

**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 WARREN W. C. WOO
A MEMBER OF THE LAW SOCIETY OF ALBERTA**

Hearing Committee

Kent Teskey, QC – Chair and Past President / Former Bencher
Bud Melnyk, QC – Bencher
Michael Mannas – Adjudicator

Appearances

Karl Seidenz – Counsel for the Law Society of Alberta (LSA)
Munaf Mohamed, QC – Counsel for Warren W. C. Woo

Hearing Date

November 2, 2021

Hearing Location

Virtual Hearing

HEARING COMMITTEE REPORT

Overview

1. While practicing as a real estate lawyer, Mr. Woo employed a paralegal who stole roughly \$1,000,000 from his trust account. Mr. Woo's failure to properly supervise his staff caused significant loss of trust funds and ultimately caused him to be unable to fulfill several undertakings to other lawyers.
2. On November 2, 2021, the Hearing Committee (Committee) convened a hearing into the conduct of Mr. Woo based on 10 citations:

CO20190451

1. It is alleged that Warren W.C. Woo failed to properly supervise his employee, R.K., and that such conduct is deserving of sanction;
2. It is alleged Warren W.C. Woo failed to comply with Rule 119.36(4)(d) by failing to conduct and maintain monthly bank reconciliations of his trust account and that such conduct is deserving of sanction;

3. It is alleged Warren W.C. Woo failed to comply with rule 119.40 by failing to conduct monthly bank reconciliations of his general account and that such conduct is deserving of sanction;

4. It is alleged Warren W.C. Woo failed to comply with Rule 119.24(1) by failing to maintain money on deposit in his trust account in aggregate amount sufficient to meet all trust obligations and that such conduct is deserving of sanction;

5. It is alleged Warren W.C. Woo failed to comply with Rules 119.36(1), 119.36(2), 119.36(3), and 119.36(4) by failing to maintain his firm's prescribed financial records and that such conduct is deserving of sanction;

6. It is alleged Warren W.C. Woo failed to comply with Rule 119.24(3) by failing to report deficiencies in his client ledger account to the Law Society and that such conduct is deserving of sanction;

CO20190538

7. It is alleged that Warren W.C. Woo failed to fulfill his undertakings and that such conduct is deserving of sanction;

CO20190655

8. It is alleged that Warren W.C. Woo failed to fulfill his undertakings and that such conduct is deserving of sanction;

CO20190691

9. It is alleged that Warren W.C. Woo failed to properly supervise his employee, J.K., and that such conduct is deserving of sanction;

CO20190907

10. It is alleged that Warren W.C. Woo failed to fulfill his undertakings and that such conduct is deserving of sanction.

3. At the commencement of the hearing, Mr. Woo admitted guilt on all citations through his Counsel and through a signed Statement of Admitted Facts, Exhibits and Admissions of Guilt (Statement). The Committee accepted the admissions in the Statement and proceeded to sanctioning.

Preliminary Matters

4. There were no objections to the constitution of the Committee or its jurisdiction. A private hearing for parts of the hearing was requested. First, it was suggested that information surrounding paragraphs 40-42 of the Statement involved personal and private information of third parties. These admissions involved personal stresses in Mr. Woo's

life at the time of the incident. While this information was germane to our assessment of the joint submission, it is not necessary for the public interest to disclose the specific nature of this information.

5. Similarly, it was requested that information detailing litigation arising from this incident ought to be dealt with in private as it disclosed on-going issues and the interests of third parties. We agree. We find that it is sufficient to detail these efforts in general terms rather than to provide specific details of outstanding litigation.
6. As such, paragraphs 40-42 and 94-96 will be redacted from the Statement and the discussion of these paragraphs occurred in private.

Summary of Facts Admitted

7. Mr. Woo was admitted to the Bar in 2012 and has practiced primarily in real estate and wills and estate law. In his practice, he employed a paralegal, R.K., whom he relied on heavily in his conveyancing work. In February 2019, Mr. Woo became aware that R.K. had been stealing monies from his accounts.
8. Ultimately, it was determined that R.K. had stolen \$914,590.65 of client money from his trust account and \$123,680.42 from his general account. None of this money has been recovered from R.K.
9. While R.K. engaged in various deceptions to avoid detection, much of the reason that the fraud remained undetected was because Mr. Woo failed to follow basic trust safety practices, any number of which would have caught this fraud or prevented it from occurring.
10. Rule 119.40 of the Rules of the LSA (Rules) requires that law firms reconcile their accounts at the end of every month. This is basic accountability. The last time prior to the discovery of the fraud that the trust account had been reconciled was in December 2016. Mr. Mohamed conceded that had a reconciliation of the trust account occurred at any time, it would have revealed the fraud immediately.
11. While most of the monies were stolen using forged cheques, one of the cheques totaling \$200,000 came from a blank cheque that Mr. Woo had signed. Apparently, there had been an informal practice for Mr. Woo to sign blank cheques in case he was not in the office when a closing occurred. This practice is clearly contrary to Rule 119.22.
12. Since the detection of the fraud, Mr. Woo has made some nascent efforts to resolve the claims arising from this incident.

Proposed Joint Submission

13. Counsel for the LSA and Mr. Woo jointly proposed that Mr. Woo be suspended from the practice of law for a period of eight months, commencing December 1, 2021. It was also proposed that the costs be reduced from an estimated \$20,000 to \$15,000, to be paid within one year of Mr. Woo's reinstatement.
14. Joint submissions are important. They provide certainty to litigation and Mr. Woo in accepting this joint submission gave up his right to go to hearing and have the LSA prove the citations on the evidence. Joint submissions are the product of give and take from experienced counsel who have a full picture of the case and can weigh the risks of litigation. A joint submission should only be interfered with in the rarest of cases where it could be said that the sanction was unhinged from the functioning of a proper regulatory system. This is not one of those cases.
15. While we will defer to this joint submission, we want to comment on the factors necessary to ground a proper sanction.

Failure to Protect Trust Monies

16. The ability to hold money on behalf of clients is a unique responsibility extended to lawyers. In holding trust money, a lawyer is acting as the custodian of another person's property and must do so with the highest degree of care. Where a lawyer fails in that duty, it has a direct and devastating impact on the person whose money was lost, but it also strikes directly at public confidence in the legal profession.
17. As a starting point, the loss of trust monies is a serious regulatory breach that will attract a significant sanction in the ordinary course. When assessing the length of such a suspension, we are guided by the following factors.
18. Obviously, where a lawyer intentionally takes trust money, it is theft and the ordinary penalty is disbarment. Where a lawyer is negligent, a hearing committee must examine the conduct to determine the level and seriousness of the regulatory breach.
19. The first inquiry is whether negligence of the lawyer relates to matters that are obvious trust safety issues or did it relate to a risk which was unforeseen or remote. In this case, Mr. Woo failed to employ basic trust rules such as bank reconciliation. R.K. forged dozens of cheques that had a forged signature and were payable to her. Even a cursory glance at a bank statement would have revealed the fraud.
20. We also note the infrequent practice of leaving a signed blank cheque with R.K. This conduct is not only a breach of LSA Rules, it speaks to a level of casualness about trust monies that raises the seriousness of the negligence.

21. Second, how long did the negligence last? In this case, the negligence spanned years and even the briefest period of vigilance would have stopped this fraud in its track. While we recognize the personal difficulties of Mr. Woo during this period, it can only mitigate the conduct and only marginally.
22. Third, did the lawyer act to remedy the loss? Where a lawyer acts quickly and repays the lost funds, it is a significant mitigating factor that can reduce the length of suspension imposed. The act of repayment is a meaningful act of mitigation and has been previously recognized as such (See *Law Society of Alberta v. Venkatraman*, 2013 ABLs 29). While we accept that Mr. Woo has made some efforts to settle the loss, he cannot claim the benefit of mitigation that is available for those who fully make the loss right.
23. In our view, the sanction of an eight-month suspension is within the range of appropriate outcomes for this conduct and this member. We find that the moral culpability of Mr. Woo is high, but we give full credit for the decision to accept responsibility and we accept his statement of remorse as genuine and sincere.

Reduction of Costs

24. While the quantum of costs in this case at Exhibit 7 was \$20,565.43, both counsel agreed as part of their joint submission that costs should be reduced to \$15,000. As this was part of the quid pro quo of the negotiation, we will not interfere with that agreement but wish to comment on the practice of arbitrarily reducing costs.
25. As a starting point, members who are dealt with in the LSA disciplinary process should bear the costs of the hearing where they are unsuccessful. In the ordinary course, costs of a disciplinary breach should be borne by the offending member rather than the profession as a whole.
26. The *Legal Profession Act* (the *Act*) empowers hearing committees to order some, all or none of the costs of hearing as against the member. We find that the decision to reduce costs ought to be made on a principled basis rather than as a part of the overall negotiation of a resolution.
27. The Statement of Costs presented to hearing committees represents a portion of the regulatory cost of a lawyer's misconduct. In this case, beyond the costs of bringing the matter to hearing, the LSA was required to expend considerable costs in the trust safety process and in arranging a custodian.
28. One of the inherent benefits to resolving a matter without a contested hearing is the fact that the lawyer does not have to pay the actual costs of the hearing itself. To provide a reduction beyond that, to the costs already accrued, provides an unwarranted double

benefit to the member.

29. While it could be said that Mr. Woo was cooperative in the regulatory process, that also is not a basis to reduce costs. His cooperation is directly reflected in the reduction of time that this hearing required. Moreover, a member's cooperation is statutorily required by the *Act* and ethically required by the Code of Conduct.
30. There may well be circumstances where an agreement for reduced costs would be appropriate. Nothing in this case suggested to the Committee that a reduction was warranted in this case.
31. In our view, barring exceptional circumstances, a member ought to pay the Statement of Costs in its entirety. Where there is hardship involved, costs can be spread over time. The payment of costs is an important demonstration of reparations to the profession.
32. Had this not been explicitly part of the joint submission, we would have ordered that Mr. Woo pay the Statement of Costs in its entirety.

Concluding Matters

33. For the reasons above, the Committee orders that Mr. Woo be suspended for a period of eight months commencing December 1, 2021.
34. In addition, pursuant to section 72(2) of the *Act*, the Committee orders that Mr. Woo pay costs of \$15,000 within one year of reinstatement.
35. There will not be a referral to the Attorney General.
36. There will be a Notice to the Profession.
37. It is ordered that paragraphs 40-42 and 94-96 of the Statement at Exhibit 5 will be redacted and any reference to the contents of these paragraphs will be redacted from all hearing materials. The remainder of the exhibits, other hearing materials, and this report 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 Warren Woo will be redacted and further redactions will be made to preserve client confidentiality and solicitor-client privilege (Rule 98(3)).

Dated at Calgary, Alberta, November 8, 2021.

Kent Teskey, QC - Chair

Bud Melnyk, QC

Michael Mannas