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 MATTHEW OTTEWELL
A MEMBER OF THE LAW SOCIETY OF ALBERTA

Hearing Committee
Jim Lutz, QC – Chair
Anthony Young, QC – Past President
Jodi Edmunds – Adjudicator

Appearances
Miriam Staav – Counsel for the Law Society of Alberta (LSA)
Matthew Ottewell – Self-Represented

Hearing Date
December 10, 2020

Hearing Location
Virtual Hearing

HEARING COMMITTEE REPORT

Overview

1. The Member, Matthew Ottewell is an inactive Member of the LSA. He practiced mostly in the area of family law in the Edmonton area. On March 10, 2020, citations were issued by the LSA as follows:

    1. It is alleged Matthew P. Ottewell breached Rule 105 of the Rules of the Law Society of Alberta when he failed to report criminal charges to the Law Society and that such conduct is deserving of sanction;

    2. It is alleged Matthew P. Ottewell failed to provide competent, timely, conscientious, and diligent services to his clients and that such conduct is deserving of sanction;

    3. It is alleged Matthew P. Ottewell failed to follow Rule 119.21 of the Rules of the Law Society of Alberta and that such conduct is deserving of sanction.

2. On December 10, 2020, a Hearing Committee (Committee) convened at the direction of the Conduct Committee Panel. The virtual hearing was held on the above noted citations pursuant to Rule 2.4.1 of the Rules of the Law Society of Alberta (Rules).

3. After reviewing all of the evidence, exhibits, and submissions of Counsel for the LSA and of Mr. Ottewell, who was unrepresented, the Committee finds that the appropriate sanction is one of a suspension for a period of two months commencing on February 1, 2021 in accordance with section 72 of the *Act*. The Committee also orders that costs in the amount of $20,000.00 be paid in increments as follows:

    i. $2,500.00 payable within 14 days of the commencement of the suspension or on February 15, 2021;
    ii. $7,500.00 payable prior to any application to return to the practice of law;
    iii. $10,000.00 payable within one year of return to the practice of law.

Preliminary Matters

4. There were no objections to the constitution of the Committee or its jurisdiction. No request for a private hearing was received so a public hearing into Mr. Ottewell's conduct proceeded.

Agreed Statement of Facts and Admission of Guilt

5. A Statement of Admitted Facts and Admission of Guilt (SAF, attached as Schedule 1) was jointly executed by Mr. Ottewell and counsel for the LSA on August 9, 2020 wherein Mr. Ottewell made admissions of guilt to all three citations. The following is a brief summary of facts in relation to each of the citations:

    a) Criminal charges were laid on December 5, 2016, more specifically, the summary conviction offences of unlawfully operating a motor vehicle while impaired contrary to section 253(1)(a) of the *Criminal Code* and one count of operating a motor vehicle having consumed alcohol in such a quantity that the concentration of alcohol in blood exceeded 80 mg of alcohol in 100 ml of blood contrary to section 253(1)(b) of the *Criminal Code*. Mr. Ottewell pled guilty on January 18, 2017 to count two (over .08) and count one was subsequently withdrawn. Mr. Ottewell was sentenced to pay a fine and subject to a one year driving prohibition with a current one-year Probation Order. Mr. Ottewell did not report the criminal charges.

    b) Mr. Ottewell failed to provide competent, timely, concise and diligent service in five matrimonial matters.

    c) Mr. Ottewell received retainers from clients, completed work and transferred the money from the trust account for payment of fees without rendering a proper Statement of Account and failed to render Statements of Account before making withdrawals or concurrently with those withdrawals. This occurred on two separate occasions.

6. On September 15, 2020, a Conduct Committee Panel deemed the SAF to be in acceptable form. Accordingly, pursuant to section 60(4) of the *Act*, it is deemed to be a finding of this Committee that Mr. Ottewell's conduct is deserving of sanction in relation to all three citations.

7. As provided by subsection 60(3) of the *Act*, once the SAF was accepted by the Conduct Committee Panel, the Committee was appointed to conduct a hearing as to the appropriate sanction.

8. Mr. Ottewell understood the nature and consequence of the admissions in the SAF and that the Committee is not bound by any agreement on sanction as agreed between him and LSA counsel.

Submissions and Authorities

9. Counsel for the LSA and Mr. Ottewell provided a joint submission on sanction for a suspension of two months plus costs, to be paid in an incremental fashion.

10. Counsel for the LSA suggested there are a number of aggravating factors regarding the facts related to citation 2, including that clients suffered significant delay in their ability to have their family matters concluded. As well, these offences occurred over a period of time, representing a pattern of conduct the LSA deemed aggravating.

11. Mr. Ottewell agreed that denunciation and deterrence were primary factors in his sentencing and that he should be suspended because of the high standard lawyers have to maintain when dealing with members of the public and that protection of the public is paramount.

12. The Committee queried counsel for the LSA as to the need for such a lengthy suspension for an individual who was in the view of the Committee governable, remorseful and had taken significant positive steps towards becoming a Member in good standing. Despite invitations from the Committee, neither Mr. Ottewell nor counsel for the LSA had any further submissions on the proposed sanction.

13. Counsel for the LSA provided a number of authorities in support of the proposed sanction.

14. *Law Society of Alberta v. Jodie Holder***,** 2007 LSA 6 is a case which dealt with an individual who failed to report criminal charges to the LSA and failed to be candid with the LSA, resulting in a reprimand, a fine in the amount of $500.00 and costs of 50% of the actual costs. LSA counsel advanced this case in support of the sanction for citation 1. It is the Committee's opinion that this sanction is consistent with the principles of sentencing and for the offence which Mr. Ottewell accepted responsibility.

15. In the case of *Law Society of Alberta v. Haniff-Darwent,* 2020 ABLS 2 the Member failed to progress the clients' matter in a timely fashion and failed to reply to client's communication, failed to provide the client with the client files and failed to be cooperative with the LSA. In this case, the Hearing Committee received a joint submission for a suspension of two weeks and costs payable in installments were ordered. Counsel for the LSA submitted this authority with respect to citation 2, with regard to the proper range of sanctions for failing to provide competent, timely and conscientious service.

16. *Law Society of Alberta v. McKay,* 2016 ABLS 34 dealt with 17 citations and resulted in a four-month suspension and costs. In the view of the Committee this decision represents a very highwater mark of sanction for conduct of the nature described in the case.

Analysis and Decision

17. The Committee expressed concerns about the severity of this sanction, noting that Mr. Ottewell had no prior discipline history and was governable, compliant, insightful and remorseful. For the reasons previously mentioned, counsel for the LSA felt the aggravating factors justified this and Mr. Ottewell did not to refute the LSA position.

18. As stated in the Hearing Guide at paragraph 57:

> The primary purpose of disciplinary proceedings is found in section 49(1) of the *Legal Profession Act*…: (1) the protection of the best interests of the public (including the members of the Society) and (2) protecting the standing of the legal profession generally. The fundamental purpose of the sanctioning process is to ensure that the public is protected and that the public maintains a high degree of confidence in the legal profession

19. The Committee is bound to give serious consideration and deference to joint submissions, a consistent principle of sentencing as set out in the criminal law case of *R. v. Anthony-Cook*, 2016 SCC 43 (CanLII) and applied consistently by LSA Hearing Committees. The Supreme Court of Canada held that joint submissions on sentence are not sacrosanct but are entitled to significant deference pursuant to a stringent public interest test. The test is described at paragraphs 32-34 of the decision:

> Under the public interest test, a trial judge should not depart from the joint submission on sentence unless the proposed sentence would bring the administration of justice into disrepute or it is otherwise contrary to the public interest. … a joint submission will bring the administration of justice into disrepute or be contrary to the public interest if, despite the public interest considerations that support imposing it, it is so "markedly out of line with the expectations of reasonable persons aware of the circumstances of the case that they would view it as a break down in the proper functioning of the criminal justice system. … when assessing a joint submission, trial judges should "avoid rendering a decision that… causes an informed and reasonable public to lose confidence in the institution of the courts". … a joint submission should not be rejected lightly… 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. This is an undeniably high threshold – and for good reason...

20. The sanction of suspension limits a Member's right to practice and should only be used if no other appropriate sanction is available. Here the Committee expressed the view that this sentence is higher than what would be necessary for this type of offence, however, given that it is a joint submission the Committee accepts the submission.

21. As noted above, a Hearing Committee must give serious consideration to joint submissions and should only reject the submission if it is found to be unfit or contrary to the public interest. This direction encourages timely dispositions of conduct matters and efficiency in the LSA disciplinary process, as well as offering some certainty to the Member as to the proposed disposition.

22. The Committee is mindful of the impact of Mr. Ottewell's conduct where the clients experienced frustration, distress and finding out that the work promised to them was left undone, and in at least one instance, a client was severely delayed in a timely divorce. This is balanced against the absence of any prior record and the above noted mitigating factors. The Committee reluctantly accepts the joint submission and orders the suspension of Mr. Ottewell for a period of two months commencing February 1, 2021.

23. With respect to the issue of costs, counsel for the LSA submitted, as supported by Mr. Ottewell, a tiered schedule of repayment of costs in the amount of $20,000.00 as follows:

    a) $2,500.00 due and payable within 14 days of the commencement of the suspension or on February 15, 2021;
    b) $7,500.00 payable prior to any application to return to the practice of law; and
    c) $10,000.00 payable within one year of return to the practice of law.

Concluding Matters

24. Counsel for the LSA requested a Notice to the Profession. Given the suspension, the Committee grants this Notice be given to the Profession.

25. Counsel for LSA submitted that no notice should be given to the Attorney General of Alberta. The Committee grants this request.

26. The Committee notes that no custodian will be appointed for the practice of Mr. Ottewell given the fact that he is inactive and there is no practice to manage.

27. 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 parties other than Mr. Ottewell will be redacted

and further redactions will be made to preserve client confidentiality and solicitor-client privilege pursuant to Rule 98(3) of the Law Society of Alberta.

Dated February 12, 2021.

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Jim Lutz, QC

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Anthony Young, QC

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Jodi Edmunds

Schedule 1

IN THE MATTER OF THE *LEGAL PROFESSION ACT*

- AND -

IN THE MATTER OF A HEARING REGARDING THE CONDUCT OF
MATTHEW OTTEWELL
A MEMBER OF THE LAW SOCIETY OF ALBERTA

HEARING FILE HE20200062

STATEMENT OF ADMITTED FACTS AND ADMISSIONS OF GUILT

INTRODUCTION

1. This hearing arises out of one complaint (CO20190223), which resulted in the following citations:

    1. It is alleged Matthew P. Ottewell breached Rule 105 of the Rules of the Law Society of Alberta when he failed to report criminal charges to the Law Society and that such conduct is deserving of sanction;

    2. It is alleged Matthew P. Ottewell failed to provide competent, timely, conscientious, and diligent service to his clients and that such conduct is deserving of sanction;

    3. It is alleged Matthew P. Ottewell failed to follow Rule 119.21 of the Rules of the Law Society of Alberta and that such conduct is deserving of sanction.

ADMITTED FACTS

Professional Background

2. I was admitted as a member of the Law Society of Alberta (the "**LSA**") on November 20, 2009.

3. I was an "Inactive/Non-Practising" member of the LSA from March 12, 2013 to April 28, 2015, when I returned to practice.

4. At all material times, my practice was focused primarily on Matrimonial/Family Law. I practiced in this area at a full-service law firm in Edmonton (the "Firm") from April 28, 2015 until January 15, 2019, after which I practiced on my own.

5. On June 27, 2019, I elected to once again become an "Inactive/Non-Practising" member of the LSA.

6. As of today's date, my status with the LSA remains Inactive/Non-Practising.

7. I do not have any discipline record with the LSA.

Procedural Background

8. On February 8, 2019, the LSA opened a complaint file (CO20190223) to assess whether I had an alcohol abuse issue that affected my ability to practice, and whether I failed to report criminal charges to the LSA.

9. The LSA subsequently conducted an investigation and, on March 10, 2020, a panel of the Conduct Committee directed that the citations set out in paragraph 1, above, be dealt with by a Hearing Committee.

Citation #1

The Criminal Charges

10. On December 5, 2016, I was charged with one count of unlawfully operating a motor vehicle while impaired contrary to s. 253(1)(a) of the *Criminal Code* ("**Count 1**"), and one count of operating a motor vehicle having consumed alcohol in such a quantity that the concentration of alcohol in my blood was over the legal limit contrary to s. 253(1)(b) of the *Criminal Code* ("**Count 2**" and together with Count 1, the "**Criminal Charges**").

11. On January 18, 2017, I pled guilty to Count 2 (the "**Guilty Plea**") and Count 1 was withdrawn. I was sentenced to pay a fine and subject to a one-year probation order.

12. I did not report the Criminal Charges or the Guilty Plea to the LSA.

Admission re: Citation #1

13. I admit that I breached Rule 105 of the Rules of the Law Society of Alberta when I failed to report the Criminal Charges and the Guilty Plea to the LSA.

Citation #2

File #1: N.C.

14. In May 2015, I was retained by N.C. to assist with a family law matter, which involved issues related to child support and custody of her young child.

15. In June 2015, N.C. and her former spouse came to an agreement regarding interim child support and custody. This agreement was read-in at court on June […], 2015, and I was responsible for drafting and entering the consent order. I did not, however, do so.

16. After June […], 2015 and throughout 2016, N.C. made various requests (by phone and email) for a copy of the above-noted consent order, as she was facing issues with her former spouse regarding visitation and child support, and she wanted to file the order

with the Maintenance Enforcement Program. I had not, however, filed a copy of that order and as such, did not provide a copy to her.

17. Also in 2016, N.C. instructed me to file an application for a final order related to custody and child support. I worked on application materials but failed to finalize them in a timely manner. The application had not been filed by the end of the year.

18. In January 2017, N.C. terminated our solicitor-client relationship and retained new counsel. I had still not filed the consent order from June 2015 at this time, and had therefore not provided N.C. with a copy of the same.

19. I admit that I failed serve N.C. at the standard of a reasonably prudent lawyer because I:

    a. allowed a year and a half to pass without filing the consent order that was read-in to court on June […], 2015;

    b. failed to provide N.C. with a copy of the same, notwithstanding her multiple requests; and

    c. failed to file an application for a final order related to custody and child support within a reasonable period of time.

File #2: C.D.

20. In September 2016, C.D. retained me to assist with an ongoing family law matter. She had been previously represented by another lawyer, and hired me to take over.

21. In mid-October 2016, I received C.D.'s file from her former lawyer's office. Starting around that time, C.D. sent me requests for an update about her file, including on October 28, November 15, and December 10, 2016. While I corresponded with C.D. during this period, I did not provide her with a thorough update about her matter until early 2017.

22. In early 2017, I assisted C.D. with obtaining a divorce.

23. Additionally, in March 2017, I met with C.D. and she instructed me to bring an application for unpaid child support. We discussed that I would aim to schedule the application for later in the year.

24. In December 2017, I advised C.D. that I had booked her application for special chambers in April 2018.

25. Although I filed the above-noted application on March […], 2018, I received a phone call from the courthouse shortly thereafter advising me that the application had been struck from the list.

26. On April 24, 2018, I received correspondence from opposing counsel, who asserted that C.D. had no chance of success in obtaining an order for unpaid child support.

27. By the summer of 2018, I had not taken any further steps with regard to scheduling C.D.'s application for unpaid child support. C.D. requested updates about this application

on July 20, August 16, September 16, and October 4, 2018. While I had some discussions with C.D. during this period about the need for a further retainer, redoing the application, and moving this matter forward, I did not ultimately file the materials or set it down to be heard.

28. In 2019, C.D. made multiple requests for a copy of her Certificate of Divorce, including on April 12, 2019 and May 2, 2019. While I did discuss C.D.'s request with her via text message, I failed to respond to her emails or provide her with a copy of the requested document. C.D. ultimately had to obtain a copy directly from the Court.

29. C.D. also continued to request updates about the application for unpaid child support, including on May 29 and August 14, 2019. I did not respond to these requests.

30. As stated above, in June 2019, I elected to become an "Inactive/Non-Practising" member of the LSA. I failed to advise C.D. that I had decided to go inactive and as such, could no longer act as her counsel.

31. I admit that I failed to serve C.D. at the standard of a reasonably prudent lawyer because I:

    a. failed to respond to her communications and requests promptly and, in some circumstances, at all;

    b. failed to act in her best interests with respect to the application for unpaid child support; and

    c. failed to take appropriate steps to facilitate the transfer of her file when I changed my status with the LSA to inactive, or to advise her of the same.

File #3: S.K.

32. In October 2015, S.K. retained me, through Legal Aid Alberta, to represent her in a family law matter. Initially, S.K. instructed me to bring an application for spousal support.

33. On October 16, 2015, I received an email from S.K., in which she asked if I had finished drafting materials for her matter. She noted that she had left a message for me earlier in the week, but had not received a response. In response, I advised S.K. that I would double check on a court date and get back to her.

34. On October 19, 2015, I advised S.K., via email, that her court date was November […], 2015 and that, although documents had not yet been served, I would send her filed copies once they were ready.

35. On October 30, 2015, S.K. asked for an update about her file via email.

36. At some point, I believe around this time, S.K. instructed me that she wanted to obtain a divorce as well. Given the nature of her retainer (through Legal Aid), it was important for me to bring all necessary applications at the same time.

37. On November 2, 2015, I advised S.K. that we would move forward with a “complete application”. I requested, via e-mail, that she take a Parenting After Separation course and send me copies of a few necessary documents. S.K. responded promptly, advising that she had already completed the Parenting After Separation course, and had copies of all the documents I requested. I asked her to drop off the documents at my office.

38. I subsequently attempted to compile disclosure for S.K., in order to move forward with her divorce. It was difficult to obtain this information from S.K., and there were times where she would email me for an update, seemingly having forgotten about our previous conversations. The disclosure was, however, ultimately compiled.

39. On November 30, 2015, I received an email from S.K. advising that she was “waiting patiently for the next direction from” me. I did not respond.

40. In 2016, S.K. continued to ask me for updates about my progress drafting her divorce materials, including on March 10, March 16, March 23, April 19, May 7, May 15 and May 25, 2016. I responded to some of these emails and advised S.K. that I would send her materials shortly. I also stated that would put “a claim into court in May”. I did not, however, do so.

41. S.K. followed-up with me to get an update about the status of her divorce on June 3 and June 29, 2016. I did not respond to either of these emails.

42. On July 15, 2016, S.K. sent me an email that said as follows:

> I received a phone message from your assistant that my court date is on August 23, 2016 at 10am. I want to let you know that I received the message and happy to know the actual court date. However, I have no knowledge of what is on the divorce paper you have been working on. Please guide me to the next step towards the court date.

43. On July 20, August 9, and August 22, 2016, S.K. followed-up with me, via email, about her July 15th email, as I had not yet responded to her request for information. She expressed concerns about losing her court date and the lack of information she had received about the divorce process. I did not respond to these emails, and S.K.’s matter did not proceed to court on August 23, 2016.

44. Between August and November, 2016, attempts were made to contact S.K.’s former spouse to obtain outstanding information, including his address for service.

45. On September 20, 2016, S.K. asked me for an update via email. She also asked if there was anything she could do to speed up the divorce process. I did not respond.

46. On October 15, 2016, S.K. sent me an email to ask when her divorce process would be over, as she had not seen any progress with it. In response, I advised that the opposing party would be served this week. On October 16, 2016, S.K. asked for clarification about the information in my previous email. I did not respond to this request.

47. On November 18, 2016, I received an email from S.K. with her former spouse’s new address. She asked me to contact her to discuss next steps.

48. On December 12, 2016, I received an email from S.K. that stated as follows:

> I really really really really wanted to get divorced this year … it is not happening, is it?
> It should not take that long. I am complying to you quickly; however, you don't do the same for me.
> This is an issue. I have ben ignored too long too many times.

49. On January 24, 2017, I received an email from Legal Aid Alberta regarding S.K.'s matter, requesting an update from me about S.K.'s file so that they could complete a financial/service eligibility assessment. On February 14, 2017, I responded to Legal Aid Alberta and stated as follows:

> Wow, I am sorry for the late reply.
>
> This matter is not close to completion, which is a combination of my fault and the clients. But it is not really her fault, she is just passive and quiet and her matter really has slipped through the cracks.
>
> Generally when I have asked for something from the client she has responded in a timely fashion. She certainly still needs the help. However, nothing has really proceeded due to a need for updated disclosure and sometimes lengthy periods of time not hearing from her, which leads to it getting pushed back etc.
>
> I would like to continue with her file. The contact information on the file is up-to-date to the best of my knowledge. She certainly needs the help for her family.

50. On March 30, 2017, I received an email from Legal Aid Alberta advising me that, effective immediately, they had ceased providing S.K. with services.

51. I admit that I failed to serve S.K. at the standard of a reasonably prudent lawyer because I:

    a. failed to respond to her communications promptly and, in some cases, at all; and

    b. failed to advance her matter.

File #4: J.C.

52. In or about 2015, J.C. retained me (through Legal Aid Alberta) to assist with her family law matter. I represented her for several years on various different applications related to both parenting and support.

53. On June […], 2017, the Court granted a parenting order and a child support order on J.C.'s matter.

54. On August 24, 2017, I received an email from J.C. advising that she had been hoping to hear from me about the outstanding court orders. I responded the following day as follows:

> I have nothing new to report. I guess I can only say that I am going to proactively put this on the list to get it settled and if we get the Orders before then, perfect. I'll do that tomorrow. …

55. While I did some work to compile first drafts of these orders, and discuss them with opposing counsel, they were not finished promptly. As such, on August 30, 2017, counsel for J.C.'s former spouse sent me an email that stated as follows:

> As per our previous two conversations regarding the Orders from trial, I have not received these Orders to review. Can you please send them at your earliest convenience as Mr. [M] is asking to see them also before I endorse the. *[sic]*

56. On October […], 2017, the child support order granted on June […], 2017 was filed in Court.

57. On November 17, 2017, I received an email from J.C. asking if there were any updates about the outstanding parenting order.

58. On February 1, 2018, I received an email from counsel for J.C.'s former spouse, which stated as follows:

> Further to our telephone conversation of January 26, 2018 and my email of January 25, 2018, I would like to inquire about the following:
>
> 1. Have you had a chance to review the draft copy of the Parenting Order I have sent to your office. If it is acceptable please advice and I will endorse a final copy and have it sent to your office forthwith;
> 2. You had advised that the Child Support Order in this matter had been filed in November 2017, and had indicated that you would send me a copy of the filed Order for my records and for my clients records. Can you please send this at your earliest convenience?
>
> …

It is my recollection that I had already provided opposing counsel with the materials requested in this email by this date, but they had clearly not been received.

59. On March […], 2018, the parenting order granted on June […], 2017 was filed in Court.

60. I admit that I failed to serve J.C. at the standard of a reasonably prudent lawyer because I failed to ensure the court orders granted on June […], 2017 were drafted and filed in a timely way.

<u>File #5: L.D.</u>

61. In May 2018, I was retained by L.D. to assist with a family law matter.

62. The Court granted interim orders for this matter on June […], June […], and July […], 2018. Although I agreed to draft and file these orders, I did not do so in a timely way. The opposing party in L.D.'s matter was unrepresented at the time these orders were granted.

63. By December 2018, the opposing party in L.D.'s matter had retained counsel. He proceeded to draft and file the above-noted orders, since I had not yet done so.

64. I admit that I failed to serve L.D. at the standard of a reasonably prudent lawyer because I failed to ensure the court orders granted on June […], June […], and July […], 2018 were drafted and filed in a timely way.

File #6: A.C.

65. In October 2017, I was retained by A.C. to assist with her family law matter. At the time I was retained, she had an upcoming court date that she needed urgent assistance with.

66. A.C. subsequently instructed me to bring an Application for Relocation on her behalf, as she wanted to move with her children.

67. On March 5 and 10, 2018, I received emails from A.C. in which she inquired about my progress drafting her affidavit in support of the Application for Relocation, and expressed her desire to move forward with it. In response, I advised as follows:

> … My instructions were mixed up and my assistant was getting ready to send you a final copy for you to sign and commission there. So I am in court all day today, but I scheduled time tomorrow to get to you what essentially looks like a final draft, with completed exhibits and such.

68. On April 3 and 12, 2018, I received additional emails from A.C., in which she asked about my progress with her affidavit in support of the above-noted application. On April 16, 2018, I received a further email from A.C., which stated as follows:

> I'd really like an update. Its been almost a month since I sent all that info to you and have heard from you.
> Wondering what's going on. Its been 5 months since we started this and nothing has started moving yet…

69. On April 16, 2018, I replied to A.C. and advised as follows:

> I actually have an entire package of information ready for you now and it seems like a perfect time to go over and have you come in to sign. It's been a work in progress with the updates, but I'll make sure to send you what I do have for you to review! I'll aim to have it sent to you tomorrow evening (I'm just in court straight today and tomorrow)

70. Notwithstanding my email excerpted above, I did not have an affidavit ready for A.C.'s review at that time. As such, on April 24, 2018, I sent a copy of materials from A.C.'s file

to my wife (who is also a lawyer, but did not practice at the Firm), who completed A.C.'s affidavit that same day. I did not have authorization to send these materials to my wife or seek her assistance on A.C.'s matter.

71. On June 26, 2018, A.C. and I discussed her desire to end our solicitor-client relationship. A.C. sent me an email that stated as follows:

> I don't really know what to say. I feel like you've led me along. You had me feel very hopeful in the beginning- saying affidavits and court in Feb, then May, then June. Then a few weeks ago you said any day. And then I never heard back from you, or got any responses to my attempts to connect with you.
>
> Now it's the end of June- we have to start enrolling the kids in activities for September already. I'm supposed to be gone for Aug 1- even have my house rented out. But can't make a solid decision on where I'm going because I don't know what the situation with the kids is going to be.
>
> He's coming at me for child support and section 7 expenses now. And I've been told that he has all of his ducks in a row ready to do *[sic]* - and he's going to succeed. Well, I feel completely lost- completely stressed out and like I have no plan.
>
> My intake appointment is on July 3rd with my previous lawyer… If you can make something happen before then, great- otherwise I will change back to her.

72. That same day, I responded to A.C. and stated as follows:

> I did and that is my fault. I want to help, and I'll move on this today and tomorrow and give you a clear game plan.

73. I continued to work with A.C. for a short amount of time, but she ultimately ended our relationship in mid-August, 2018.

74. I admit that I failed to serve A.C. at the standard of a reasonably prudent lawyer because I:

    a. sent A.C.'s confidential materials to my wife, without A.C.'s authorization or consent to do so; and

    b. failed to keep A.C. informed on the status of her matter, and failed to advance her matter.

Admission re: Citation #2

75. I admit that I failed to provide competent, timely, conscientious, and diligent service to my clients N.C., C.D., S.K., J.C., L.D., and A.C.

Citation #3

C.D.

76. On September 21, 2016, C.D. provided me with an initial retainer of $1,000, which I deposited into the Firm's trust account. On March 31, 2017, C.D. followed-up with a second retainer of $4,000, which I also deposited in the Firm's trust account.

77. I withdrew funds from the Firm's trust account for the payment of fees that had been incurred on C.D.'s file on the following dates: January 31, 2017; April 28, 2017; June 13, 2017; and July 31, 2017 (collectively, the "**Withdrawals**"). I did not, however, send C.D. any Statements of Account on or before the dates of the Withdrawals. The Withdrawals exhausted the retainers paid by C.D. into trust.

78. On January 22, 2019, following my termination from the Firm, C.D. made a final payment to the Firm related to her matter.

A.C.

79. On October 17, 2017, A.C. provided me with an initial retainer of $2,500, which I deposited into the Firm's trust account. A.C. followed-up with a second payment of $2,000 on July 31, 2018, which I also deposited in the Firm's trust account. I will refer to these payments collectively as the "**Retainer**".

80. On November 30, 2017, I withdrew $1,338.23 from the Firm's trust account for payment of fees that had been incurred on A.C.'s file. I did not, however, send A.C. a Statement of Account on or before the date of this withdrawal.

81. On August 20, 2018, I sent A.C. an electronic copy of a Statement of Account dated November 30, 2017 for the first time.

82. A.C. ultimately decided to retain new counsel. I therefore returned the funds that remained in trust from the Retainer on September 4, 2018.

Admission re: Citation #3

83. I admit that I failed to follow Rule 119.21 of *The Rules of the Law Society of Alberta* by withdrawing money from trust without sending statements of accounts to C.D. and A.C. before making withdrawals or concurrently with those withdrawals.

ADMISSIONS OF FACT AND GUILT

84. I admit as facts the statements in this Statement of Admitted Facts and Admissions of Guilt for the purposes of these proceedings.

85. When I admit guilt to the conduct described herein, I admit that the conduct is "conduct deserving of sanction" as defined under section 49 of the *Legal Profession Act*.

ACKNOWLEDGEMENTS

86. I have had the opportunity to consult with legal counsel.

87. I have signed this statement freely and voluntarily, without compulsion or duress.

88. I understand the nature and consequences of my admissions.

89. I understand 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 __9th__ DAY OF _____August_____, 2020.

"Matthew Ottewell"

MATTHEW OTTEWELL