

**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 MARTIN SCHULZ  
A MEMBER OF THE LAW SOCIETY OF ALBERTA**

**Single Bencher Hearing Committee**

Ronald Sorokin – Chair

**Appearances**

Karen Hansen – Counsel for the Law Society of Alberta (LSA)  
Simon Renouf, KC – Counsel for Martin Schulz

**Hearing Date**

December 20, 2022

**Hearing Location**

Virtual Hearing

**HEARING COMMITTEE REPORT - SANCTION**

**Overview**

1. The following citations were directed to hearing by the Conduct Committee Panel on January 18, 2022:
  - 1) It is alleged that Martin G. Schulz failed to issue and serve the Statement of Claim of TC prior to the expiry of the limitation period and that such conduct is deserving of sanction.
  - 2) It is alleged that Martin G. Schulz failed to promptly disclose a material error to his client contrary to section 7.7-1 of the Code of Conduct and that such conduct is deserving of sanction.
  - 3) It is alleged that Martin G. Schulz improperly amended a Statement of Claim of a former client and that such conduct is deserving of sanction.
  - 4) It is alleged that Martin G. Schulz failed to comply with the Rules of Court and the Code of Conduct in serving an Amended Statement of Claim and that such conduct is deserving of sanction.

- 5) It is alleged that Martin G. Schulz failed to promptly notify his insurer or other indemnitor of the missed limitation date on TC's file, as required by section 7.7 - 2 of the Code of Conduct, and that such conduct is deserving of sanction.
2. On June 28, 2022, the LSA and Mr. Schulz collaborated on a Statement of Admitted Facts and Admission of Guilt (the Agreed Statement). The Agreed Statement is attached hereto as Appendix A.
3. The Agreed Statement was found to be in an acceptable form by a Conduct Committee Panel on September 13, 2022, and therefore this hearing was convened by a single Benchler pursuant to section 60(3) of the *Legal Profession Act (Act)*.
4. Pursuant to section 60(4) of the *Act*, after a statement of admission of guilt is accepted by the Conduct Committee Panel, it is deemed to be a finding of the hearing committee that the lawyer's conduct is conduct deserving of sanction pursuant to section 49 of the *Act*.
5. After reviewing all the evidence and exhibits and hearing the submissions of the LSA and Mr. Schulz for the reasons set out below, the Hearing Committee (the Committee) has determined that a reprimand, fine, and costs are appropriate, details of which are set out below.

### **Jurisdiction, Preliminary Matters and Exhibits**

6. There were no objections to the constitution of the Committee or its jurisdiction, and a private hearing was not requested, so a public hearing into the appropriate sanction proceeded.
7. The jurisdiction of the Committee was established by Exhibits 1 through 4.

### **Submissions on Sanction**

8. Counsel for the LSA and Mr. Schulz jointly sought a reprimand and a \$5,000.00 fine. The parties also agreed to costs of \$5,000.00.
9. Counsel for the LSA submitted that:
  - 1) the recommended sanction is in the public interest and referred to the following:
    - i. Mr. Schulz' conduct posed a serious risk to the public;
    - ii. Mr. Schulz's conduct in attempting to rectify the error potentially affected his client's ability to recover.

- 2) the recommended sanction meets the deterrent purposes of sanctioning as this recommended sanction should:
  - i. specifically deter Mr. Schulz from this type of conduct;
  - ii. generally deter lawyers, by reminding lawyers that attention must be given to litigation matters, including limitation dates, and that lawyers must promptly inform clients of material errors, regardless of whether such errors are capable of rectification.
  
10. Counsel for the LSA referred the Committee to the following mitigating factors:
  - 1) Mr. Schulz admitted his guilt;
  - 2) Mr. Schulz has no discipline record.
  
11. Counsel for the LSA reminded the Committee that while the Committee are not bound by precedent, undue disparity with the recommended sanction imposed in other cases is to be avoided. Counsel for the LSA referred the Committee to the following authorities:
  - 1) *Law Society of Alberta v. Ayers*, 2018 ABLs 30
  - 2) *Law Society of Alberta v. Moughel*, 2016 ABLs 38
  - 3) *Law Society of Alberta v. Malcolm*, 2016 ABLs 19
  - 4) *Law Society of Alberta v. Makuch*, 2013 ABLs 10
  
12. Counsel for Mr. Schulz was supportive of the LSA submissions on sanction, and he submitted that the recommended sanction is a significant penalty for a lawyer of Mr. Schulz' experience and standing and would have the deterrent effect.

### **Decision on Sanction**

13. Counsel for the LSA and Mr. Schulz confirmed their understanding that the Committee is not bound by a joint submission on sanction. That said, the Committee is required to give significant deference to a joint submission and should not depart from a joint submission on sanction unless it would bring the administration of justice into disrepute or is otherwise contrary to the public interest.
  
14. The approach taken by both Mr. Schulz and the LSA in dealing with this matter through the Agreed Statement and Single Bench Hearing avoided an unnecessary contested hearing, witness inconvenience, and process costs, which is a mitigating factor.

15. Mr. Schulz has no discipline record, which is another mitigating factor.
16. The Committee accepts that the authorities submitted by counsel for the LSA are within the range of this recommended sanction and that there is no undue disparity with the recommended sanction imposed in other cases.
17. The Committee finds that it is in the public interest and the best interests of the profession to accept the joint submission of counsel as the recommended sanction will:
  - 1) meet the purposes of sanctioning in ensuring the public is protected from acts of professional misconduct and to protect the public's confidence in the integrity of the profession;
  - 2) specifically deter Mr. Schulz from this type of conduct and generally deter lawyers.
18. The Committee administered the reprimand at the hearing as follows:

Mr. Schulz, you are an experienced lawyer who has practiced for over 30 years. Today's hearing resulted from citations issued arising from your conduct, for failing to issue and serve the Statement of Claim of your client prior to the expiry of the limitation period, failing to properly disclose a material error to your client, failing to comply with the Rules of Court and the Code of Conduct in improperly amending a Statement of Claim and improperly serving an amended statement of claim, and for failing to properly notify your professional liability insurer of the missed limitation date. Your conduct fell below standards expected of a lawyer and reflects poorly on you as a lawyer and on the legal profession generally.

Counsel for you and the Law Society have jointly recommended and submitted that your conduct should result in a reprimand, a \$5,000 fine and payment of \$5,000 for costs. The committee accepts the joint recommendations and submissions of counsel. I acknowledge your cooperation with the Law Society leading up to today and resolving these complaints by admitting your guilt and by proceeding with a single Bencher hearing, which avoided an unnecessary contested hearing, witness inconvenience and process costs. Your admissions have permitted these citations to be resolved on a more efficient basis, which is not just a benefit to you, but it is a benefit to the public and to the Law Society. I also note that you have no prior disciplinary record.

In making these comments and delivering this reprimand today, I urge you to constantly remember what is required of you, and as a member of the legal profession, to represent your clients competently and with instructions, and to always uphold and adhere to the Code of Conduct. I sincerely hope that this conduct will not be repeated, for the benefit of your own reputation and of our

entire profession. I wish you the best as you move forward from these difficult circumstances and thank you for your attendance today.

### **Concluding Matters**

19. The Committee orders a reprimand, a fine of \$5000.00 and costs of \$5,000.00, with the fine and costs both payable by February 15, 2023.
20. Hearing exhibits shall be made 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 Mr. Schulz will be redacted and further redactions will be made to preserve client confidentiality and solicitor-client privilege (Rule 98(3) of the Rules of the Law Society of Alberta).
21. There shall be no Notice to the Profession issued.
22. There will be no Notice to the Attorney General.

Dated January 20, 2023

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Ronald Sorokin