



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 SHAUN LANGIN, a Member of The Law Society
of Alberta

INTRODUCTION

1. On July 27, 2006 a Hearing Committee of the Law Society of Alberta (LSA) convened at the Law Society office in Edmonton to inquire into the conduct of Shaun Langin. The hearing continued on October 12, 2006. The Committee was comprised of Rodney A. Jerke Q.C.- Chair, Vivian Stevenson Q.C. and Morris Taylor. The LSA was represented by Lindsay MacDonald Q.C. The Member was present for the Hearing and was represented by Alexander Pringle Q.C.

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 jurisdiction of the Committee.
3. There was no objection by the Member or Counsel for the LSA regarding the constitution of the Committee.
4. The Certificate of Exercise of Discretion was entered as Exhibit 5. Counsel for the LSA advised that the LSA did not receive a request for a private hearing and that any concerns with respect to privacy could be addressed by making anonymous all Exhibits by excluding any information that may tend to identify the Member's clients and by referring to the Member's clients by initials during the Hearing. Counsel for the Member confirmed that no request for a private Hearing was being made. The hearing was held in public.

CITATIONS

5. The Member faced the following citations:
 1. IT IS ALLEGED that you failed to fulfill your commitments to your client, the Complainant, and failed to respond to your clients on a timely basis, thereby breaching the *Code of Professional Conduct*, 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, thereby breaching the *Code of Professional Conduct*, and that such conduct is conduct deserving of sanction.

3. IT IS ALLEGED that you failed to fulfill your commitments to your client, the Complainant, and failed to respond to your client's communication on a timely basis, thereby breaching the *Code of Professional Conduct*, and that such conduct is conduct deserving of sanction.
4. IT IS ALLEGED that you failed to respond to the Law Society on a timely basis, thereby breaching the *Code of Professional Conduct*, and that such conduct is conduct deserving of sanction.
5. IT IS ALLEGED that you failed to fulfill your commitments to your client, the Complainant, and failed to respond to your client's communication on a timely basis, thereby breaching the *Code of Professional Conduct*, and that such conduct is conduct deserving of sanction.
6. IT IS ALLEGED that you failed to respond to the Law Society on a timely basis, thereby breaching the *Code of Professional Conduct*, and that such conduct is conduct deserving of sanction.
7. IT IS ALLEGED that you failed to respond to the Complainant in a timely fashion, thereby breaching the *Code of Professional Conduct*, and that such conduct is conduct deserving of sanction.
8. IT IS ALLEGED that you failed to honour your undertaking given December 2001, thereby breaching the *Code of Professional Conduct*, and that such conduct is conduct deserving of sanction.
9. IT IS ALLEGED that you failed to respond to the Law Society on a timely basis, thereby breaching the *Code of Professional Conduct*, and that such conduct is conduct deserving of sanction.
10. IT IS ALLEGED that you failed to fulfill you commitments to your client, the Complainant, and failed to respond to your client's communication on a timely basis, thereby breaching the *Code of Professional Conduct*, and that such conduct is conduct deserving of sanction.
11. IT IS ALLEGED that you failed to respond to the Law Society on a timely basis, thereby breaching the *Code of Professional Conduct*, and that such conduct is conduct deserving of sanction.
12. IT IS ALLEGED that you failed to fulfill your commitments to your client, the Complainant, thereby breaching the *Code of Professional Conduct*, and that such conduct is conduct deserving of sanction.
13. IT IS ALLEGED that you failed to respond to the Law Society on a timely basis, thereby breaching the *Code of Professional Conduct*, and that such conduct is conduct deserving of sanction.
14. IT IS ALLEGED that you failed to fulfill your commitments to your client, the Complainant, and failed to respond to your client's communication on a timely basis, thereby breaching the *Code of Professional Conduct*, and that such conduct is conduct deserving of sanction.
15. IT IS ALLEGED that you failed to comply with your client's instructions, thereby breaching the *Code of Professional Conduct*, and that such conduct is conduct deserving

of sanction.

16. IT IS ALLEGED that you failed to respond to communications from your client, thereby breaching the *Code of Professional Conduct*, and that such conduct is conduct deserving of sanction.
17. IT IS ALLEGED that you failed to respond to communications from the Law Society, thereby breaching the *Code of Professional Conduct*, and that such conduct is conduct deserving of sanction.
18. IT IS ALLEGED that you failed to fulfill your commitments to your client, the Complainant, and failed to respond to your client's communication on a timely basis, thereby breaching the *Code of Professional Conduct*, and that such conduct is conduct deserving of sanction.
19. IT IS ALLEGED that you misled or attempted to mislead the Complainant and the Law Society of Alberta when you advised you sent the final reporting on June 8, 2005, thereby breaching the *Code of Professional Conduct*, and that such conduct is conduct deserving of sanction.
20. IT IS ALLEGED that you failed to fulfill your commitments to your client, the Complainant, thereby breaching the *Code of Professional Conduct*, and that such conduct is conduct deserving of sanction.
21. IT IS ALLEGED that you failed to comply with your client's instructions, thereby breaching the *Code of Professional Conduct*, and that such conduct is conduct deserving of sanction.
22. IT IS ALLEGED that you failed to respond to communications from your client, thereby breaching the *Code of Professional Conduct*, and that such conduct is conduct deserving of sanction.
23. IT IS ALLEGED that you failed to respond to communications from the Law Society, thereby breaching the *Code of Professional Conduct*, and that such conduct is conduct deserving of sanction.
24. IT IS ALLEGED that you failed to respond to the Complainant in a timely fashion, thereby breaching the *Code of Professional Conduct*, and that such conduct is conduct deserving of sanction.
25. IT IS ALLEGED that you failed to honour your undertaking given May 6, 2004, thereby breaching the *Code of Professional Conduct*, and that such conduct is conduct deserving of sanction.
26. IT IS ALLEGED that you failed to fulfill your undertaking given to the Complainant in a timely fashion, thereby breaching the *Code of Professional Conduct*, and that such conduct is conduct deserving of sanction.
27. IT IS ALLEGED that you failed to respond to the Law Society in an appropriate manner, thereby breaching the *Code of Professional Conduct*, and that such conduct is conduct deserving of sanction.
28. IT IS ALLEGED that by failing to deal with client files that had not concluded, you failed to

serve your clients and engaged in conduct that bring discredit to the profession, thereby breaching the *Code of Professional Conduct*, and that such conduct is conduct deserving of sanction.

29. IT IS ALLEGED that you failed to respond to David L. Hardy, counsel, thereby breaching the *Code of Professional Conduct*, and that such conduct is conduct deserving of sanction.
6. At the Hearing, LSA Counsel sought to introduce a new Citation, namely:

IT IS ALLEGED that in numerous cases, you failed to fulfill your commitments to your clients and to other solicitors and failed to respond in a timely manner to numerous inquiries from the Law Society of Alberta and that such conduct is deserving of sanction. Particulars of such conduct are found in Exhibit 2, in citations 1 to 18 and 20 to 29.
7. The new Citation was proposed in substitution for all of the existing Citations 1 to 29. The Member supported the LSA's application to substitute the new Citation for the previous 29 Citations. In effect, the substituted Citation was intended to cover all of the conduct described in the old Citations, other than the conduct described in Citation 19.
8. The Hearing Committee allowed the application to substitute the 29 Citations with Citation 1 Revised.
9. The Member admitted guilt as to the conduct alleged in Citation 1 Revised and admitted that it was conduct deserving of sanction. An Agreed Statement of Facts was entered by consent of the parties.
10. The Member admitted all facts as alleged in Citation 1 Revised and admitted all facts articulated in the Agreed Statement of Facts as being true and accurate.

SUMMARY OF RESULT

11. In the result, on the basis of the evidence entered at the Hearing, and upon review of the admissions of guilt and for the reasons set out below, the Hearing Committee:
 - a) allowed the application to add Citation 1 Revised in substitution for Citations 1 to 29;
 - b) determined that the verbal Admission of Guilt as to Citation 1 Revised was in a form acceptable to it. Accordingly, the Admission of Guilt is deemed, pursuant to S. 60 of the *Legal Professions Act*, to be a finding of this Hearing Committee that the conduct of the Member is conduct deserving of sanction;and made the following orders concerning sanction:
 - a) the undertaking provided by the Member to complete all remaining outstanding matters in client files within 40 days from the date completed documents are returned to him was accepted.
 - b) the undertaking provided by the Member to submit to the Practice Review process as provided by the Law Society of British Columbia and to provide a written consent to do so

in a form acceptable to the Law Society of British Columbia was accepted;

- c) the Member was suspended for a period of one month effective November 6, 2006;
- d) the Member was fined \$5,000.00;
- e) the Member was ordered pay the actual costs of the Hearing;
- f) the Member was allowed time to pay the fine and the actual costs of the hearing of thirty (30) days from the date that the amount of the actual costs was delivered to Counsel for the Member.

EVIDENCE

- 12. A binder was entered by consent of the parties as Exhibit 1, Tab 1 through 6.
- 13. A Psychological Assessment was entered as Exhibit 1, Tab 7.
- 14. A letter from Lawrence T. Salloum Q.C. dated July 25, 2006 was entered by Counsel for the Member as Exhibit 1, Tab 8.
- 15. Affidavits for the Member sworn September 15, 2006 and September 29, 2006 were entered by Counsel for the Member as Exhibit 1, Tabs 9 and 10.
- 16. An Estimated Statement of Costs was entered by Counsel for LSA as Exhibit 1, Tab 11.
- 17. The Hearing Committee heard evidence from the Member and from the Member's wife.

SUMMARY OF FACTS AND EVIDENCE AS TO SANCTION

- 18. The Agreed Statement of Facts is attached as Appendix 1.
- 19. The Member is married with two dependent children, ages 17 and 19. He graduated from the University of Calgary Law School in 1986 and was admitted to the Bar in 1987. Initially he resided and practised in association with a firm in Red Deer, Alberta. In 1989 he commenced practice as a sole practitioner in Sylvan Lake, Alberta continuing until 2004. His has been a general practice, although, as his practice grew, he began to focus more and more on solicitor-type work, particularly residential real estate development and other residential real estate law.
- 20. By 1999 or 2000, the Member had become the victim of his own success and mismanagement. The Town of Sylvan Lake was experiencing phenomenal growth and, as there were very few lawyers in the area, the volume of his work increased dramatically. The Member's practice had resolved to about 85 - 90% real estate and it was so busy that he was forced to maintain a very unhealthy work schedule, often starting work at 5:30 in the morning and working through until 6:00 at night with only a short break for breakfast. He would often continue to work at home until late into the night, perhaps midnight or even later. The Member testified that he worked every Saturday and Sunday from very early in the morning until noon and was only rarely able to take any kind of a break. For example, he was only able to take about one week a year vacation during the time when the Land Titles Office was closed.
- 21. Although his practice was profitable, the Member was not dealing very effectively with his files and had to spend all day just meeting clients, after which he would attempt to get documents reviewed and prepared in the evenings and weekends.

22. The Member never adopted effective office systems, did not make any effective use of technology to assist in his practice, did not take any time management courses, had no real involvement in continuing practice development, and did not take advantage of LSA's Practice Review Program.
23. The Member began to feel that his practice was starting to get out of control by the year 2000 or 2001. At that time, the Member began to experience stomach problems and insomnia. He obtained medical assistance and was prescribed antidepressants. He continued on medication, but only for a short period of time, as he found the medication made him tired and did not allow him to work as hard as he felt he needed to work.
24. The Member began to feel overwhelmed and that he was too busy to take the time to bring his life and practice into a more manageable condition.
25. After a short holiday at Christmas in 2002, the Member's wife began to take the initiative to assist him to make some changes. Ultimately, the Member acquired an interest in a law firm in Kelowna, British Columbia and moved there with his family on July 15, 2004. The Member had put his Sylvan Lake practice up for sale in March or April, 2004 and was able to sell the practice to a law firm from Red Deer, however, was only able to arrange that sale in the middle of June, 2004, leaving insufficient time for a proper transition. The agreement with the Red Deer law firm was that they took over very few of the Member's existing files, leaving the Member with the obligation to complete, close and report on quite a number of matters to quite a number of clients.
26. The move to Kelowna has had some positive and some negative aspects to it. The Member has achieved something closer to a healthy work/life balance and is trying to restrict his work schedule. He and his wife are doing more socializing and he is trying to enjoy life a bit more. On the other hand, he has been faced with changes in the need to learn British Columbia Law and how to manage a law firm composed of three or four lawyers and various staff. The Member has benefited from the ability to practise along side other lawyers in the same firm and, particularly, from the extensive use of technology and office systems that the law firm employs.
27. From a personal perspective, the move has been very difficult for the Member and his family. The Member has experienced stress about financial uncertainties and guilt about sacrifices his wife and family have made for him in undertaking such a move.
28. One of the most significant stressors for the Member has been that many of the files that he had in Sylvan Lake at the time he sold the practice, were not completed by the time he moved to Kelowna and so he had taken those files with him. The Member has, through a variety of avoidance techniques (including the placement of unopened letters from LSA in a file drawer), failed to complete the open files that he has, failed to respond to various clients and lawyers, and failed to respond to LSA. The Member testified that he was able to deal only with "critical" matters and that jobs like reporting letters got "pushed off to the side" in the hopes that he could deal with them on weekends.
29. The Member testified that he developed a mental block to completion of the outstanding matters. That mental block extended to inquiries and complaints that were being made by clients, other lawyers and LSA to him. He was unable to deal with the host of outstanding matters because it brought back memories of his practice and his life in Sylvan Lake and made him second guess himself and, particularly, the consequences he had visited on his family.
30. It is clear from the evidence that the Member did very little to address the numerous outstanding matters until he was well into the Conduct process. By the time of the original Hearing date, he had addressed most of the outstanding matters which had given rise to the original twenty-nine

Citations. The Member testified at the original Hearing date that there were still probably 100 - 125 files which had not formed the subject matter of complaints to LSA that required some form of completion and that he intended to make those outstanding matters his first priority when he returned to Kelowna.

31. At the continuation of the Hearing, the Member provided confirmation that all items within his control which formed the complaints for the original Citations had been completed. The Member also testified that he had completed the outstanding work on approximately 250 additional files, which had various miscellaneous outstanding issues and that there were only a very small number of outstanding matters where he was waiting for such things as confirmation of registration from Land Titles or return of completed discharges of mortgages from some security holders.
32. The Member has no discipline record.

SUBMISSIONS RE SANCTION

33. Counsel for the LSA advised at the outset of the Hearing that he had notified the Member that he would be seeking a period of suspension. Counsel argued that, while none of the Member's clients had lost money because of the clients' failures and the Member had not benefited financially from them, this was a case that must be treated very seriously and a strong message sent to the Profession and to the Public. Counsel argued that the use of trust conditions and undertakings, especially in the type of practice the Member was involved, are critical to the practice of law and that the Member's conduct jeopardized the function of that system to the detriment of his clients, other lawyers and their clients. Counsel submitted that the Member's subsequent failures to respond to his own clients, other lawyers and the LSA had created frustration, inconvenience and consequences for those others and the Member's refusal or inability to respond or undertake remedial action until into the Pre-Hearing process on these Citations, went to the heart of the Profession's self governance and demonstrated a disregard by the Member of LSA's governance structure. Counsel referred to *LSA v. Wilson* [2000] L.S.D.D. No. 48 Case No. 00-08:

"33. Beyond this, the Committee also concluded that it had no alternative but to also impose a punitive sanction. The Committee could not signal to the membership at large that individual circumstances could exempt a member from punishment for simply ignoring a fellow member and the Law Society."

34. Counsel for the Member argued that this was a case of someone who was a good lawyer, who allowed himself, by not being able to say no, to take on such a volume of work that his practice began controlling him. This led to negative consequences such as an extremely unhealthy workload and lifestyle, the setting aside of matters not considered to be urgent and ultimately resulted in the Member becoming completely overwhelmed with his practice. Counsel submitted that the Member's state of anxiety resulted from the high stress he was operating under and caused him to put his head in the sand rather than responding and dealing with the problems. Counsel submitted that the Member's case was unique as he had now gotten his practice under control and suffered considerable self-inflicted punishment from his own failures. Counsel argued that the Member's efforts in rectifying the matters that were the subject of the complaint and in other outstanding matters in his Alberta practice, were significant and asked the Committee to consider the significant negative impact which the Member would suffer if a lengthy suspension were imposed on him in his current small and relatively new practice.

35. Finally, Counsel for the Member submitted that, in the circumstances, a fine should be considered by the Committee as an appropriate sanction and, if a period of suspension was imposed, it ought to be a short period of suspension.

DECISION ON SANCTION

36. The Hearing Committee considered the fundamental purposes of the sanction process, namely, to ensure that the public is protected and that the public maintains a high degree of confidence in the legal profession. The Hearing Committee also considered the general factors and specific factors described in the Hearing Guide and, in particular, paragraphs 60 and 61. It considered the following factors particularly relevant:
- a) The need to maintain the public's confidence in the ability of the profession to effectively govern its own members;
 - b) General deterrence of other members;
 - c) Rehabilitation of the Member;
 - d) Avoiding undue disparity with the sanctions imposed in other cases;
 - e) The number of incidents involved (in this case 39);
 - f) The length of time over which the misconduct occurred;;
 - g) The Member's lack of a discipline record;
 - h) The Member's personal or emotional problems;
 - i) The Member's reaction to the discipline process.
37. The Hearing Committee agreed with LSA Counsel that the Benchers will not tolerate conduct of the kind demonstrated here, nor the disregard of the LSA's governance structure in the manner which occurred in this case. The Hearing Committee is of the view that the governability of its Members, linked inextricably as it is to both the public interest and the public's confidence in the legal profession, lies at the foundation of the profession's independence. The Committee is of the view that governability encompasses more than merely a Member's responsibility to respond on a timely basis to LSA communication and includes the necessity to respond to deficiencies with action, not avoidance.
38. In all of the circumstances, the Committee is of the view that had the Member not begun to respond to LSA's governance and initiate rectification of the legion of outstanding matters during the Pre-Hearing procedure, he may well have found himself in circumstances indistinguishable from those in *Law Society of Upper Canada v. Squires* [1994] L.S.D.D. No. 156 where disbarment was ordered. Indeed, had he not seriously addressed the remaining outstanding matters in the interim period between the initial date of the Hearing and its continuance, he may well have been in similar jeopardy.
39. Having carefully considered all of the circumstances, particularly the Member's efforts to date and his undertaking to complete the outstanding matters, the Hearing Committee found that an appropriate sanction was the imposition of a fine and a short period of suspension.

SANCTIONS AND ORDERS

40. In the circumstances, the Committee ordered the following sanctions:
- a) The Member is suspended for a period of one (1) month effective November 6, 2006;
 - b) The Member will pay a fine of \$5,000.00;
 - c) The Member will pay the actual costs of the Hearing;
 - d) The Member's undertaking to consent to participate in the Practice Review process at LSBC and to provide a written consent in a manner acceptable to LSBC was accepted;
 - e) The Member's undertaking to complete all remaining outstanding client file matters within forty five (45) days from the date completed documents were received from third parties was accepted.

CONCLUDING MATTERS

41. The Exhibits and proceedings will be available for public inspection, which includes copies of Exhibits for a reasonable copy fee. The Exhibits shall be redacted to exclude any information that may tend to identify the Members clients.
42. No referral to the Attorney General is required.
43. The usual procedure concerning Notice to the Profession will apply.

Dated this ____ day of _____, 2006.

Rodney A. Jerke, Q.C., Bencher
Chair

Vivian Stevenson, Q.C., Bencher

Morris Taylor, Bencher