

**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 KEVAN PETERSON
A MEMBER OF THE LAW SOCIETY OF ALBERTA**

Hearing Committee

Jim Lutz, QC – Chair
Sandra Mah – Adjudicator
Edith Kloberdanz – Adjudicator

Appearances

Christine Blair – Counsel for the Law Society of Alberta (LSA)
Kevan Peterson – Self-represented (No Appearance)

Hearing Date

January 25, 2021

Hearing Location

Virtual Hearing

HEARING COMMITTEE REPORT

Overview

1. The Hearing concerns 21 citations arising from 6 complaints regarding Kevan Peterson. Mr. Peterson has been on administrative suspension since January 18, 2019. The allegations broadly speaking cover: failing to attend court, failing to file documents, failing to keep clients informed, failing to be candid, misleading clients, practicing law while suspended and failing to reply to the Law Society of Alberta (LSA).
2. On January 25, 2021, the Hearing Committee (Committee) convened a hearing into the conduct of Mr. Peterson based on the following citations:

Complaint CO20190172

- 1) It is alleged Kevan B. Peterson failed to serve his client, P.S., in a competent, diligent, and conscientious manner and that such conduct is deserving of sanction;
- 2) It is alleged that Kevan B. Peterson failed to follow his client's instructions to pay court ordered costs and that such conduct is deserving of sanction;

- 3) It is alleged that Kevan B. Peterson practiced law while being suspended and that such conduct is deserving of sanction;
- 4) It is alleged that Kevan B. Peterson breached Rule 119.21(4) when he dispersed trust funds and failed to provide a Statement of Account to P.S., and that such conduct is deserving of sanction;
- 5) It is alleged that Kevan B. Peterson failed to reply to communications from the Law Society of Alberta and that such conduct is deserving of sanction;

Complaint CO20190201

- 6) It is alleged Kevan B. Peterson failed to serve his client, J.G., in a competent, diligent, and conscientious manner and that such conduct is deserving of sanction;
- 7) It is alleged Kevan B. Peterson failed to reply promptly and completely to communications from the Law Society of Alberta and that such conduct is deserving of sanction;

Complaint CO20190681

- 8) It is alleged Kevan B. Peterson failed to serve his client, C.V., in a competent, diligent, honest, and conscientious manner and that such conduct is deserving of sanction;
- 9) It is alleged that Kevan B. Peterson was practicing law while suspended and that such conduct is deserving of sanction;
- 10) It is alleged that Kevan B. Peterson failed to reply in a prompt and timely manner to communications from the Law Society of Alberta and that such conduct is deserving of sanction;

Complaint CO20190806

- 11) It is alleged Kevan B. Peterson failed to serve his client, C.S., in a competent, diligent, honest, and conscientious manner and that such conduct is deserving of sanction;
- 12) It is alleged Kevan B. Peterson was practicing law while suspended and that such conduct is deserving of sanction;
- 13) It is alleged Kevan B. Peterson failed to reply to communications from the Law Society of Alberta in a prompt and timely manner and that such conduct is deserving of sanction;

Complaint CO20191202

- 14) It is alleged Kevan B. Peterson was practicing law while suspended and that such conduct is deserving of sanction;
- 15) It is alleged Kevan B. Peterson failed to inform his client, D.R., that he was suspended from practicing law and that such conduct is deserving of a sanction;
- 16) It is alleged Kevan B. Peterson failed to advance his client's matter and that such conduct is deserving of a sanction;
- 17) It is alleged Kevan B. Peterson misled his client as to the status of his matter and such conduct is deserving of a sanction;
- 18) It is alleged Kevan B. Peterson created a fraudulent document and such conduct is deserving of a sanction;

Complaint CO20191603

- 19) It is alleged Kevan B. Peterson failed to serve his client, W.M., in a competent, diligent, honest, and conscientious manner and that such conduct is deserving of sanction;
- 20) It is alleged Kevan B. Peterson was practicing law while suspended and that such conduct is deserving of sanction;
- 21) It is alleged Kevan B. Peterson failed to reply to communications from the Law Society of Alberta and that such conduct is deserving of sanction.

Pre-Hearing Application

3. On December 7, 2020, the LSA made a Pre-Hearing Application with respect to the above noted citations asking the Committee for advance ruling on a Notice to Admit Facts and Exhibits (Notice to Admit) for the above noted hearing. The materials were filed on December 7, 2020 and the Committee convened on December 28, 2020 to render a decision on the Pre-Hearing Application.
4. Counsel for the LSA sought to admit facts and exhibits in the above-mentioned manner, specifically those documents set out in Exhibit 7 of the within matter.
5. In sum, the Notice to Admit contains specific allegations related to the above noted citations and the evidence related to the complaints. This is all set out in Schedule "A", "Facts and Exhibits" (Schedule "A") to the Notice to Admit.
6. LSA's attempt at communicating with Mr. Peterson began on December 17, 2019 and continued through to February 19, 2020 when the LSA received no reply from Mr. Peterson. The confirmation of the Notice to Admit had been delivered to him on February 19, 2020. In consideration of this and in consideration of the authority set out

for Notice to Admit applications at Rules 37 to 40 of the Rules of the Law Society of Alberta (Rules), in the Pre-Hearing Guide, and under section 68 of the *Legal Profession Act* (the *Act*), the Committee is given jurisdiction to admit evidence in any matter it considers proper.

7. Mr. Peterson is a member of the LSA and is required to respond promptly to the LSA. Since October 2019, despite repeated attempts which will be discussed later, Mr. Peterson has failed to reply to the LSA and failed to remain in contact with the LSA pursuant to Rule 42 of the Rules. Mr. Peterson has also failed to contact the LSA to provide his address or phone number. Though his email address continues to accept communications, this has been the only means of communicating with him up to and including February 24, 2020 save and except where a discussion with Mr. Peterson's daughter was held. She indicated he had moved to Toronto and she did not have an address for him. She indicated to LSA Investigators that her sense is that he did not want to be found in any event. She did not expect him to be returning to the jurisdiction. Though his cell phone was still active and Investigators left messages, there was no response from Mr. Peterson. This is the current state of affairs.
8. For the reasons noted, the Pre-Hearing Application to admit the Notice to Admit was granted, and the Hearing commenced on the basis of those materials filed and the facts presented therein.

Summary of Decision

9. After reviewing all of the evidence and Exhibits and hearing the submissions of the LSA and noting the Member had failed to respond to the LSA or attend at the Hearing, for the reasons set out below, the Committee finds Mr. Peterson guilty of conduct deserving sanction on all of the above citations, pursuant to section 71 of the *Act*.
10. The Committee also finds that, based on the facts of this case, the appropriate sanction for Mr. Peterson is a 13-month suspension commencing January 25, 2021.
11. In addition, pursuant to section 72(2) of the *Act*, the Committee orders costs in the amount of \$12,547.50.

Preliminary Matters

12. There were no objections to the constitution of the Committee, jurisdiction was established by Exhibits 1-4, and a private hearing was not requested (Exhibit 5).
13. Consistent with the LSA policy of transparency, hearings are to be public unless ordered otherwise. There is nothing requiring this Committee to deviate from what should be considered the norm of practice and the Hearing was appropriately a public hearing.

Schedule “A” Facts and Exhibits

14. As previously noted in paragraphs 4 and 5, Schedule “A” materials contained within the Notice to Admit were admitted by the Committee (Exhibit 7, Tabs 1-38). The facts related to the citations are summarized in Schedule “A” and each section is cross-referenced to source material including but not limited to interview transcripts, correspondence and investigation report. As was also noted in Exhibit 6, service of the Notice to Admit was proven.

Standard of Proof

15. As with all administrative hearings, unless otherwise specified by a statute, the standard of proof is on the balance of probabilities as set out in *F.H. v. McDougall*, 2008 SCC 53. The standard of proof on the balance of probabilities was recently confirmed by the Alberta Court of Appeal in *Moll v. College of Alberta of Psychologists*, 2011 ABCA 110. The Court noted the law is now clear there is one civil standard of proof in common law. That is proof on a balance of probabilities.

LSA Submissions

16. LSA Counsel began their opening statement indicating that the LSA sought a lengthy suspension or disbarment for the 21 citations based on the complaints of 6 members of the public. The following evidence was presented by LSA Counsel.

Complaint CO20190172

17. **Citation 1: It is alleged Kevan B. Peterson failed to serve his client, P.S., in a competent, diligent, and conscientious manner and that such conduct is deserving of sanction.**

- a. Failing to attend Court.

Mr. Peterson represented P.S. in a family law matter. A Court Application was set for April 27, 2018. Mr. Peterson did not attend Court to advocate for P.S. nor arrange for his client to attend. Costs were ordered against P.S. This is supported by:

- Statement of P.S.;
- Procedural record card showing costs were ordered against P.S. on April 27, 2018;
- Court Order; and
- Admission by Mr. Peterson on August 9, 2019.

- b. Failing to obtain consent from P.S. for an adjournment and failing to inform him of the adjournment.

An Application was set to be heard on December 14, 2018. Mr. Peterson consented to its adjournment but did not inform P.S. This is supported by:

- Statement by P.S.; and
- Procedural record card showing the matter was adjourned *sine die* by consent on December 13, 2018.

c. Failing to send P.S. Statements of Account following the disbursement of funds from the trust account.

This is supported by:

- Admission by Mr. Peterson that he did not provide a Statement of Account to P.S. but had disbursed funds from trust.

d. Failing to pay \$500.00 in court costs as instructed by P.S.

This is supported by:

- Statement by P.S.;
- Text messages between P.S. and Mr. Peterson show that in March 2019, Mr. Peterson arranged to give P.S. \$500.00 indicating Mr. Peterson had not paid the costs as instructed by P.S. in April 2018; and
- Admission by Mr. Peterson on August 9, 2019 that he provided \$500.00 to P.S.

18. **Citation 2: It is alleged Kevan B. Peterson failed to follow his client's instructions to pay court ordered costs and that such conduct is deserving of sanction.**

P.S. gave Mr. Peterson \$500.00 in April 2018 to pay court ordered costs, but Mr. Peterson did not pay them. This is supported by:

- Statement by P.S.;
- Text messages between P.S. and Mr. Peterson show that in March 2019, Mr. Peterson arranged to give P.S. \$500.00 indicating Mr. Peterson had not paid the costs as instructed by P.S. in April 2018; and
- Admission by Mr. Peterson on August 9, 2019 that he provided \$500.00 to P.S.

19. **Citation 3: It is alleged Kevan B. Peterson was practicing law while suspended and that such conduct is deserving of sanction.**

Mr. Peterson was suspended on January 2, 2019. He continued to practice law and provide legal services to P.S. while suspended. This is supported by:

- Statement by P.S.; and
- Text messages between P.S. and Mr. Peterson for the period of January 8, 2019 to April 24, 2019.

20. **Citation 4: It is alleged Kevan B. Peterson breached Rule 119.21(4) when he disbursed trust funds and failed to provide a Statement of Account to P.S. and that such conduct is deserving of sanction.**

This is supported by:

- Admission by Mr. Peterson in the interview of August 9, 2019. Exhibit 7, pages 65 and 66.

21. **Citation 5: It is alleged Kevan B. Peterson failed to reply to communications from the Law Society of Alberta and that such conduct is deserving of sanction.**

This is supported by:

- Letter sent to Mr. Peterson on May 9, 2019, via email, enclosing materials related to the complaint by P.S. requesting Mr. Peterson provide a written response within fourteen days;
- Confirmation of delivery of the May 9, 2019 email was received by the LSA;
- Mr. Peterson did not respond to the LSA's email dated May 9, 2019;
- A reminder letter was sent to Mr. Peterson on May 31, 2019, via email, regarding the May 9, 2019 letter, requesting his response by June 17, 2019;
- Confirmation of delivery of the May 31, 2019 email was received by the LSA;
- Mr. Peterson did not respond to the May 31, 2019 email as requested; and
- Admission by Mr. Peterson on August 9, 2019 that he did not respond to the LSA's letters regarding this complaint.

Complaint CO20190201

22. **Citation 6: It is alleged Kevan B. Peterson failed to serve his client, J.G., in a competent, diligent, and conscientious manner and that such conduct is deserving of sanction.**

This consists of Mr. Peterson:

- a. Failing to advance his client's matter.

J.G. retained Mr. Peterson in November 2015. In November 2016 J.G. signed a Statement of Claim but nothing was filed in Court and the limitation period on his claim passed. This is supported by:

- Statements by M.M. and J.G; and
- Response by Mr. Peterson dated April 30, 2019 in which he admitted he failed to file a Statement of Claim.

- b. Failing to respond to communications from J.G. and failing to be candid about the status of his matter.

J.G. contacted Mr. Peterson every few months to check on his file and in mid-2018 Mr. Peterson advised him he was closing his practice, but as his matter was almost complete, he would finish it by the end of the year. As of December 2018, he had not heard from Mr. Peterson. This is supported by:

- Statements by M.M. and J.G.

23. **Citation 7: It is alleged Kevan B. Peterson failed to reply promptly and completely to communications from the Law Society of Alberta and that such conduct is deserving of sanction.**

This is supported by:

- Letter sent to Mr. Peterson on February 12, 2019, via email, enclosing materials related to the complaint by M.M. requesting he provide a written response within fourteen days;
- Confirmation of delivery of the February 12, 2019 email was received by the LSA;
- Mr. Peterson did not respond to the February 12, 2019 email;
- On March 14, 2019 a LSA Investigator spoke with Mr. Peterson and gave him a reminder letter requesting he respond to the complaint by April 1, 2019;
- Mr. Peterson did not respond to the April 1, 2019 letter;
- On April 2, 2019 Conduct Counsel telephoned Mr. Peterson enquiring about his response and followed up with an email on April 24, 2019 requesting he respond by May 1, 2019; and
- Mr. Peterson provided a written response to the complaint on April 30, 2019 after being contacted by the LSA on at least four occasions.

Complaint CO20190681

24. **Citation 8: It is alleged Kevan B. Peterson failed to serve his client, C.V., in a competent, diligent, honest, and conscientious manner and that such conduct is deserving of sanction.**

This consists of Mr. Peterson:

a. Failing to communicate with C.V. on a timely and regular basis.

C.V. retained Mr. Peterson in May 2015 at which time she signed a Statement of Claim and Contingency Fee Agreement, following which he failed to communicate with her on a timely and regular basis. This is supported by:

- Statements by C.V.;
- Interview with C.V.; and
- Admission by Mr. Peterson on August 9, 2019 in which he admitted he was difficult for C.V. to get a hold of and that he failed to communicate with her in a timely manner and update her.

b. Failing to keep C.V. informed on her matter and failing to advance her matter.

C.V. has only seen the Statement of Claim and the Contingency Fee Agreement that Mr. Peterson presented to her in May 2015 when she first retained him. She did not know what was occurring in her matter. She did a Court search in May 2019 and learned that something was filed on May 26, 2017, two years after she had retained Mr. Peterson. Mr. Peterson admitted he drafted a Statement of Claim in July 2015 but thinks he failed to file it on time and that he missed a deadline and could no longer advance her Claim. This is supported by:

- Interview with C.V.;
- Statements by C.V.; and
- Admission by Mr. Peterson on August 9, 2019 in which he acknowledged he did little on her file and failed to advance her matter.

c. Failing to be honest with C.V.

Mr. Peterson was suspended on January 2, 2019. C.V. stated that between January and April 2019 he communicated with her, however, she was not aware of his suspension at that time. This is supported by:

- Interview with C.V.;
- Statements by C.V.; and
- Admission by Mr. Peterson on August 9, 2019 in which he acknowledged he failed to inform C.V. of his suspension.

Mr. Peterson advised C.V. that he was waiting for the opposing party to get back to him, however this was a charade and he confirmed he had no communication with the Defendants or their counsel but led C.V. to believe he did, thereby failing to be honest with her. This is supported by:

- Interview with C.V.;
- Statements by C.V.; and
- Admission by Mr. Peterson on August 9, 2019.

25. **Citation 9: It is alleged Kevan B. Peterson was practicing law while suspended and that such conduct is deserving of sanction.**

Mr. Peterson was suspended on January 2, 2019. Between January and April 2019, he acted for C.V. This is supported by:

- Interview with C.V.;
- Statements by C.V.; and
- Admission by Mr. Peterson on August 9, 2019.

26. **Citation 10: It is alleged Kevan B. Peterson failed to reply in a prompt and timely manner to communications from the Law Society of Alberta and that such conduct is deserving of sanction.**

This is supported by:

- Letter sent to Mr. Peterson on May 15, 2019, via email, enclosing materials related to the complaint by C.V. requesting he provide a written response within 14 days;
- Confirmation of delivery of the May 15, 2019 email was received by the LSA;
- Mr. Peterson did not respond to the May 15, 2019 letter;
- Additional materials from C.V. were sent to Mr. Peterson on June 4, 2019 confirming his response was still anticipated;
- Confirmation of delivery of the June 4, 2019 email was received by the LSA;
- Mr. Peterson did not reply to the June 4, 2019 letter. A reminder letter was sent on June 12, 2019, via email, regarding previous letters and requesting a response by June 26, 2019;
- Confirmation of delivery of the June 12, 2019 email was received by the LSA;
- Mr. Peterson did not respond to the June 12, 2019 letter; and
- Admission by Mr. Peterson on August 9, 2019 that he failed to respond in a timely manner to the LSA on this complaint.

Complaint CO20190806

27. **Citation 11: It is alleged Kevan B. Peterson failed to serve his client, C.S., in a competent, diligent, honest, and conscientious manner and that such conduct is deserving of sanction.**

This consists of Mr. Peterson:

a. Failing to advance C.S.'s matter.

C.S. retained Mr. Peterson in April 2009. In April 2011 he filed a Statement of Claim on her behalf, and thereafter he failed to take steps to move the action forward. This is supported by:

- The procedural record card shows no action taken between April 16, 2012 and April 8, 2016. On May 13, 2016 an Order to dismiss the action was granted; and
- Admission by Mr. Peterson on August 9, 2019 that he failed to serve his client.

b. Failing to be honest with C.S.

No action was taken between April 16, 2012 and April 8, 2016. On May 13, 2016 an Order to dismiss the action was granted. Mr. Peterson did not inform C.S. of the dismissal and misled her to believe a positive resolution remained possible. This is supported by:

- Statement by C.S.;
- Interview of C.S. stating Mr. Peterson never told her the claim was dismissed, however, told her on a continual basis that he was negotiating with the Defendants and that a cash settlement was possible by the end of each year; and
- Admission by Mr. Peterson on August 9, 2019 that he did not inform C.S. the claim had been dismissed in May 2016, deceiving her from May 2016 onwards as to the status of her matter. He stated this was a charade on his part for over three years when telling her the Claim remained active and worth \$50,000.00 to \$75,000.00.

Mr. Peterson was suspended on January 2, 2019. He did not inform C.S. of his suspension. This is supported by:

- Interview with C.S.; and
- Admission by Mr. Peterson on August 9, 2019 that he failed to inform C.S. of his suspension.

c. Failing to respond to C.S. in a timely manner.

This is supported by:

- Statement by C.S.; and
- Admission by Mr. Peterson on August 9, 2019.

28. **Citation 12: It is alleged Kevan B. Peterson was practicing law while suspended and that such conduct is deserving of sanction.**

Mr. Peterson was suspended on January 2, 2019 but acted for C.S. following the suspension. This is supported by:

- Interview of C.S. stating Mr. Peterson acted on her matter until May 2019; and
- Admission by Mr. Peterson on August 9, 2019.

29. **Citation 13: It is alleged Kevan B. Peterson failed to reply to communications from the Law Society of Alberta in a prompt and timely manner and that such conduct is deserving of sanction.**

This is supported by:

- An Investigation Report was completed on September 4, 2019 and on September 17, 2019 a letter was sent to Mr. Peterson, via email, enclosing a copy of the Report. The letter requested Mr. Peterson provide a written response to the Report within fourteen days;
- Confirmation of delivery of the September 17, 2019 email was received by the Law Society; and

- Mr. Peterson did not respond.

Complaint CO20191202

30. **Citation 14: It is alleged Kevan B. Peterson was practicing law while suspended and that such conduct is deserving of sanction.**

This is supported by:

- On January 2, 2019 Mr. Peterson was suspended by the LSA;
- Statements by D.R., a former client, that between April and June 2019 Mr. Peterson had been acting on his matter but did not inform him of the suspension; and
- Admission by Mr. Peterson on August 9, 2019 that he was providing legal services but never advised D.R. of the suspension.

31. **Citation 15: It is alleged Kevan B. Peterson failed to inform his client, D.R., that he was suspended from practicing law and that such conduct is deserving of sanction.**

This is supported by:

- On January 2, 2019 Mr. Peterson was suspended;
- Statement by D.R.; and
- Admission by Mr. Peterson on August 9, 2019.

32. **Citation 16: It is alleged Kevan B. Peterson failed to advance his client's matter and that such conduct is deserving of sanction.**

Mr. Peterson told D.R. he had filed a Statement of Claim and was working on obtaining a settlement for him. He provided D.R. with a Release, purporting to be from the opposing party, on April 4, 2019 and a letter on April 26, 2019 outlining the possible disbursement of \$22,000.00 in settlement funds. On June 14, 2019 Mr. Peterson provided D.R. with \$2,000.00 of his own personal funds leading him to believe this was part of the settlement obtained from the opposing party. However, Mr. Peterson had not taken steps to advance the matter. This is supported by:

- Statements and materials from D.R.; and
- Admission by Mr. Peterson on August 9, 2019 that he failed to serve D.R.

33. **Citation 17: It is alleged Kevan B. Peterson misled his client as to the status of his matter and that such conduct is deserving of sanction.**

Mr. Peterson informed D.R. that a Statement of Claim had been filed when it had not. He sent D.R. a Release document purporting to be from the Defendant, a letter outlining the possible distribution of the settlement funds, and \$2,000.00 purporting to

be initial settlement funds. However, Mr. Peterson had not been negotiating with the Defendants and no settlement had been reached therefore the documents and communications he sent D.R. were meant to mislead him. This is supported by:

- Statements and materials from by D.R.; and
- Admission by Mr. Peterson on August 9, 2019 that he did not file a Statement of Claim for D.R. but did not inform him of this. He admitted he created a Release document, and a letter outlining the distribution of funds that were meant to mislead D.R. into believing a settlement of \$22,000.00 was reached. To further this charade, on June 14, 2019, he provided D.R. with \$2,000.00 to support the belief a settlement was forthcoming.

34. **Citation 18: It is alleged Kevan B. Peterson created a fraudulent document and that such conduct is deserving of sanction.**

This is supported by:

- Statement and materials from D.R.; and
- Admission by Mr. Peterson on August 9, 2019.

Complaint CO20191603

35. **Citation 19: It is alleged Kevan B. Peterson failed to serve his client, W.M., in a competent, diligent, honest, and conscientious manner and that such conduct is deserving of sanction.**

This is supported by:

- W.M. retained Mr. Peterson in May 2014 but has never received any information that anything was done on his matter. Mr. Peterson told him in June 2019 that a settlement should be made soon. Mr. Peterson never informed him he was suspended;
- The Custodian for Mr. Peterson's practice was unable to find a client file for W.M. in the documents taken from Mr. Peterson's practice. The only document found was a letter to W.M. from his employer; and
- Mr. Peterson did not reply to this complaint.

36. **Citation 20: It is alleged Kevan B. Peterson was practicing law while suspended and that such conduct is deserving of sanction.**

This is supported by:

- Mr. Peterson was suspended on January 2, 2019;
- Statements by W.M. that Mr. Peterson did not inform him he was suspended, however, in June 2019 Mr. Peterson was communicating with him and discussing a settlement; and

- Mr. Peterson did not reply to this complaint.

37. **Citation 21: It is alleged Kevan B. Peterson failed to reply to communications from the Law Society of Alberta and that such conduct is deserving of sanction.**

This is supported by:

- A letter was sent to Mr. Peterson on December 17, 2019, via email, requesting a written response to the complaint within 14 days;
 - Confirmation of delivery of the December 17, 2019 email was received by the LSA;
 - Mr. Peterson did not respond to the December 17, 2019 letter;
 - A reminder letter was sent to Mr. Peterson on February 19, 2020, via email, requesting a response by March 5, 2020;
 - Confirmation of delivery of the February 19, 2020 email was received by the LSA; and
 - Mr. Peterson did not respond to the LSA's email dated February 19, 2020.
38. LSA Counsel, as previously indicated, sought a lengthy suspension or disbarment. LSA Counsel argued that the issues of governability and the seriousness of the multitude of allegations, coupled with the lack of contact with Mr. Peterson, justified a disbarment. As well, the lengthy period of time that Mr. Peterson took to contact the LSA fails to ensure public confidence that the LSA can in fact govern its members.
39. In addition, LSA Counsel emphasized Mr. Peterson's practice of law while unauthorized, failure to be forthcoming with clients, the multiplicity of claims, the fact that many individuals suffered a loss to pursue litigation while Mr. Peterson continued to mislead them and represent their claims, and Mr. Peterson reported their claims were progressing when in fact they were not completed.

Analysis and Decision

Merits

40. The Committee finds Mr. Peterson's conduct was incompatible with the best interests of the public or of the members of the Society pursuant to section 49(1) of the *Act*. This conduct also tends to harm the standing of the legal profession generally, thus, Mr. Peterson's conduct is found to be deserving of sanction. The Committee finds Mr. Peterson guilty on all of the citations.

Sanction

41. LSA Counsel provided a number of decisions in support of their position on sanction. They were as follows:
1. *Law Society of Alberta v. Haniff-Darwent*, 2020 ABLS 2
 2. *Law Society of Alberta v. Virk*, 2020 ABLS 4
 3. *Law Society of Alberta v. Persad*, 2020 ABLS 27

4. *Law Society of Alberta v. Carlson*, 2019 ABLs 14
 5. *Law Society of Alberta v. McKay*, 2016 ABLs 34
 6. *Law Society of Alberta v. McKay*, 2016 ABLs 60
 7. *Law Society of Alberta v. Elgert*, 2012 ABLs 9
42. An overview of the above-noted decisions indicates the sanction for the type of conduct of non-responsive members and ones that have misled their clients is that of a suspension. The only authority put forward by the LSA where the appropriate sanction was a disbarment was *Virk*, which at the time of the Hearing was under appeal by the Benchers, and the decision had yet to be released.
43. The remaining authorities dealt with suspensions ranging from two weeks (*Haniff-Darwent*) to four months (*McKay* and *McKay*).
44. There were no further authorities supporting the position of disbarment and after questions from the Committee, the LSA agreed that a suspension would be the best disposition for the conduct of Mr. Peterson. The Committee discussed the sanction process and the purposeful approach to the disciplinary process as set out in section 49 of the *Act*, which is guided by the following:
- The purpose of the Law society discipline process is not to punish offenders or exact retribution but rather to protect the public, maintain high professional standards and preserve public confidence in the legal profession.*
- Lawyer and Ethics: Professional Response and Responsibilities by Gavin MacKenzie at page 26-1.
45. The sanctioning process should involve a purposeful approach. In doing so, those factors which relate most closely to the fundamental purposes outlined above will be weighed more heavily than other factors. Further, the final sanction must be one which is consistent with the fundamental purpose of the sanctioning process.
46. Under section 72(1) of the *Act*, after having found the Member guilty of conduct deserving of sanction, the Committee may order disbarment, suspension or a reprimand. The Committee found that suspension is the appropriate sanction.
47. As previously noted, disbarment was not the appropriate sanction and would not meet the fundamental principles of the sanction process. Thus, a suspension was appropriate, keeping in mind the relevant factors set out in *Bolton v. Law Society*, [1994] 1 WLR 512 at 519 and noting the absence of a prior disciplinary record.
48. The Committee found that it was appropriate to suspend Mr. Peterson for a period of 13 months for the above cited citations. It was noted that one of the concerns of the Committee is that Mr. Peterson was not forthcoming, and it appeared that he continued to engage in unlawful conduct until he was caught or wanted to be caught.
49. In mitigation, it appeared that Mr. Peterson offered his own personal money to one of his clients because he did not want to harm the client he was failing to serve.
50. The Committee felt that given Mr. Peterson's antecedents and the allegations that were proven by the LSA, a 13-month suspension meets the principles of proportionality and

the need to denounce the conduct, and avoids undue disparity with sanctions imposed in other cases.

51. Though it is important to remember the Committee is not bound by any prior decisions, a suspension would in fact address concerns of protecting the public, ensuring the appropriate sentence is imposed for the conduct, maintaining public confidence, and maintaining the integrity of the profession and the ability for the profession to govern its own members.

Concluding Matters

52. The Committee also considered and approved costs as set out in the amount of \$12,547.00. These costs will be payable by the Mr. Peterson one year from the date of the Hearing or more specifically, by January 25, 2022.
53. As was also noted, failing to pay the costs as ordered will result in an automatic suspension as set out in section 79 of the *Act* in addition to the 13-month suspension imposed. The Committee also notes that given the suspension ordered, pursuant to section 85 of *Act*, there should be Notice to the Profession.
54. As well, there should be a Notice to the Attorney General of our decision for their consideration.
55. 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 Kevan Peterson will be redacted, and further redactions will be made to preserve client confidentiality and solicitor-client privilege (Rule 98(3)).

Dated at Calgary, Alberta, this 18th day of May 2021.

Jim Lutz, Q.C.

Sandra Mah

Edith Kloberdanz