

**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 UWE WELZ  
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 Uwe Welz pursuant to section 56 of the *Legal Profession Act* (the Act);

**AND WHEREAS:**

- a) On May 28, 2020 Uwe Welz and the LSA entered into a Statement of Admitted Facts and Admission of Guilt (the Statement), attached to this Order, in relation to his conduct as a member of the LSA;
- b) Uwe Welz admits in the Statement that the conduct set out in the Statement is deserving of sanction;
- c) On July 14, 2020, the Conduct Committee found the Statement acceptable, pursuant to subsection 60(2) of the Act;
- d) On July 29, 2020, 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 Uwe Welz's conduct is deserving of sanction;
- f) On September 11, 2020, the Committee convened a public hearing (Hearing) into the appropriate sanction related to the conduct of Uwe Welz;
- g) The LSA and Uwe Welz provided a joint submission on sanction for the Committee's consideration, seeking a reprimand and a fine of \$5,000.00, payable within one year;
- h) The parties also agreed that it is reasonable for Uwe Welz to pay the proposed fine and \$2,047.50 in costs in relation to this matter by October 31, 2021;
- i) The Committee determined that, subject to certain modifications, the joint submission as to the sanction is reasonable, consistent with sanctions in similar cases (taking into account

the expressed intention of Uwe Welz to wind-up his practice within 2 years) , does not bring the administration of justice into disrepute and is therefore in the public interest; and

- j) The Committee accepted the joint submission on sanction, did not accept the parties' submissions regarding the deadline to pay the fine and costs, and made an order respecting the deadline for payment of the fine and costs.

**IT IS HEREBY ORDERED THAT:**

1. The appropriate sanction with respect to Uwe Welz's conduct is a fine of \$5,000.00 and a reprimand, which was delivered orally by the Committee to Uwe Welz at the hearing.
2. The text of the reprimand will be attached to this Order as a schedule prior to the Order being published.
3. Uwe Welz must pay the \$5,000.00 fine and costs in the amount of \$2,047.50, within six months of the date of this Order.
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 Uwe Welz will be redacted and further redactions will be made to preserve client confidentiality and solicitor-client privilege (Rule 98(3)).

Dated September 27, 2020.

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CAL D. JOHNSON, Q.C.

IN THE MATTER OF THE LEGAL PROFESSION ACT  
AND  
IN THE MATTER OF A HEARING REGARDING THE CONDUCT OF  
UWE WELZ  
A MEMBER OF THE LAW SOCIETY OF ALBERTA

**STATEMENT OF ADMITTED FACTS AND ADMISSION OF GUILT**

**INTRODUCTION**

1. I was admitted as a member of the Law Society of Alberta in 1978.
2. My present status with the Law Society of Alberta is Active/Practicing.
3. I practice in Edmonton in the areas of corporate law, real estate, and estate planning.

**CITATIONS**

4. On November 14, 2019, the Conduct Committee Panel (“CCP”) referred the following conduct to a hearing:
  - a) It is alleged that Uwe Welz failed to provide legal services to the standard of a competent lawyer, including failing to perform all functions competently, conscientiously, diligently and in a timely manner and that such conduct is deserving of sanction;
  - b) It is alleged that Uwe Welz failed to promptly return his client’s property and that such conduct is deserving of sanction;
  - c) It is alleged that Uwe Welz failed to respond promptly to communications from the Law Society and that such conduct is deserving of sanction.
5. The CCP also directed this matter be referred to the Practice Review Committee pursuant to Section 58 of the *Legal Profession Act*.

**ADMITTED FACTS**

***Guardianship and Trusteeship Application***

6. I was retained by [OP] and his sister, [KA], in March 2015 to apply for a Guardianship and Trusteeship Order for their mother, [RP].
7. I have known the [P] family for approximately 25 years and have assisted Ms. [RP]

with various legal matters, including the transfer of assets upon Ms. [RP]'s husband passing and the sale of a property.

8. In February of 2015, Ms. [RP] suffered a stroke which affected her ability to handle her financial and personal affairs and resulted in the need for a Guardianship and Trusteeship Order in order for Mr. [OP] and Ms. [KA] to manage their mother's affairs.
9. I met with Mr. [OP] and Ms. [KA] on March 30, 2015 regarding the necessary steps and paperwork required to file a Guardianship and Trusteeship Application (the "Application").
10. One of the requirements was to obtain a Capacity Assessment Report ("CAR") concerning Ms. [RP]'s mental capacity. The Office of the Public Guardian and Trustee requires that the CAR be filed alongside the Application and be dated within six months of the date the Application is filed.
11. On May 11, 2015, Mr. [OP] provided me with a draft set of the forms that he and his sister were required to file in support of the Application.
12. On June 12, 2015 a CAR was completed concerning Ms. [RP] and confirmed that Ms. [RP] did not have the capacity to make financial, legal or personal decisions. Mr. [OP] provided me with a copy of the CAR in mid-June 2015.
13. In early July 2015, I met with Mr. [OP] and Ms. [RP] to discuss her wishes regarding the management of her affairs by her children. Mr. [OP] instructed me proceed with preparing the Application and take steps to have it filed. I completed the Application forms, which we were required to be executed by the parties, in July.
14. I met with Mr. [OP] or Ms. [KA], or both, at minimum, on the following dates to review, execute and witness various Application forms:
  - a) July 9, 2015;
  - b) July 10, 2015;
  - c) July 13, 2015; and d) July 20, 2015.
15. The Application forms included proposals regarding how Mr. [OP] and his sister would manage their mother's affairs as Trustee and Guardian, consent forms, and financial information regarding Ms. [RP]'s estate. During the meetings in July 2015, the parties also provided me with criminal background checks and personal references, which were required to be submitted with the Application.
16. By August 2015, the Application had not been filed. On August 25, 2015, Mr. [OP] called me to inquire as to the status of same. On August 26, 2015, Mr. [OP] sent me a follow-up email, expressing that he wished for the Application to be filed as soon as possible to avoid the expiry of the CAR. That same day, I wrote to Mr. [OP] to advise that the CAR did not expire until December 12, 2015. I recommended that I revise and expand upon parties' trusteeship proposal before submitting the Application for filing, in order to include more detailed plans for the disposition of Ms. [RP]'s corporate and real property assets.

17. In October and November 2015, Mr. [OP] provided me with information regarding his mother's finances for the revised trusteeship proposal and my client file indicates that I had phone calls with Mr. [OP] and his sister to discuss the file. However, I failed to complete the revised proposal and submit the Application before the expiry of the CAR on December 12, 2015.
18. As a result of my inaction, the parties were required to obtain a second CAR for Ms. [RP].
19. On August 15, 2016, a second CAR was completed based on a medical evaluation done on July 20, 2016. This CAR came to the same conclusions as the June 12, 2015 CAR regarding Ms. [RP]'s capacity. By this time, I had still not completed the revised Application forms.
20. On April 17, 2016, Ms. [RP] was moved to an assisted living facility as a result of her deteriorating condition.
21. On August 29, 2016, Mr. [OP] emailed me to express his concern regarding the delay of the filing of the Application. I did not respond to this email for approximately one and a half months, until October 26, 2016 when I advised that I now required updated criminal record checks for the Application. The required criminal record checks were provided to me within weeks.
22. I met with Mr. [OP] on March 17, 2017 to swear revised forms for the Application. However, by May 2017, I had still not completed preparing the Application for filing. The June 12, 2015 CAR had expired by this time.
23. Mr. [OP] followed up with me on May 16, 2017 to inquire as to the status of the Application. I responded one month later on June 15, 2017, advising that one additional form needed to be complete before I could file the Application.
24. On June 20, 2017, I met with Mr. [OP] and Ms. [KA] to execute the Application. I failed to submit the Application for filing after this date, despite having follow-up discussions with the parties about doing so.
25. In his complaint to the Law Society, Mr. [OP] stated that he had followed up with me about the delay in this matter on numerous occasions throughout my two-year representation.

### ***Termination of Representation***

26. By September 2017, I had still not submitted the Application. Mr. [OP] terminated our relationship and retained new counsel to take over this matter.
27. Mr. [OP]'s new lawyer contacted me to request the client file, at which time I advised that I would have to remit my statement of account prior to sending the complete file.
28. I acknowledge that I had not rendered a statement of account at this point, and as such, I was not entitled to assert a solicitor's lien on Mr. [OP]'s client file. In the end, I only provided Mr. [OP]'s new lawyer with part of the file.

### ***Communication with the Law Society***

29. On January 17, 2018, Conduct Counsel for the Law Society wrote to me enclosing Mr. [OP]'s complaint and requesting my response within 14 days. I did not respond to this communication.
30. On February 14, 2018, Conduct Counsel for the Law Society sent a follow-up letter regarding my response, and advised that a failure to respond by February 28, 2018 could result in a hearing for failure to respond and that an adverse inference being drawn with regard to the original complaint. I did not respond to this communication.
31. Conduct Counsel for the Law Society sent me update letters regarding the stage of this complaint on the following dates:
  - a) March 2, 2018;
  - b) June 26, 2018;
  - c) October 10, 2018; and
  - d) January 23, 2019.

I did not respond to any of these communications.

32. On March 28, 2019 a Law Society Investigator attended at my office and delivered a letter to me advising that the Law Society would be recommending a citation of failing to respond. The letter provided me with an opportunity to respond to the allegation.
33. I provided a response to the initial complaint and allegation of failing to respond on April 12, 2019, approximately 15 months after I initially became aware of this complaint.
34. On May 7, 2019, Conduct Counsel for the Law Society requested further information about my conduct in this matter. I did not respond until August 20, 2019, approximately three months later.

### **ADMISSIONS OF FACT AND GUILT**

1. I admit as facts the statements in this Statement of Admitted Facts and Admission of Guilt for the purposes of these proceedings and section 60 of the *Legal Profession Act*.
2. I admit that:
  - a. I failed to provide legal services to the standard of a competent lawyer by failing to complete and file the Application during my 2.5-year representation of this matter;
  - b. I failed to promptly return Mr. [OP]'s property by refusing to provide his new lawyer with the complete file; and
  - c. I failed to respond promptly to communications from the Law Society;

all of which is conduct is deserving of sanction.

3. I acknowledge I have had the opportunity to consult legal counsel and that I have consulted legal counsel.
4. I acknowledge that I have signed this Statement freely and voluntarily.
5. I acknowledge that I understand the nature and consequences of these Admissions.
6. I acknowledge that, although entitled to deference, a Hearing Committee is not bound to accept a joint submission on sanction.

**THIS STATEMENT OF ADMITTED FACTS AND ADMISSIONS OF GUILT IS MADE  
THIS  
28 DAY OF MAY, 2020.**

**“Uwe Welz”**  
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**UWE WELZ**

**Reprimand**

Mr. Welz, as your regulator, the Law Society has two principal duties that we have to always keep in mind: we have to protect the public, but we also have to protect the reputation of the legal profession. Your very serious conduct in the matters that have been presented before us engages both of these considerations. As lawyers, we have the great privilege of being a self-regulating profession but that privilege can be taken away in an instant, and we are going to be judged by our actions in dealing with members such as yourself that don't display a level of conduct that meets the standards of the Law Society.

Your conduct in regards to the complaint in this matter is a cause for great concern. You have a responsibility to the members of the public and to the Law Society to represent their best interests and you failed in this case. This wasn't minor failure, the course of conduct here was, frankly, reprehensible and in many ways troubling and problematic. You are an experienced lawyer, you've practiced for over 40 years, I think the public, the profession, and most importantly, your clients were entitled to expect much better of you in these matters. When you are conducting yourself in these matters, you put your professional integrity and reputation at risk but you also put your clients' interests at risk. I want you to take some time to think about that. I think all of us in the profession need to take some time to also consider the impact of our actions on the clients. Too often in these matters, I think we get embroiled in the facts, the mitigating factors, the distinguishing factors and the contrition of the member. But what about the negative impact of these actions on the client? You have to consider the grief that these kinds of things cause the clients. Too often that does not get enough airtime. I think it is important to reflect on what this must have done to the clients, and, over an extended period of time.

As I said, I confess to have struggled, and I think mightily is not an overstatement, with the recommendation on sanction. I found the additional aggravating factors that distinguish this from *Malcolm* to be significant. They are a cause for concern. We are required to respect and give deference to the joint recommendation. The one thing, and I'll say that it's the mitigating factor that tipped the balance for me in this case, is your work with Practice Management indicating that you are winding down your practice and going to be retiring within a couple of years. I think that is an important consideration in terms of the public interest in this case.

In summary, I conclude that in light of all that I have mentioned, it is in the public's interest to accept the joint submission in part. In part, because of the concerns I have, the fine and the costs will be payable within 6 months of today's date.

I think that concludes all the things that I want to say today. Mr. Welz, I certainly wish you all the best in your continued practice and in the winddown of that practice. I hope that you have learned from this particular matter and that both you and your clients can move on from this.