

**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 LUIS MORALES
A MEMBER OF THE LAW SOCIETY OF ALBERTA**

Hearing Committee

Kathleen Ryan, QC – Chair and Bencher
Glen Buick – Lay Bencher
Dr. Alan Kennedy – Public Adjudicator

Appearances

Candice Ross – Counsel for the Law Society of Alberta (LSA)
Ed Halt, QC – Counsel for Luis Morales

Hearing Date

October 15, 2018

Hearing Location

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

HEARING COMMITTEE REPORT

Summary of Decision

1. Luis Morales, also known as Jose Luis Morales Moscoso (“Mr. Morales”), is a lawyer. He was admitted to the Law Society of Alberta (“LSA”) in 2007 and practiced until December 2016. In 2016 and 2017, Mr. Morales’ [health issue] overwhelmed his personal and professional life. That [health issue], together with its attendant personal impact, led to serious failures in Mr. Morales’ professional obligations. In particular:
 - a) Mr. Morales drove under the influence of alcohol in the United States, was arrested, and is currently facing charges in Montana for his conduct. He failed to properly deal with those charges, resulting in a warrant being issued for his arrest and additional charges. Shortly after his arrest, Mr. Morales improperly procured a replacement Alberta driver’s licence at a time when he knew his license was suspended in another jurisdiction.

- b) Mr. Morales failed to serve a client in respect of an International Power of Attorney, leaving the client without critical documents during the very period for which the International Power of Attorney was sought. Mr. Morales was not honest with his client about his failure in service and actively misled his client respecting the status of the Power of Attorney.
 - c) Mr. Morales failed to provide documents to another client in a real estate matter, failed to properly account to that client, and misappropriated that client's funds. He was not honest with his client about his conduct.
 - d) Mr. Morales assisted a party at a regulatory hearing after he was suspended and held himself out as a Barrister and Solicitor during that hearing.
2. Mr. Morales faced eight separate citations for this conduct. The matter was scheduled for a four-day hearing. At the outset of the hearing, the LSA and Mr. Morales presented a joint submission to the Hearing Committee (the "Committee"). The joint submission provided for Mr. Morales to be suspended for 18 months. It also required payment by Mr. Morales of \$8,000 in costs to be paid within one year of reinstatement.
 3. The Committee considered the evidence tendered under the Statement of Agreed Facts and Admission of Conduct Deserving of Sanction ("Statement of Facts"). The redacted Statement of Facts is attached to this decision. The Committee determined that the joint submission was fit, reasonable and in the public interest.¹ The Committee accepted the joint submission.
 4. The Committee suspended Mr. Morales for 18 months, effective October 15, 2018, and ordered that Mr. Morales pay the sum of \$8,000 within one year of reinstatement to active membership in the LSA.

Citations

5. On October 15, 2018, the Committee convened a hearing into the conduct of Mr. Morales, regarding the following eight citations:
 1. It is alleged Jose Luis Morales failed to notify the Law Society of Alberta of being charged with driving under the influence of alcohol and careless driving and that such conduct is deserving of sanction.
 2. It is alleged Jose Luis Morales engaged in conduct that brings dishonour and discredit to the profession and such conduct is deserving of sanction.

¹ *Law Society of Alberta v. Pearson*, 2011 ABL 17 at paragraph 21; *Law Society of Alberta v. Bontorin*, 2015 ABL 9; *R. v. Anthony-Cook*, 2016 SCC 43, [2016] 2 S.C.R. 204.

3. It is alleged Jose Luis Morales failed to competently perform all legal services undertaken on behalf of his client, A.M., and that such conduct is deserving of sanction.
 4. It is alleged that Jose Luis Morales failed to provide his client, M.C., the final documents in her real estate matter despite her request and that such conduct is deserving of sanction.
 5. It is alleged that Jose Luis Morales failed to properly account to his client, M.C., and that such conduct is deserving of sanction.
 6. It is alleged that Jose Luis Morales misappropriated the trust funds of his client, M.C., when he failed to deposit funds paid by her into his trust account and that such conduct is deserving of sanction.²
 7. It is alleged that Jose Luis Morales Moscoso practiced law while he was not an active member of the LSA and that such conduct is deserving of sanction.
 8. It is alleged that Jose Luis Morales Moscoso represented himself as a Barrister and Solicitor while he was not an active member of the LSA and that such conduct is deserving of sanction.
6. The Committee accepted the Statement of Facts pursuant to section 60 of the *Legal Professional Act* (“LPA”).³ Having accepted the Statement of Facts, each admission of guilt in the Statement of Facts is deemed for all purposes to be a finding of the Committee that the conduct is conduct deserving of sanction.⁴ Accordingly the Committee need not make a specific finding pursuant to section 71 of the *LPA*; however, given the Statement of Facts, the Committee would have found the conduct in respect of each of the citations to be conduct deserving of sanction.
7. The Committee notes that Mr. Morales was already suspended, administratively, for non-payment of fees effective January 3, 2017. Mr. Morales also changed his status January 12, 2017 to inactive/non-practicing. In addition to the suspension, Mr. Morales is required to pay the sum of \$8,000 in costs within one year of the date of reinstatement.

² Citation 6 was amended at the hearing by consent to the above. The original citation is at page 2, paragraph 5.6 of the Statement of Facts.

³ Section 60 of the *LPA* provides as follows “subject to the rules, a member may, at any time after the commencement of proceedings under this Division regarding the member’s conduct and before a Hearing Committee makes its findings in respect of the member’s conduct, submit to the Executive Director a statement of admission of guilt of conduct deserving of sanction in respect of all or any of the acts or matters that are the subject of the proceedings... (b) the Hearing Committee, if this statement is submitted on or after the day on which the Hearing Committee is appointed.”

⁴ Section 60(4) of the *LPA*.

Preliminary Matters

8. There were no objections to the constitution of the Committee or its jurisdiction. A private hearing was not requested. The public hearing proceeded.
9. The citations relate to a series of misconduct arising from four separate situations. They are briefly described below.
 1. **Whitefish criminal charges:** Mr. Morales drove while impaired in Montana. He was uncooperative with police on arrest. He then failed to attend court resulting in a warrant for his arrest. He did not report the charges to the LSA. He replaced his suspended license in Alberta. In so doing, he declared on the application that he was not suspended from driving a motor vehicle in any other jurisdiction. The declaration was false.⁵
 2. **Client A.M.:** Mr. Morales executed an International Power of Attorney October 31, 2016 for A.M. and her husband. The International Power of Attorney was required for travel to Mexico November 24, 2016. Despite repeated follow-up, Mr. Morales did not provide the documents to A.M. and, instead, misrepresented to A.M. that they had been forwarded “where they were supposed to go.” Mr. Morales failed to serve his client and was not candid in his response to his client’s inquiries.⁶
 3. **Client M.C.:** Mr. Morales represented M.C. on a real estate transaction. The sale closed April 27, 2016. M.C. was an old friend. Despite multiple requests in October, November, and December 2016, Mr. Morales did not provide documentation to M.C. Mr. Morales also personally accepted from M.C. the sum of \$498 to his personal account and failed to credit his solicitor’s trust account that sum. Mr. Morales then misrepresented to M.C. the sums due. He also failed to pay a title insurer sums due despite receiving funds from M.C. for the express purpose of doing so. M.C. noted the errors on her account and demanded, multiple times, that Mr. Morales correct the errors. Mr. Morales did not do so. Instead, he belittled M.C. in a series of text messages. He also shared with M.C. that he was in “dire straits” and was having personal issues.⁷
 4. **Practicing while Suspended:** Mr. Morales assisted friends who were parties in an administrative hearing. He did so and made representations and submissions on behalf of O.H. and his father B.H. at the administrative hearing. At the time, he

⁵ See paragraphs 6 through 12, Statement of Facts.

⁶ See paragraphs 13 through 22, Statement of Facts.

⁷ See paragraphs 23 through 41, Statement of Facts.

was suspended from the practice of law. Mr. Morales provided the Administrative Panel his business card, which identified him as a Barrister and Solicitor.⁸

10. Medical evidence tendered before the Committee showed significant physical symptoms arising from Mr. Morales' [health issue]. While it is apparent from the medical evidence that Mr. Morales' [health issue] was not a recent development, it is also clear that in 2016 this [health issue], and its consequential impacts, overwhelmed Mr. Morales' ability to cope. This impacted all aspects of his life including, unfortunately, his professional obligations to the court in the United States and his clients at home. Mr. Morales is certainly not alone as a professional in struggling with this [health issue]. It is prevalent in our society and the professions are not immune. Were it not for the fact that the [health issue] is at the core of Mr. Morales' misconduct, the Committee would not have revealed this otherwise private health condition.
11. To his credit, after the driving incident in Whitefish, Mr. Morales began [...].⁹ In 2017, Mr. Morales began [...]. He has attended other clinics and programs. He has awareness of the nature and extent of his personal issues; he is committed to a long-term approach for his treatment. In counsel's words, Mr. Morales suffered a "personal and professional collapse" as a result of these issues. Mr. Morales acknowledges that the past 18 months have included setbacks in his treatment. Mr. Morales also acknowledges that he is fully accountable for his conduct. He believes that he deserves another chance to practice law.
12. Mr. Morales' discipline record was tendered as an exhibit. It is a clean record with the exception of one additional instance of conduct deserving of sanction. This conduct occurred within the last year. Mr. Morales failed to advise counsel for the LSA that another party would be present during a telephone conversation. Mr. Morales was reprimanded for this conduct. This conduct is referenced only because it occurred after these matters and because it may show a lack of candour or lack of regard for professional obligations.

Discussion on Sanction

13. The Committee is required to take a purposeful approach to sanction. A fundamental purpose of the sanctioning process is to ensure protection of the public. This is necessary to maintain confidence in the legal profession:

It is important that there should be full understanding of the reasons why the tribunal makes orders which might otherwise seem harsh. [...] In most cases the order of the tribunal will be primarily directed to one or other or

⁸ See paragraphs 42 through 44, Statement of Facts.

⁹ [...]

both of two other purposes. One is to be sure that the offender does not have the opportunity to repeat the offence. This purpose is achieved for a limited period by an order of suspension; plainly it is hoped that experience of suspension will make the offender meticulous in his future compliance with the required standards. [...] The second purpose is the most fundamental of all: to maintain the reputation of the solicitors' profession as one in which every member, of whatever standing, may be trusted to the ends of the earth. [...] If a member of the public sells his house, very often his largest asset, and entrusts the proceedings to his solicitor, pending re-investment in another house, he is ordinarily entitled to expect that the solicitor will be a person whose trustworthiness is not, and never has been, seriously in question. Otherwise, the whole profession, and the public as a whole, is injured. A profession's most valuable asset is its collective reputation and the confidence which that inspires.¹⁰

14. The intent of this discipline is not punitive; the goal at all times is the protection of the public, professional standards, and preservation of confidence in the legal profession.
15. In determining the appropriate sanction, the Committee is required to consider the following factors:
 - a) The need to maintain the public's confidence and the integrity of the profession, and the ability of the profession to effectively govern its own members;
 - b) Specific deterrence of the member and further misconduct;
 - c) Incapacitation of the member (through disbarment or suspension);
 - d) General deterrence of other members;
 - e) Denunciation of the conduct;
 - f) Rehabilitation of the member; and
 - g) Avoiding undue disparity with sanctions imposed in other cases.¹¹
16. Additional factors include the nature of the conduct, intent, impact or injury, the number of incidents involved, the length of time involved, whether there is a breach of trust, and additional circumstances. These additional circumstances (aggravating or mitigating) include the following:
 - Prior discipline record;
 - Risk of recurrence;
 - Member's reaction to the discipline process;
 - Restitution made, if any;

¹⁰ *Bolton v. Law Society*, [1994] 2 All ER 486 at 492 (C.A.), per Sir Thomas Bingham MR.

¹¹ Hearing Guide, Version #20013_V1 February 2013. Format updated April 2016, at paragraph 69.

- Length of time lawyer has been in practice;
- General character;
- Whether the conduct involved taking advantage of a vulnerable party;
- A dishonest or selfish motive;
- Personal or emotional problems;
- Full and free disclosure to those involved in the complaint toward proceedings;
- Physical or mental disability or impairment;
- Delay in disciplinary proceedings;
- Interim rehabilitation;
- Remorse; and
- Remoteness of prior offenses.¹²

17. In this case, Mr. Morales' conduct showed serious lapses in professional conduct, within a relatively short window of time, after a nine-year career without prior professional discipline record. This personal and professional collapse, as Mr. Halt rightly noted, is almost certainly a consequence of Mr. Morales' [health issue]. The [health issue] has also likely led Mr. Morales to compromise his personal integrity. Mr. Morales lied on multiple occasions during this window of time. The lies came at the expense of two clients, old friends, and the court. Through further acts of omission, Mr. Morales was also dishonest with his regulator, the LSA, resulting in additional citations.
18. The combined effect of the administrative suspension for non-payment of fees, effective January 2017, together with this disciplinary suspension means that Mr. Morales will effectively be disentitled to practice law for a period of at least three years. This is a very significant consequence of Mr. Morales' conduct.
19. Mr. Morales has a serious health issue. He knows this. The evidence submitted by his doctors show awareness. The Panel was, however, concerned about some gaps in attendance by Mr. Morales and by a relatively recent statement by Mr. Morales that he felt that an occasional lapse was acceptable despite evidence of [medical and personal issues]. The Committee has understandable concern, which concern was conveyed to Mr. Morales, that he will continue to have setbacks on his road to recovery. However, he is to be encouraged for his growing awareness, for the open admission of guilt without full hearing, and for his continuing efforts toward health. This sanction is a steep one, particularly having regard to the practical effect of the past administrative suspension.
20. The Committee notes that Mr. Morales has clear support from his family and his partner. In fact, they were in the hearing room openly supporting Mr. Morales during this difficult time. That continued support will be very important in the years to come.

¹² Hearing Guide, Version #20013_V1 February 2013. Format updated April 2016, at paragraph 70

Joint Submission

21. A joint submission requires deference. This Committee should not disregard a joint submission unless doing so would bring the administration of justice into disrepute or it is otherwise contrary to the public interest. As was observed by the Supreme Court of Canada in *R. v. Anthony-Cook*:

Rejection denotes a submission so unhinged from the circumstances of the offence and the offender that its acceptance would lead reasonable and informed persons, aware of all the relevant circumstances, including the importance of promoting certainty in resolution discussions, to believe that the proper functioning of the justice system had broken down.¹³

22. This case has been followed in multiple reported professional discipline proceedings in Alberta since 2016.¹⁴
23. In *Law Society of Alberta v. Pearson*, 2011 ABLs 17,¹⁵ the Hearing Committee noted “a Hearing Committee should give serious consideration to a joint sentencing submission, should not lightly disregard it, and should accept it unless it is unfit or unreasonable, contrary to the public interest, or there are good and cogent reasons for rejecting it.” This approach was also applied in *Law Society of Alberta v. Bontorin*, 2015 ABLs 9.
24. The Committee was provided with two decisions in support of the joint submission on sanction: *Law Society of Alberta v. Torske*, 2015 ABLs 13 and *Law Society of Alberta v. Dear*, 2014 ABLs 54. The authorities provided appear to show more serious conduct than that of Mr. Morales; however, they establish that the jointly proposed sanction is fit and reasonable.
25. The Committee finds the joint submission of 18-month suspension and payment of costs in the sum of \$8,000 within one year of reinstatement to be fit and reasonable. It is in the public interest. It maintains the reputation of the justice system. The outcome preserves the public’s confidence in the profession. It is a sombre and sharp reminder for Mr. Morales and others who ignore warning signs that serious misconduct, even if attributed to [health issue], has serious consequences that can go to the core of one’s ability and privilege to practice law.

¹³ *R. v. Anthony-Cook*, supra, para 34.

¹⁴ *Law Society of Alberta v. Llewellyn*, 2018 ABLs 11, *Law Society of Alberta v. Welz*, 2016 ABLs 47, *Law Society of Alberta v. Fish*, 2017 ABLs 1, *Law Society of Alberta v. Peddie*, 2016 ABLs 49, *Law Society of Alberta v. Shipanoff*, 2018 ABLs 7, *Law Society of Alberta v. Kaczowski*, 2017 ABLs 22, *Law Society of Alberta v. Strang*, 2018 ABLs 15, *Law Society of Alberta v. Walia*, 2016 ABLs 54, *Law Society of Alberta v. Fletcher*, 2017 ABLs 12, *Law Society of Alberta v. Hodgson*, 2017 ABLs 11, *Law Society of Alberta v. Aujla*, 2018 ABLs 4, *Law Society of Alberta v. Tahn*, 2018 ABLs 10.

¹⁵ Paragraph 21.

26. Mr. Morales will need to reapply for admission as an active member. At that time, the Executive Director has options available to ensure the readmission of Mr. Morales into the LSA as an active member is in the public interest. Mr. Morales' road is a difficult one. He appears well aware of the challenges that lie ahead.

Concluding Matters

27. The exhibits and any transcripts from this Hearing shall be made public subject to redactions necessary to preserve confidentiality.
28. The LSA did not seek a referral to the Attorney General. No referral to the Attorney General shall be made. Notice to the Profession shall follow in the ordinary course.

Costs

29. Costs of this matter in the amount of \$8,000 are payable within one year of reinstatement.

Dated at Calgary, Alberta, November 9, 2018.

Kathleen Ryan, QC - Chair

Glen Buick – Lay Benchler

Dr. Alan Kennedy – Public Adjudicator

IN THE MATTER OF THE *LEGAL PROFESSION ACT*

AND

IN THE MATTER OF A HEARING REGARDING THE CONDUCT OF

JOSE LUIS MORALES MOSCOSO also known as **JOSE LUIS MORALES**,

A MEMBER OF THE LAW SOCIETY OF ALBERTA

LAW SOCIETY HEARING FILE HE20170311

STATEMENT OF AGREED FACTS AND

ADMISSION OF CONDUCT DESERVING OF SANCTION

BACKGROUND

CITATIONS

1. I was admitted as a member of the Law Society of Alberta (the “Law Society”) on September 13, 2007.
2. My present status with the Law Society is suspended for non-payment of fees.
3. I have practiced in Calgary, Alberta from September 13, 2007 to January 3, 2017 when I was also suspended for non-payment of fees, though I had effectively ceased carrying on the practice by December 21, 2016. On January 12, 2017, I changed my status with the Law Society to Inactive/Non-Practicing and granted the Law Society full access to all of my client files, including access to my PCLaw files. A custodian was appointed to oversee my practice. On March 15, 2017, I was again suspended for non-payment of fees.
4. When I last practiced, my practice was comprised of Employment/Labour (10%), International Business (10%), Criminal (10%), Civil Litigation (20%), Matrimonial/Family (20%), Commercial (20%) and Real Estate Conveyancing (10%).

CO20162475

5. On November 14, 2017 the Conduct Committee Panel referred the conduct, described in subparagraphs 1-6 below, to hearing. On August 14, 2018, the Conduct Committee Panel referred the conduct, described in subparagraphs 7-8 below, to a hearing:
 1. It is alleged Jose Luis Morales failed to notify the Law Society of Alberta of being charged with driving under the influence of alcohol and careless driving and that such conduct is deserving of sanction;

2. It is alleged Jose Luis Morales engaged in conduct that brings dishonour and discredit to the profession and such conduct is deserving of sanction; and
3. It is alleged Jose Luis Morales failed to competently perform all legal services undertaken on behalf of his client, A.M., and that such conduct is deserving of sanction.

CO2010052

4. It is alleged that Jose Luis Morales failed to provide his client, M.C., the final documents in her real estate matter despite her requests and that such conduct is deserving of sanction;
5. It is alleged that Jose Luis Morales failed to properly account to his client, M.C., and that such conduct is deserving of sanction;
6. It is alleged that Jose Luis Morales failed to deposit legal fees paid by his client, M.C. into his trust account, in breach of Rule 119.19(1) of the *Rules of the Law Society of Alberta*, and that such conduct is deserving of sanction.

CO20180554

7. It is alleged that Jose Luis Morales Moscoso practiced law while we was not an active member of the Law Society of Alberta and that such conduct is deserving of sanction; and
8. It is alleged that Jose Luis Morales Moscoso represented himself as a Barrister and Solicitor while he was not an active member of the Law Society of Alberta and that such conduct is deserving of sanction.

AGREED FACTS

Complaint CO20162475

Whitefish Criminal Charges

6. On September 10, 2016, I was stopped by the police in Whitefish, Montana, USA, for suspected impaired driving. I failed various field sobriety tests and was arrested and taken into custody. During the arrest booking process I was generally uncooperative and refused to provide a breath sample when demanded to do so by a police officer and would not look at the booking camera or sign the required finger print documentation. Ultimately, I was charged with driving under the influence as well as having made an improper turn.
7. At the time I was charged, I was issued a "Notice to Appear" at court on September 21, 2016 at 1:30 p.m. in Whitefish, Montana, and I was served with a Notice of Suspension of driving privileges in Montana. I was then released from custody and returned to Calgary with my vehicle. I retained legal counsel in Montana, [M.S.], who appeared in Court on September 20, 2016 on my behalf to seek an adjournment for the September 21, 2016 proceedings.

8. [M.S.] was advised by the Court that I was required to personally appear prior to 5:00 p.m. on September 21, 2016 to complete the Administrative Booking Protocol, or a Warrant of Arrest would be issued. Although I was notified of the requirement to appear, given the tight timing involved, I failed to appear and a Warrant of Arrest was issued on September 21, 2016 by Judge [J]. [M.S.] subsequently withdrew as my counsel upon my instructions to do and I retained new counsel soon thereafter.
9. On October 6, 2016, Judge [J] contacted the Law Society and reported of my criminal charges and the issuance of the Warrant of Arrest.
10. A Law Society investigator contacted me on October 17, 2017 to arrange an interview, and the interview took place on November 23, 2016. During the interview, I admitted that I was aware of my obligation to self-report the charges to the Law Society but that due to stress, I did not do so.
11. After being charged in Montana, I was issued a warning that my license was suspended for five days, the date expiring on September 15, 2016.
12. On September 17, 2016, I obtained a replacement Alberta driver's license and declared on the Application for an Operator's License that I was not suspended from driving a motor vehicle in any other jurisdiction.

Client A.M.

13. A.M. and her husband attended at my office on October 31, 2016 to have me witness and notarize A.M.'s husband's signature on an International Power of Attorney. A.M. paid me \$288.75 for my services.
14. The Power of Attorney was required to allow A.M. to act on behalf of her spouse for any transactions or dispositions for the property they owned in Mexico. To be valid in Mexico, the identity of the Notary who witnessed the Power of Attorney had to be verified by the Government of Alberta in Edmonton and by the Mexican Consulate in Calgary. [A.M.] left the Power of Attorney with me on the understanding that I would provide it to the Government of Alberta and the Mexican Consulate along with verification of my identity as a duly qualified Notary.
15. A.M. was departing for Mexico on November 24, 2016. I advised her on October 31, 2016 that the Power of Attorney would be couriered to Edmonton the next day.
16. On November 15, 2016, A.M. emailed me and my assistant enquiring as to the status of the Power of Attorney and to obtain a receipt for the services for which she had paid. My assistant replied to A.M.'s email the same day and advised her that I was out of the office and she was unable to provide her a receipt at that time but would attempt to do so when I returned the next day.
17. On November 29, 2016, I emailed A.M. an invoice for \$341.25 requesting payment. A.M. replied to me and reminded me that she had already paid for my services and enquired again into the status of the Power of Attorney.
18. I emailed A.M. on December 2, 2016 and acknowledged that she had paid the fees. She replied the same day asking where the Power of Attorney was. I did not reply to A.M. until

December 15, 2016 advising the document had been sent. A.M. responded asking details about the status of the Power of Attorney. I then wrote in reply: "*I sent them to where they were supposed to go. I no longer have control over them. If you want a copy I cans sent you a copy.*"[sic] A.M. emailed me again asking for clarification on where the Power of Attorney was. I advised that I would give her copies of the document.

19. A.M. sent another email to me on December 15, 2016 outlining her concerns and requesting confirmation the Power of Attorney was sent to Edmonton, along with a copy of my Law Society Membership to confirm the notary identification.
20. A.M. again followed up on the matter with an email to me on December 28, 2016.
21. When I met with the Law Society on January 17, 2017, to review the status of my client files, A.M.'s original Power of Attorney was located in the file. I admitted to the investigator that the document had not yet been submitted to Edmonton.
22. In the email exchanges between A.M. and me, I did not inform her that the Power of Attorney was never sent to Edmonton or the Mexican Consulate for processing. I admit that I did not send the original document to the Mexican Consulate and that I was not candid in responding to A.M.'s enquiries on the status of her matter.

Complaint CO20170052

Client M.C.

- Failure to Provide Final Documents

23. I was retained by M.C. in April 2016 with respect to her purchase of a condominium. The sale closed on April 27, 2016, but I did not provide M.C. with the final documents of her purchase.
24. M.C. contacted me on October 11 and October 13, 2016 to request a copy of the final documents on her purchase. I responded to M.C. on October 14, 2016 and advised her that I would send the documents to her.
25. M.C. emailed me again on November 7, 2016 to request her final documents. She followed up again on November 8, 2016, via text, seeking her final documents and an updated invoice of her legal fees. I responded to M.C. stating that I had the documents in my office, but I was having some serious personal problems and that I was "*in dire straits*".
26. On November 9, 2016 M.C. texted me and suggested that I leave her documents at a third party location or, alternatively, she could pick them up. I responded to M.C. via text and advised that she could pick up the documents the following Thursday at noon.
27. M.C. texted me again on December 22, 2016 asking me to send her the documents or she could pick them up. She followed up again on December 28, 2016 and on January 5, 2017.

- Failure to Properly Account

28. On July 4, 2016, I issued invoice number 22 to M.C. in the sum of \$1,126.86. A portion of that invoice was paid from client funds which remained in trust in respect of the real estate transaction in the sum of \$809.47, leaving an account receivable of \$317.39. I contacted M.C. on July 4, 2016 via text message and advised her that I had forgotten to charge her for the cost of obtaining title insurance. I informed her that there were insufficient funds in the trust account to cover the \$180.60 cost of the title insurance. M.C. asked if I would accept an electronic money transfer to cover the cost of the title insurance and my outstanding receivable, and on July 5, 2016, I advised that I could accept the transfer into my personal account and would then enter it as a cash payment into my accounting system.
29. On July 14, 2016, I accepted \$498.00 from M.C. via electronic transfer.
30. On or about August 12, 2016, I processed a further payment from the vendor's lawyer through my trust account in the sum of \$1,500. I also issued account number 26 to M.C. in the sum of \$180.60 representing the cost of the title insurance. I issued a cheque from trust to M.C. in the sum of \$1,002.01 representing the balance of the funds in trust after the payment of my account number 26. M.C. contacted me by email and requested an explanation of my recent invoice. I replied and informed her it was due to the cost of the title insurance. I later texted M.C. on August 12, 2016, and advised that I had a cheque for her for the remainder of the money in trust.
31. M.C. contacted me on October 3, 2016 and advised that, in her view, the cheque was short by \$500.00. I replied on the same date and advised that my bookkeeper was coming in Friday, and that I would settle up with her.
32. On October 11 and 12, 2016, M.C. contacted me and enquired as to whether her account had been adjusted to reflect the \$498.00 she paid on July 14, 2016. I replied to her on October 12, 2016 and advised that all was reconciled and that the \$500.00 went to the title insurance. I further advised that I would send her a breakdown of the monies.
33. On October 13, 2016, M.C. sent me an email requesting an explanation of the accounting.
34. On October 14, 2016, M.C. texted me again asking for an invoice showing how the \$498.00 was used.
35. On November 7, 2016, M.C. emailed me requesting a cheque for the overpayment on her account. On November 9, 2016, M.C. contacted me again by text asking for an invoice to show how the funds were reconciled. I replied on the same date informing her that I was experiencing personal issues. On November 9, 2016, M.C. texted me requesting a money transfer. The following day, I responded by text that I would mail her the money.
36. M.C. texted me on December 22, 2016, advising that she had not heard from me in a month. I advised that I would give her the \$500.00 she thought that she was owed.
37. M.C. followed up again on December 28, 2016 and on January 5, 2017.

- Misappropriation

38. On July 14, 2016, M.C. electronically transferred \$498.00 to me for the purpose of paying for title insurance in the sum of \$180.60 and an outstanding receivable of \$317.39.
39. I failed to transfer the \$498.00 from my personal account into my trust account.
40. On or about August 12, 2016, I issued account number 26 to M.C. in the sum of \$180.60 in respect of the cost of title insurance which I had obtained. While the obligation was posted to M.C.'s client ledger, no payment was made to the title insurance provider.
41. On or about August 12, 2016, I processed a further payment from the vendor's lawyer through my trust account in the sum of \$1,500. I issued a cheque from trust to M.C. in the sum of \$1,002.01. Had the sum of \$498.00 been transferred into trust, the full payment from the vendor's lawyer in the sum of \$1,500 should have been paid to M.C.

Complaint CO20180554

42. I was approached by a close, long-time friend, O.H. to assist him and his father, B.H. (collectively, the "Hs.") at a hearing before the Alberta Motor Vehicle Industry Council ("AMVIC"). I agreed to help.
43. The Hs were aware that at the time, I was administratively suspended by the Law Society of Alberta and that I did not carry any liability insurance. There was no Retainer Agreement and I never sought nor received any payment from them.
44. I attended with the Hs on March [...], 2018 before the AMVIC. In introducing myself to the Panel, I provided a business card which identified me as a barrister and solicitor. I did not advise the Panel that I was at the time administratively suspended. During the hearing, I assisted them with their presentations and made submissions on behalf of the Hs.

ADDITIONAL RELEVANT FACTS

45. The events giving rise to the citations, other than CO20180554, occurred between August and December 2016. During this period I was suffering from [...]. These issues resulted in me ceasing my practice by December 21, 2016.
46. On January 12, 2017, I attended the [...] Centre in Calgary for [...] treatment and on January 14, 2017, discharged myself prior to the completion of that program.
47. I participated in [...] in early 2017. I ceased attending sessions following the death of [...].
48. I consulted with a [doctor] for seven treatment sessions between November 21, 2016 – March 27, 2017. In the spring of 2018, I re-established that relationship and am currently attending on the [doctor] for ongoing treatment.
49. I have attended the [...] Group Sessions offered through Alberta Health Services. I have completed all eight sessions (three Information Series and five Awareness Assessment Group). I have been assigned a counsellor with whom I have had my first session. I have

also scheduled an appointment with the [...] for private, out-patient, treatment focused on [...].

50. In the spring of 2018, I obtained a Canadian Passport for the purpose of attending to the outstanding charges arising from the incident in Montana and engaged counsel to assist me. A plea agreement has been reached with respect to the incident in Montana which is scheduled to be presented to the court in Montana for approval on November 20, 2018. I will be travelling to Montana for that court appearance.
51. On May 30, 2018, I arranged for payment to reimburse M.C. and to pay the outstanding disbursement for title insurance on that file in the total sum of \$678.60. I understand that the custodian of my practice has made arrangements for M.C. to obtain the original of her file.

ADMISSION OF FACTS

52. I, Jose Luis Morales Moscoso, also known as Jose Luis Morales, admit as facts the statements contained in this Agreed Statement of Facts for the purposes of these proceedings.

ADMISSIONS OF CONDUCT DESERVING OF SANCTION

Citation 1: It is alleged Jose Luis Morales failed to notify the Law Society of Alberta of being charged with driving under the influence of alcohol and careless driving and that such conduct is deserving of sanction.

53. For the purposes of s. 60 of the *Legal Profession Act*, I, Jose Luis Morales Moscoso, also known as Jose Luis Morales, admit that I failed to notify the Law Society of Alberta of being charged with driving under the influence of alcohol and careless driving and that such conduct is deserving of sanction.

Citation 2: It is alleged Jose Luis Morales engaged in conduct that brings dishonour and discredit to the profession and such conduct is deserving of sanction;

54. For the purposes of s. 60 of the *Legal Profession Act*, I, Jose Luis Morales Moscoso, also known as Jose Luis Morales, admit that I engaged in conduct that brings dishonour and discredit to the profession and that such conduct is deserving of sanction.

Citation 3: It is alleged Jose Luis Morales failed to competently perform all legal services undertaken on behalf of his client, A.M., and that such conduct is deserving of sanction;

55. For the purposes of s. 60 of the *Legal Profession Act*, I, Jose Luis Morales Moscoso, also known as Jose Luis Morales, admit that I failed to competently perform all legal services undertaken on behalf of my client, A.M., and that such conduct is deserving of sanction.

Citation 4: It is alleged that Jose Luis Morales failed to provide his client, M.C., the final documents in her real estate matter despite her requests and that such conduct is deserving of sanction;

56. For the purposes of s. 60 of the *Legal Profession Act*, I, Jose Luis Morales Moscoso, also known as Jose Luis Morales, admit that I failed to provide my client, M.C., with the final documents in her real estate matter, despite her requests, and that such conduct is deserving of sanction.

Citation 5: It is alleged that Jose Luis Morales failed to properly account to his client, M.C., and that such conduct is deserving of sanction;

57. For the purposes of s. 60 of the *Legal Profession Act*, I, Jose Luis Morales Moscoso, also known as Jose Luis Morales, admit that I failed to properly account to my client, M.C., and that such conduct is deserving of sanction.

Citation 6: It is alleged that Jose Luis Morales misappropriated the trust funds of his client, M.C., when he failed to deposit funds paid by her into his trust account and that such conduct is deserving of sanction.

58. For the purposes of s. 60 of the *Legal Profession Act*, I, Jose Luis Morales Moscoso, also known as Jose Luis Morales, admit that, by not transferring funds paid by M.C. from my personal account to my trust account, I misappropriated those trust funds, and that such conduct is deserving of sanction.

Citation 7: It is alleged that Jose Luis Morales Moscoso practiced law while we was not an active member of the Law Society of Alberta and that such conduct is deserving of sanction.

Citation 8: It is alleged that Jose Luis Morales Moscoso represented himself as a Barrister and Solicitor while he was not an active member of the Law Society of Alberta and that such conduct is deserving of sanction.

59. For the purposes of s. 60 of the *Legal Profession Act*, I, Jose Luis Morales Moscoso, also known as Jose Luis Morales, admit that I represented myself as a barrister and solicitor while I was not an active member of the Law Society of Alberta and in so doing, I practiced law while I was not an active member of the Law Society of Alberta and that such conduct is deserving of sanction.

LEGAL ADVICE

60. I acknowledge that I have had the opportunity to consult legal counsel and provide this Statement of Admitted Facts and Admission of Conduct Deserving of Sanction on a voluntary basis.

THIS STATEMENT OF ADMITTED FACTS AND ADMISSION OF GUILT IS MADE THIS "12"
DAY OF OCTOBER, 2018.

[witness signature]
Witness

"L. Morales"
**Jose Luis Morales Moscoso, also
known as Jose Luis Morales**