

**IN THE MATTER OF PART 3 OF THE  
LEGAL PROFESSION ACT, RSA 2000, c. L-8**

**AND**

**IN THE MATTER OF A HEARING REGARDING  
THE CONDUCT OF CATHERINE STARK  
A MEMBER OF THE LAW SOCIETY OF ALBERTA**

**Hearing Committee**

Cal Johnson, QC – Chair  
Buddy Melnyk – Bencher  
Ike Zacharopoulos – Public Adjudicator

**Appearances**

Catherine Stark – Self Represented – not in attendance  
Karl Seidenz – Counsel for LSA

**Hearing Date**

August 2, 2018

**Hearing Location**

LSA office, at 500, 919 - 11 Avenue SW, Calgary, Alberta

**HEARING COMMITTEE REPORT - SANCTION**

**Overview**

1. On April 9, 2018, a Hearing Committee (Committee) convened at the LSA office to conduct a public hearing with respect to a number of citations against Catherine Stark. Mr. Karl Seidenz appeared as counsel for the LSA. Ms. Catherine Stark did not appear or give evidence.
2. After considering all of the evidence and the submissions of the LSA, the Committee found Ms. Stark guilty on the following citations:
  - (1) That Catherine Stark represented to lawyer T that she had \$1,000,000.00 in trust when she knew or ought to have known that the representation was not true.
  - (2) That Catherine Stark executed an Acknowledgement of an Assignment that she knew or ought to have known contained false representations.
  - (3) That Catherine Stark breached undertakings given to lawyer T in releasing funds to her client.

- (4) That Catherine Stark represented to a Complaints Resolution Officer employed by the Law Society that she had \$400,000.00 in trust when she knew or ought to have known that the representation was not true.
- (5) That Catherine Stark represented to lawyer M that she had \$400,000.00 in trust when she knew or ought to have known that the representation was not true.
- (6) That Catherine Stark represented to lawyer M that she was holding \$400,000.00 in cash on behalf of her client when she did not know whether the representation was true.
- (7) That Catherine Stark represented to the Law Society investigators that she had \$400,000.00 in cash in a safe located in her office when she knew or ought to have known that the representation was not true.
- (8) That Catherine Stark deposited funds to her trust account from her client's company for no legal purpose and immediately disbursed those funds to her client.
- (9) That Catherine Stark acted while in a conflict or potential conflict of interest without obtaining her clients' consent or in circumstances where it was not in the best interests of her clients that she do so.
- (10) That Catherine Stark failed to conscientiously serve her lender clients.
- (11) That Catherine Stark breached the Law Society accounting rules.
- (12) That Catherine Stark failed to be candid with the Law Society.
- (13) That Catherine Stark failed to properly supervise her support staff.
- (14) That Catherine Stark failed to respond promptly and completely to communication from the Law Society.
- (15) That Catherine Stark acted while in a conflict or potential conflict of interest without obtaining her clients' consent or in circumstances where it was not in the best interests of her clients that she do so.
- (16) That Catherine Stark failed to conscientiously serve her lender clients.
- (17) That Catherine Stark falsely signed a personal guarantee as a witness to a client's signature, and falsely signed a certificate of notary public.
- (18) It is alleged that Catherine Stark failed to respond promptly and completely to communication from the Law Society and that such conduct is deserving of sanction.

3. The Committee issued its written decision and reasons on May 30, 2018.

4. The sanction phase of the hearing was held on August 2, 2018.
5. Ms. Stark was advised by letter on June 28, 2018 of the sanction hearing date and her entitlement to participate in-person, or to submit evidence and written submissions. No reply was received by Ms. Stark in regard to this letter.
6. The Committee was provided with written submissions from the Law Society regarding sanction wherein the LSA was seeking disbarment of Ms. Stark, together with costs.

### **Analysis and Decision on Sanction**

7. Section 72(1) of the *Legal Profession Act* sets out three sanctioning options:

72(1) If a Hearing Committee finds that a member is guilty of conduct deserving of sanction, the Committee shall either:

- (a) order that the member be disbarred,
- (b) order that the membership of the member be suspended during the period prescribed by the order, or
- (c) order that the member be reprimanded.

8. Section 49(1) of the *Legal Profession Act* sets out the following factors to be considering in determining the appropriate sanction:

49(1) For the purposes of this Act, any conduct of a member, arising from incompetence or otherwise, that

- (a) is incompatible with the best interests of the public or of the members of the Society, or
- (b) tends to harm the standing of the legal profession generally,

is conduct deserving of sanction, whether or not that conduct relates to the member's practice as a barrister and solicitor and whether or not that conduct occurs in Alberta.

9. The Committee in reviewing this matter has considered the following specific factors:

- (1) The actions and conduct of Ms. Stark negatively impacted several members of the public and lawyers, and in particular significant loss of monies resulted.

- (2) The conduct exhibited by Ms. Stark was unacceptable, incompetent and disrespectful, both in terms of her dealings with other lawyers and with the LSA, raising questions about the competence and governability of Ms. Stark. In addition, her response to the complaints and her unwillingness to engage in the conduct process also indicated her unwillingness to be subject to regulation by her regulator.
- (3) Ms. Stark abdicated her responsibilities to supervise staff by allowing such staff to assume conduct of matters.
- (4) Ms. Stark made misrepresentations to other lawyers and she breached express undertakings given to other lawyers.
- (5) Ms. Stark was not forthright and honest in her dealings with other lawyers and the LSA investigators and during the investigation Ms. Stark gave conflicting evidence.
- (6) Ms. Stark acted in a conflict of interest or potential conflict of interest.
- (7) Ms. Stark circumvented accounting and trust rules by signing cheques where no legal services were provided, releasing funds without authority and pre-signing trust cheques.

10. The Committee has also considered the following general factors:

- (1) The importance of maintaining public confidence in the profession and in the discipline process.
- (2) The need to impose a sanction that will serve as both a specific deterrence to Ms. Stark and a general deterrence to other members.
- (3) That there be a clear denunciation of the conduct.

11. The LSA provided the Committee with the decision in *Law Society of Alberta v. Ouellette*, in which the conduct of the lawyer resulted in disbarment. As was noted in that case, the conduct of the member “went to the core of his duties to the profession, his duties to his own client, and his duties to uphold the administration of justice.”

12. In considering the specific conduct of Ms. Stark, and the specific and general factors, the Committee finds that Ms. Stark has been guilty of conduct that arises from incompetence that is incompatible with the best interests of the public or the members, and such conduct has harmed the standing of the legal profession. Ms. Stark’s conduct was of such a nature that there is no ability of the profession to govern her practice and behaviour.

13. Accordingly, the Committee directs that Ms. Stark be disbarred.

### **Costs**

14. The LSA sought costs in the amount of \$67,351.59 based on the large volume of material and investigative time, which resulted in additional costs directly attributable to Ms. Stark.

15. Pursuant to section 72(2) of the *Legal Profession Act*, this Committee has a discretion in awarding costs. Given that the LSA was forced to bring this matter to a Hearing, and the failure of Ms. Stark to assist in reducing the time and expense incurred by the LSA, the Committee grants costs of \$67,351.59.

### **Concluding Matters**

16. The Committee further directed that a Notice to Profession be provided with respect to the disbarment of Ms. Stark.

17. No notice to the Attorney General is required in these circumstances.

18. The exhibits and other hearing materials, transcripts, and this report will be available for public inspection, including providing copies of exhibits for a reasonable copy fee, although redactions will be made to preserve personal information, client confidentiality and solicitor-client privilege (Rule 98(3)).

Dated at Calgary, Alberta, August 29, 2018.

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Cal Johnson, QC - Bencher

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Buddy Melnyk - Bencher

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Ike Zacharopoulos – Public Adjudicator