduct.

21. In this regard, the Hearing Committee was mindful of the decision in *Law Society of Alberta v. Estrin* (1992) 4 Alta.L.R. (3d) 373 (CA), where the Court stated:

“ . . . the penalties imposed for conduct deserving of sanction are cumulative and future offences will attract progressively more severe penalties.”

22. The Hearing Committee determined that there was no value in issuing a reprimand to the Member.

Concluding Matters

23. The names of any third parties referred to in the Exhibits will be expunged prior to release of the record to the public. There is no need for Notice to the Profession or Notice to the Attorney General.

24. On October 25, 2006, the Hearing Committee received correspondence from counsel for the Law Society reminding the Hearing Committee of the sanctioning options available to the Hearing Committee pursuant to section 72 of the *Legal Profession Act*. In light thereof, the Hearing Committee directs that the Member receive a reprimand, the substance of which is reflected in paragraphs 19 and 20 of this report, and that the fines directed herein will be in addition to the reprimand.

Dated this 2nd day of November, 2006.

J. S. Peacock, Q.C., Chair and Bencher

Julia Turnbull, Q. C., Bencher

Yvonne Stanford, Lay Bencher