

**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 JASON SCHLOTTER,  
A MEMBER OF THE LAW SOCIETY OF ALBERTA**

**ORDER OF THE HEARING COMMITTEE**

**UPON THE ISSUANCE OF CITATIONS** by the Law Society of Alberta (“LSA”) to Jason Schlotter pursuant to section 56 of the *Legal Profession Act* (the *Act*);

**AND WHEREAS:**

- A. Jason Schlotter has executed a Statement of Admitted Facts (the “Statement”) attached to this Order in relation to the following citations:
1. It is alleged that Jason Schlotter failed to comply with Undertakings given to the Law Society of Alberta and that such conduct is deserving of sanction;
  2. It is alleged that Jason Schlotter failed to serve his client in that he failed to take any steps in his litigation for almost three years and that such conduct is deserving of sanction;
  3. It is alleged that Jason Schlotter failed to respond to his client's communications and that such conduct is deserving of sanction;
  4. It is alleged that Jason Schlotter failed to serve his client in that he failed to advance the client's matter in a timely manner and that such conduct is deserving of sanction; and
  5. It is alleged that Jason Schlotter failed to respond to his client's communications and that such conduct is deserving of sanction.
- B. Jason Schlotter admits in the Statement that he is guilty of Citations 1-5, and that his conduct is deserving of sanction;
- C. On July 16, 2019, the Conduct Committee found the Statement acceptable, pursuant to subsection 60(2) of the *Act*;
- D. On July 17, 2019, the Chair of the Conduct Committee appointed a single Bencher as the Hearing Committee (“Committee”) for this matter, pursuant to subsection 60(3) of the *Act*;

- E. Pursuant to subsection 60(4) of the *Act*, it is deemed to be a finding of this Committee that Jason Schlotter's conduct is deserving of sanction;
- F. On August 15, 2019, the Committee convened a public hearing into the appropriate sanction related to the conduct of Jason Schlotter;
- G. The LSA and Jason Schlotter provided a joint submission on sanction for the Committee's consideration, seeking a reprimand and fines totalling \$1,500.00;
- H. The parties have also agreed that it is reasonable for Jason Schlotter to pay \$3,000.00 in costs in relation to this matter;
- I. The Committee has determined that the joint submission is reasonable, consistent with sanctions in similar cases, does not bring the administration of justice into disrepute and is therefore in the public interest;
- J. The Committee has accepted the joint submission on sanction, and accepted the submission with respect to the payment of costs.

**IT IS HEREBY ORDERED THAT:**

1. The appropriate sanction with respect to Jason Schlotter's conduct is:  
  
As to Citations 1-5: A reprimand, which was delivered orally by the Committee at the hearing, and a fine of \$1,500.00.
2. Jason Schlotter must pay costs in the amount of \$3,000.00.
3. Jason Schlotter must pay the fines and the costs by August 17, 2020.
4. No Notice to the Profession or Notice to the Attorney General is to be made.
5. The exhibits and this order will be available for public inspection, including the provision of copies of exhibits for a reasonable copy fee, except that identifying information in relation to persons other than Jason Schlotter will be redacted and further redactions will be made to preserve client confidentiality and solicitor-client privilege (Rule 98(3)).

Dated at Calgary, Alberta, on August 15, 2019.

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Jim Lutz, Bencher

IN THE MATTER OF THE *LEGAL PROFESSION ACT*  
AND  
IN THE MATTER OF A HEARING INTO THE CONDUCT  
OF JASON P. SCHLOTTER,  
A MEMBER OF THE LAW SOCIETY OF ALBERTA

**STATEMENT OF ADMITTED FACTS**

**INTRODUCTION**

1. I have been a member of the Law Society of Alberta (the “LSA”) since 1997.
2. There are 5 citations directed to a hearing by a Conduct Committee Panel as follows:

**Citation 1:** It is alleged that Jason Schlotter failed to comply with Undertakings given to the Law Society of Alberta and that such conduct is deserving of sanction;

**Citation 2:** It is alleged that Jason Schlotter failed to serve his client in that he failed to take any steps in his litigation for almost three years and that such conduct is deserving of sanction;

**Citation 3:** It is alleged that Jason Schlotter failed to respond to his client’s communications and that such conduct is deserving of sanction;

**Citation 4:** It is alleged that Jason Schlotter failed to serve his client in that he failed to advance the client’s matter in a timely manner and that such conduct is deserving of sanction; and

**Citation 5:** It is alleged that Jason Schlotter failed to respond to his client’s communications and that such conduct is deserving of sanction.

**CO20171986**

**The following is a summary of the conduct:**

3. On August 23, 2017, the Practice Management Department brought to the attention of the Conduct Department the fact that Mr. Schlotter had failed to commit to improving his practice and failed to meet several Undertakings, including failing to follow accounting rules and bringing his accounting records up to date.

**Regarding Citation 1:** failed to comply with Undertakings given to the LSA

4. Mr. Schlotter had been initially referred to Practice Management in October 2016 by the Manager of Conduct due to a pattern of service-related client complaints. An initial practice assessment took place on February 8, 2017, which identified suggestions for improvement which were subsequently set out in the form of nine Undertakings, which Mr. Schlotter signed on February 28, 2017, summarized as follows:
  1. Meet and work with [MR] from Practice Management.
  2. By March 15, 2017, compile a Master List of active files to be used to track next steps, billings, collections and diary dates, to be updated weekly.
  3. By April 1, 2017, ensure that best practices are being followed regarding file and client management.
  4. By April 1, 2017, reinstitute the use of time sheets to record time spent on each file and institute a practice of billing each file a minimum of every three months.
  5. By April 1, 2017, apply to the Membership department for approval to revive his Professional Corporation and then apply to Corporate Registry to have it revived. Following that, apply to the Law Society for a permit to operate the Professional Corporation.
  6. By May 1, 2017, bring up to date all accounting records, as prescribed by Law Society Rules 119.36 and 119.40.
  7. By May 1, 2017, file all outstanding Self Reports with the Law Society.
  8. By May 15, 2017, enter into a formal, written arrangement with another lawyer regarding the terms under which that lawyer may step in to look after Mr. Schlotter's practice during any absence.
  9. Provide the Manager, Practice Management with written status reports by May 15, 2017 and August 15, 2017 regarding the implementation of these undertakings.
5. Office consultations took place on March 15, April 20 and June 28, 2017. Mr. Schlotter requested and was granted an extension of one month to complete his accounting. He then requested a further extension, which was denied. He was informed that the matter would be brought before the Practice Review Panel on July 26, 2017 and if he completed his accounting prior to that date, it was likely there would be no repercussion. Two days before the Panel met, Mr. Schlotter again indicated he was trying to meet his accounting obligations.
6. The Panel met on July 26, 2017 and noted they provided a warning to Mr. Schlotter that

no further breaches would be tolerated and would await his August 15, 2017 status report.

7. Mr. Schlotter provided his August 15, 2017 status report but several Undertakings remained outstanding, including his accounting. He acknowledged not meeting his obligations and stated:

“I did not think at the time I signed the Undertakings I had a choice in the matter. I should have suggested changes to the Undertakings, such as best efforts... I did not realize how time consuming it would be to put my records in order with respect to Undertaking #6.”

8. Due to the non-compliance with the Undertakings, Practice Management referred the matter to Conduct. At that time, Undertakings 2, 4, 6 and 8 were outstanding. Regarding Undertaking #6, Trust Safety specified that Mr. Schlotter was failing to maintain a general operating account, reconciliations for that account were not completed, accounting records were not maintained or kept up to date, and GST and payroll remittances were in arrears since 2011. He had been exempted from operating a trust account since 2011.
9. A section 53 demand letter was sent to Mr. Schlotter on August 29, 2017, requesting his response to his failure to comply with Undertakings given to Practice Management. He did not respond, and a follow up letter was sent to him on September 21, 2017 requesting his response by October 6, 2017, or the matter would be sent to a Conduct Panel without the benefit of his response.
10. Mr. Schlotter responded on October 6, 2017 stating that he considered undertakings 2 and 4 to be met. He admitted failing to comply with Undertaking #6 indicating that he did not realize how long it would take him to bring all his accounting records up to date. He stated he was still working towards completing that Undertaking.
11. He further admitted failing to comply with Undertaking #8 indicating he did not consider how difficult it would be to find another lawyer willing to enter into a formal arrangement. He initially found a lawyer who was agreeable, but the lawyer's firm would not agree due to concerns of potential conflicts of interest. He has approached a sole practitioner, who has verbally agreed to the arrangement but has not yet signed a formal agreement.

## **CO20172162**

### **The following is a summary of the conduct:**

12. Mr. Schlotter was retained by Mr. [V] to commence an action for wrongful dismissal. The complaint is that for almost three years, he failed to take any steps on the file, and he failed to respond to his client's communications.
13. Mr. Schlotter admits to the delay and has apologized to his client.

**Regarding Citation 2:** failed to serve his client by failing to take any steps

14. Mr. Schlotter was retained in April 2013 to represent Mr. [V] in an action for wrongful dismissal. He filed a Statement of Claim on July 4, 2013 and the Statement of Defence was filed July 22, 2013. Mr. [V]'s Affidavit of Records was due to be served on opposing counsel in October 2013 but was not served until September 25, 2014.
15. Opposing counsel believed that documents were missing from Mr. [V]'s Affidavit of Records. E-mails were exchanged on October 17, 2014 wherein Mr. Schlotter indicated he would follow up with Mr. [V] and opposing counsel requested those documents be provided within two weeks. Opposing counsel served Mr. Schlotter on November 21, 2014 with their client's Affidavit of Records.
16. One week after the file came up in Mr. Schlotter's diarization, Mr. [V] filed this complaint (in September 2017).
17. Mr. Schlotter contacted Mr. [V] to explain next steps, as he understood Mr. [V]'s main concern was that three years might have passed, and that his claim might be dismissed pursuant to Rule 4.33. Mr. Schlotter explained that was not the case given service of the Defendant's Affidavit of Records on November 21, 2014.
18. With Mr. [V]'s agreement, Mr. Schlotter served opposing counsel on October 13, 2017 with an Appointment for Questioning scheduled for November 20, 2017 and a Notice to Admit Facts.
19. Upon receipt of those documents, opposing counsel questioned Mr. Schlotter as to his almost three-year delay in progressing the matter, lack of communication, and his failure to provide the documents missing from Mr. [V]'s Affidavit of Records, requested in October 2014. Opposing counsel also indicated he had received instructions to make an application to have Mr. [V]'s action dismissed for delay.
20. A Consent Order was agreed to and filed on November 15, 2017, adjourning the application to dismiss the action until it could be dealt with at a special hearing. At the time that Mr. Schlotter responded to this complaint, that special hearing had not yet taken place.
21. In response to this complaint, Mr. Schlotter admitted to not progressing the file and offered no explanation other than stating he lost track of the file on a day to day basis. He stated the file had come up for diarization the week before he received this complaint. He believed opposing counsel's application to dismiss for delay would not be successful and that he would be prepared to either continue to represent Mr. [V] or assist in finding him alternate counsel.
22. On November 1, 2018, Mr. Schlotter was contacted to provide an update to opposing counsel's application to dismiss. He advised that the application was successful. He has

appealed this decision to Justice Chambers and the appeal is set to be heard on November [...], 2018. The Appeal was unsuccessful, and the matter was truck [sic] pursuant to Rule 4.31.

**Regarding Citation 3:** failed to respond to his client's communications

23. Mr. [V] stated the last direct communication he had with Mr. Schlotter was in April 2015. At that time, Mr. Schlotter told him the file would require a great deal of work due to how the opposing party was proceeding. Mr. [V] told him to proceed.
24. Mr. [V] e-mailed Mr. Schlotter on February 2, 2016 seeking a status update and stating he had not heard from him in ages and that Mr. Schlotter had not responded to his numerous phone calls. No response was received to that e-mail or follow up phone calls on September 9, 2016 and June 12, 2017.
25. Mr. Schlotter also did not respond to Mr. [V]'s e-mail of August 6, 2017 wherein he stated:  
  
"I have talked to another lawyer and it was recommended that I request that you talk to your insurance and have a repair counsel appointed as it is well past any 3-year deadlines."
26. Mr. Schlotter admitted that it was not until he became aware of this Law Society complaint that he contacted Mr. [V] to apologize and explain next steps. He offered no explanation for not responding to Mr. [V]'s various communications prior to that.

**CO20180214**

The following is a summary of the conduct:

27. Mr. Schlotter was retained by Ms. [M] to commence an action for wrongful dismissal. There was almost a one-year delay from the time Ms. [M] signed the settlement agreement that Mr. Schlotter negotiated until she received her settlement funds. The complaint is that he failed to take timely steps in resolving this action and he failed to respond to his client's communications in a timely manner.
28. Mr. Schlotter admitted to the excessive delay in resolving his action.

**Regarding Citations 4 & 5:** failed to serve his client by failing to advance the client's matter and failed to respond to his client's communications

29. On May 23, 2017, Ms. [M] retained Mr. Schlotter to represent her in an action for wrongful dismissal.
30. On May 24, 2017, Mr. Schlotter contacted her previous employer with a request to increase her severance package. Opposing counsel responded to Mr. Schlotter indicating a general acceptance and an increased offer and draft settlement agreement.

31. On June 20, 2017, Ms. [M] followed up with Mr. Schlotter, who said he had a voicemail from opposing counsel that indicated a general acceptance for the most part, but he wanted some changes to the agreement. After this point, Ms. [M] experienced difficulties communicating with Mr. Schlotter. Ms. [M] left voicemails and sent e-mails, but Mr. Schlotter did not respond.
32. In September 2017, Ms. [M] was successful at reaching Mr. Schlotter via telephone. He provided her with the settlement to review and sign.
33. On September 26, 2017, Ms. [M] reviewed, signed and returned the settlement agreement to Mr. Schlotter.
34. On November 27, 2017, Ms. [M] left Mr. Schlotter a voice mail and sent him an e-mail telling him of her anxiety over this matter carrying on for so long and that if he did not respond to her she would seek further advice.
35. On November 28, 2017, Mr. Schlotter e-mailed Ms. [M] informing her that he would get back to her before the end of the week. Ms. [M] did not hear from Ms. Schlotter by the end of the week.
36. On December 15, 2017, Ms. [M] called Mr. Schlotter, and he told her he had a call in with opposing counsel.
37. On January 25, 2018, Ms. [M] called Mr. Schlotter and left a message asking him to call her and that if he could not finalize her case, she would need to find another lawyer who could.
38. Mr. Schlotter admits that Ms. [M] sent him the signed copy of the settlement agreement in September 2017. He believed he sent it to opposing counsel in an e-mail but could not find the e-mail. Wrapping up the file would still take several weeks due to new opposing counsel and the need for the employer to sign the documents for settlement funds to be released.
39. In early February, Mr. Schlotter sends an e-mail to opposing counsel apologizing and stating that he thought he sent the settlement agreement at the beginning of October, but it did not transmit.
40. On February 2, 2018, Mr. Schlotter also contacted Ms. [M] to apologize for his handling of her matter. He told her that he was sure he sent the settlement agreement to her former employer in September 2017 but could not find a record of it. He told her that he e-mailed opposing counsel and explained the delay that he caused and asked them to expedite the settlement. Ms. [M] again explained her anxiety at not yet having a settlement.



41. A section 53 demand letter was sent to Mr. Schlotter on April 11, 2018 requesting his response to Ms. [M]'s complaint. He did not respond, and a follow up letter was sent to him on May 8, 2018 requesting his response by May 22, 2018 or the matter would be sent to a Conduct Panel without the benefit of his response.
42. On April 20, 2018, Ms. [M] terminated Mr. Schlotter's services citing, "continual lack of communication." Mr. Schlotter responded stating there was no reason to hire a new lawyer because the matter was essentially resolved. He said he received confirmation earlier in the week that settlement cheques were being prepared and sent out.
43. In Mr. Schlotter's response to the Law Society of May 25, 2018, he admitted that some of the delay was inappropriate:

"Ms. [M] is correct to have concerns about the length of time it took to resolve her file. Looking back over my correspondence file, I see there were unnecessary delays in bringing the file to its conclusion, though that was eventually accomplished. Had I responded more quickly, I estimate the file could have been concluded four to five months sooner than it was."

44. Ms. [M] received her settlement funds in the summer of 2018. At that time, she was represented by new counsel.

## **ADMISSIONS**

45. I admit guilt to citations 1-5 and admit that such conduct is conduct deserving of sanction.

## **CONCLUSION**

46. I admit as fact the statements contained within this Statement of Admitted Facts for the purposes of these proceedings.
47. I acknowledge that all parties retain the right to adduce additional evidence and to make submissions on the effect of and weight to be given to these agreed facts.

**ALL OF THESE FACTS ARE ADMITTED THIS 26<sup>TH</sup> DAY OF JUNE, 2019.**

"Jason Schlotter"

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**JASON SCHLOTTER**