

**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 PATRICK FLYNN
A MEMBER OF THE LAW SOCIETY OF ALBERTA**

Hearing Committee

Ryan Anderson, KC – Chair
Glen Buick – Adjudicator
Stacy Petriuk, KC – Bencher

Appearances

Karen Hansen – Counsel for the Law Society of Alberta (LSA)
Alain Hepner, KC – Counsel for Patrick Flynn

Hearing Date

November 4, 2022

Hearing Location

Virtual Hearing

HEARING COMMITTEE REPORT

Overview

1. The following citations (Citations) were directed to hearing by the Conduct Committee Panel on March 15, 2022:
 - 1) It is alleged that Patrick D. Flynn breached an undertaking given to the LSA and that such conduct is deserving of sanction; and
 - 2) It is alleged that Patrick D. Flynn failed to be candid with the LSA and that such conduct is deserving of sanction.
2. On November 4, 2022, the Hearing Committee (Committee) convened a hearing (Hearing) into the conduct of Patrick Flynn, based on the Citations.
3. After reviewing the Statement of Admitted Fact and Admission of Guilt (Admission), and a review of the evidence and exhibits, the Committee accepts Mr. Flynn's admission of guilt on the Citations, pursuant to section 71 of the *Legal Profession Act (Act)*.

4. The Committee also finds that, based on the facts of this case, the appropriate sanction is a fine of \$2,000 and a reprimand which was provided at the time of the Hearing.
5. In addition, pursuant to section 72(2) of the *Act*, the Committee orders costs against Mr. Flynn in the sum of \$3,000.

Preliminary Matters

6. There were no objections to the constitution of the Committee or its jurisdiction, and a private hearing was not requested.

Facts/Background

7. The LSA and Mr. Flynn collaborated on the Admission which included admissions of guilt to the Citations.

Citation 1

8. Mr. Flynn admitted that he was bound by an undertaking given to the LSA in the course of his work with the Practice Management department. This undertaking was to limit the types of new files he could accept through Legal Aid. He could only take on Level I and Level II offenses (as defined by Legal Aid). Despite this undertaking, Mr. Flynn took on a client, R.C., an individual charged with murder, a Level III offense, and his matter clearly fell outside of the parameters agreed to.

Citation 2

9. Mr. Flynn further admitted that he was not candid or forthright with the LSA when asked about the above matter.
10. Mr. Flynn failed to disclose his representation of R.C. to the LSA in communications, on his master client list, and numerous emails.
11. Mr. Flynn did state he was having financial and domestic issues which contributed to his behavior and failure to attend to his duty of care and attention.

Decision

12. For a statement of admission of guilt to be in an acceptable form it must meet the following requirements (as set out in the LSA Pre-Hearing and Hearing Guideline):
 - 1) Include the facts necessary to support a finding of guilt on the essential elements of the citation;

- 2) Includes the lawyer's confirmation that the lawyer:
 - i. is making the Admission freely and voluntarily;
 - ii. unequivocally admits guilt to the essential elements of the citations describing the conduct deserving of sanction;
 - iii. understands the nature and consequences of the Admission, and
 - iv. understands that if there is a joint submission on sanction, while the Hearing Committee will show deference to it, the Hearing Committee is not bound by the Joint Submission; and
- 3) Be signed by the lawyer.

13. The Committee finds that Mr. Flynn's Admission is acceptable.

Sanction and Costs

Joint Submission on Sanction

14. The parties put forward a joint submission on sanction of a reprimand and a fine of \$2,000.
15. Although the Committee is not bound by it, significant deference should be given to the joint submission on sanction. Guided by the principles set out by the *Supreme Court of Canada in R v Anthony Cook*, the Committee should not depart from the joint submission unless it would bring the administration of justice into disrepute or is otherwise contrary to the public interest. Specifically, the Committee is to consider the joint submission so long as it is not so markedly out of line with the expectations of reasonable persons aware of the circumstances, cause the reasonable public to lose confidence in the instructions of the courts, or is so unhinged from the circumstances that it shows the justice system to be broken down.
16. After reviewing the facts of this matter, considering Mr. Flynn's Admission and reviewing the case law presented by counsel, this Committee finds that the joint submission is satisfactory. The joint submission is reasonable and does not offend the administration of justice or the public's confidence in the professional self-governance of the LSA.
17. The reprimand was delivered to Mr. Flynn at the hearing, as follows:

Mr. Flynn, as lawyers, we are held to a high standard as individuals, but also within our profession. You are an experienced lawyer and have had the privilege of practicing for several years now. And to say it simply, you simply know better.

We have an obligation of representing our clients, but it is important that we cooperate with our regulator. The Law Society was attempting to assist you with your practice, and to ensure your clients were looked after, and for this matter you gave an undertaking to the Law Society, and you breached this undertaking. It was stated that this breach was more due to a lack of due diligence than purposeful action. However, as a lawyer, not performing due diligence is a major part of our profession, for our clients and for ourselves. Your conduct fell below these standards, which may have affected your client, but especially affected your governability with the Law Society. Our undertakings are promises, and if we cannot be trusted, it is difficult for our regulator to allow us to practice within our profession. Your conduct reflects poorly on the profession, but more importantly on yourself. And we understand that things have been difficult for you, but you still must uphold your professional obligations.

In conclusion, this Panel does appreciate your cooperation with the Law Society, your acceptance of responsibility and cooperating with working out and coming to a sanction on this matter. It appears that life is improving for you personally, and this Panel hopes that it continues to improve for you professionally as well. We wish you the best of luck as you continue your practice and move forward.

Costs

18. An Estimated Statement of Costs was presented at the Hearing. The parties jointly proposed that Mr. Flynn pay \$3,000 in costs. The Committee accepted this proposal.

Concluding Matters

19. In conclusion the Committee accepts the Admission of Mr. Flynn and issued a reprimand at the time of the Hearing. A fine is imposed of \$2,000 with costs of \$3,000 ordered against Mr. Flynn. The fine and costs are to be paid in full by November 4, 2023.
20. There will be no referral to the Attorney General.
21. There will be no notice to the profession.
22. 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 Mr. Flynn will be redacted and further redactions will be made to preserve client confidentiality and solicitor-client privilege (Rule 98(3)).

Dated March 23, 2023.

Ryan Anderson, KC

Glen Buick

Stacy Petriuk, KC