

**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 DAVID H. G. ANDREWS
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 David H. G. Andrews pursuant to section 56 of the *Legal Profession Act* (the Act);

AND WHEREAS:

- a) David H. G. Andrews and the LSA have entered into a Statement of Admitted Facts and Admissions of Guilt (the Statement, attached to this Order) in relation to David H. G. Andrews conduct on July 2, 2020;
- b) David H. G. Andrews admits in the Statement that the conduct set out in the Statement is deserving of sanction;
- c) On September 15, 2020, the Conduct Committee found the Statement acceptable, pursuant to subsection 60(2) of the Act;
- d) On October 9, 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 David H. G. Andrews's conduct is deserving of sanction;
- f) On December 14, 2020, the Committee convened a public hearing into the appropriate sanction related to the conduct of David H. G. Andrews;
- g) The LSA and David H.G. Andrews have provided a joint submission that exhibit 6 and exhibit 10 are private and should not be made publicly available;
- h) The LSA and David H. G. Andrews have provided a joint submission on sanction for the Committee's consideration, seeking a reprimand;
- i) The parties have also agreed that it is reasonable for David H. G. Andrews to pay \$2,500.00 in costs in relation to this matter by January 14, 2021;

- j) 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;
- k) 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 David H. G. Andrews is a reprimand, which was delivered orally by the Committee to David H. G. Andrews 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. David H. G. Andrews must pay costs in the amount of \$2,500.00, by January 14, 2021.
4. No Notice to the Profession or Notice to the Attorney General is to be made.
5. With the exception of exhibit 6 and exhibit 10, 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 David H. G. Andrews will be redacted and further redactions will be made to preserve client confidentiality and solicitor-client privilege (Rule 98(3)).

Dated at Edmonton, Alberta, on December 17, 2020.

Darlene W. Scott, Q.C.

IN THE MATTER OF THE *LEGAL PROFESSION ACT*

- AND -

IN THE MATTER OF A HEARING REGARDING THE CONDUCT OF

DAVID H. G. ANDREWS

A MEMBER OF THE LAW SOCIETY OF ALBERTA

STATEMENT OF ADMITTED FACTS AND ADMISSIONS OF GUILT

BACKGROUND

1. I, David H. G. Andrews, was admitted to the Law Society of Alberta (the “Law Society”) on July 28, 2004.
2. My current status with the Law Society is Active/Practising.
3. From August of 2011 to April of 2013, I worked for the [P] as a [...], prosecuting drug offences.
4. From 2013 to 2017, I was employed as corporate counsel. Since I was not engaged in the practice of law outside of that role, I had an exemption from the professional liability insurance requirement.
5. I am currently Duty Counsel for [L].

CITATION

6. I am facing the following citation arising from a Law Society complaint:
 - a. **It is alleged David H. G. Andrews practiced law while not authorized to do so and without the required professional liability insurance and that such conduct is deserving of sanction.**

ADMITTED FACTS

7. On April 2, 2013, I became an inactive member of the Law Society.
8. The Election to Become a Non-Practising (Inactive) Member form I executed on April 1, 2013 and submitted to the Law Society contained the following undertaking:

I UNDERSTAND THAT I CANNOT PRACTISE LAW WHILE I AM AN INACTIVE MEMBER AND I UNDERTAKE NOT TO DO SO. [Emphasis in original]

9. On May 1, 2013, I submitted an Application for Reinstatement to “Active, government or corporate” status.
10. On May 30, 2013, the Law Society informed me that I must complete an Application for Exemption from Professional Liability Insurance in order to complete the reinstatement process.
11. In my May 31, 2013 Application for Exemption from Professional Liability Insurance form I confirmed that I was seeking the exemption to pursue “In-House Employment (rules 148(1)(b))” and certified the following:

I certify that I am employed by an organization other than a law firm, that my employer is not one of the organizations named in Rule 148(2) and that I practise law solely within the scope of that employment. (Subject to the exceptions set out in 148(2.1), noted below*, coverage is mandatory if you do practice outside the scope of your employment)*.
12. My application for “Active, government or corporate” status was approved effective May 31, 2013.
13. On April 3, 2018, I began my employment at a criminal law firm (the “Firm”). On the same day, I submitted my application to the Law Society to become an “active, practising” member. In my Application for Reinstatement, I confirmed that I had been “active non-practising since 2013 as I was corporate counsel and did not require insurance.” I further confirmed that the last time I engaged in active practice in Alberta was on January 31, 2013.
14. I inquired regularly as to the status of my application with the Law Society.
15. On May 14, 2018, I became an “active, practising” and insured member of the Law Society.
16. During the period from April 12, 2018 to May 14, 2018, I practiced law without being authorized to do so by the Law Society, including:
 - a. Attending Lethbridge Provincial Court on approximately 30 occasions for matters in the ordinary course of criminal proceedings on behalf of the Firm’s clients;
 - b. Attending Provincial Court in Fort McLeod and Cardston for matters in the ordinary course of criminal proceedings on behalf of the Firm’s clients;
 - c. Corresponding with Federal Prosecutors on behalf of the Firm’s clients regarding various procedural matters;
 - d. Assisting the Firm’s clients and providing them with legal advice; and
 - e. Conducting negotiations with Federal Prosecutors on behalf of the Firm’s clients.
17. I did not advise the Court, the Federal Prosecutors, or the firm’s clients that I was not authorized to practice and was not insured.

18. The correspondence I sent on the Firm's letterhead had my name at the top and did not disclose that I was not an active, practising member of the Law Society and was not insured.
19. While most matters I dealt with were routine adjournments and simple procedural issues, I represented a Firm client charged with an indictable offence during his Preliminary Hearing. The following is a summary of my involvement in the file:
 - a. On April 12, 2018, I approached J.O., a Federal Prosecutor, in Docket Court and advised I was taking over all of the Firm's drug matters and trial work. Further, that I had been assigned the R.M. matter. I requested J.O. consent to a re-election from a Preliminary Hearing scheduled for April 24, 2018 to a trial by Judge alone in Provincial Court. J.O. declined;
 - b. I sent unsigned correspondence to J.O., "per" the responsible lawyer at my Firm. The correspondence was drafted and sent by me;
 - c. On April 24, 2018, I appeared in Provincial Court, representing R.M. in the Preliminary Hearing. R.M. was charged with three indictable offences. I conducted a cross examination of the Crown's witnesses, a *voir dire* of the expert's qualifications and made lengthy argument to the Court;
 - d. I did not advise the Court, the Federal Prosecutor, or R.M. that I was not authorized to practice law, or that I was appearing as an agent for another lawyer from the Firm;
 - e. On April 27, 2018, an Alberta Court of Queen's Bench Indictment was issued on the R.M. matter;
 - f. On June 7, 2018, the Law Society contacted me with concerns from the supervisor for the contract drug prosecutors of Alberta regarding potential negative consequences arising from my representation of R.M. at the Preliminary Hearing on April 24, 2018; and
 - g. On June 11, 2018, I appeared in Court, advising that I was an inactive and uninsured member of the Law Society when I represented R.M. at the April 24, 2018 Preliminary Hearing.
20. I appeared in Provincial Court on behalf of clients charged with indictable offences despite being aware that an agent cannot appear on behalf of a client charged with an indictable offence.

ADMISSIONS OF GUILT

21. I admit as facts the statements contained in this Statement of Admitted Facts and Admissions of Guilt for the purposes of these proceedings.
22. For the purposes of section 60 of the *Legal Profession Act* (the "Act"), I admit that I practiced law while not authorized to do so and without having the required professional liability insurance and that such conduct is "conduct deserving of sanction" as defined in section 49 of the *Act*.

ACKNOWLEDGEMENTS

23. I acknowledge that I have had the opportunity to consult with legal counsel.
24. I acknowledge that I have signed this Statement of Admitted Facts and Admissions of Guilt voluntarily and without any compulsion or duress.
25. I acknowledge that I understand the nature and consequences of signing this Statement of Admitted Facts and Admissions of Guilt.
26. I acknowledge that, although entitled to deference, a Hearing Committee is not bound to accept a joint submission.

This Statement of Admitted Facts and Admissions of Guilt is dated the 2nd day of July, 2020.

“David Andrews”

David H. G. Andrews

Reprimand

Mr. Andrews, I have listened to you today. I have read your submissions, and I have listened to the submissions of counsel for the Law Society. I am mindful, very much, that a Hearing Committee is to pay deference to a joint submission. I am also mindful of the role of the Law Society of Alberta. Our role is to protect the interests of the public, and in order to do that, our members must observe and comply with all of the rules that we have established for the protection of the public.

You have breached the trust that the public placed in you, and in us as your regulator. Your conduct could have resulted in very serious consequences and harm to your clients. You are very fortunate that it did not. But it appears to me that you do have an appreciation and understand how serious this conduct is, and that you have authentic, meaningful remorse for your actions.

I have read the comments from Practice Management, which are compelling to me. And it seems to me that you have taken the opportunity to learn from your mistake, and hopefully this behaviour, or anything similar to it, will not occur again.

On that basis, I am prepared to accept your joint submission on sanction, and sign the consent order that's been proposed with the one change to the date.

You have been reprimanded by the Law Society of Alberta, and you will pay those costs of \$2,500 by January 14th, 2021.

I encourage you, Mr. Andrews, to continue your journey to health and to personal well-being, and to take this reprimand very seriously. Whether you are in Alberta or not, and whether you are practicing law or not, I urge you to be the type of person that contributes to society, who uses the privileged position that he holds to help other people, and to respect and abide by all of the laws and rules that are applicable to you. I wish you luck in that endeavour.