

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

**Single Bencher Hearing Committee**

Sanjiv Parmar – Chair

**Appearances**

Karen Hansen – Counsel for the Law Society of Alberta (LSA)

Ryan Martin – Self-represented

**Hearing Date**

August 29, 2023

**Hearing Location**

Virtual Hearing

**HEARING COMMITTEE REPORT - SANCTION**

**Overview**

1. The following citations were directed to hearing by the Conduct Committee Panel on December 13, 2022:
  - 1) It is alleged that Ryan Martin failed to be honest and candid with his client and another lawyer regarding the status of his client's matter and that such conduct is deserving of sanction.
  - 2) It is alleged that Ryan Martin consented to an Order as to costs against his client without his client's knowledge or instructions and that such conduct is deserving of sanction.
2. Ryan Martin was admitted to the LSA on August 23, 2006. He articulated at the law firm BC and remained there as an associate until 2012. He then moved to the law firm MR, where he became partner in 2015. Mr. Martin commenced a disability leave in 2019. In 2022 he returned to work, and currently practices in civil litigation.

3. The LSA and Mr. Martin collaborated on and submitted to the Conduct Committee a Statement of Admitted Facts and Admission of Guilt (Agreed Statement) in relation to Mr. Martin's conduct.
4. The Conduct Committee found the Agreed Statement to be acceptable. Accordingly, pursuant to section 60(4) of the *Legal Profession Act (Act)*, it is deemed to be a finding of this Hearing Committee (Committee) that Mr. Martin's conduct is deserving of sanction in relation to both citations.
5. On August 29, 2023, the Committee convened a hearing into the appropriate sanction.
6. After reviewing all of the evidence and exhibits and hearing the submissions of LSA counsel and Mr. Martin, for the reasons set out below, the Committee has determined, the appropriate sanction for Mr. Martin's conduct is a reprimand and fine. In accordance with section 72 of the *Act*, the Committee therefore orders that Mr. Martin be reprimanded and pay a fine in the amount of \$4,000.00.
7. In addition, pursuant to section 72(2) of the *Act*, the Committee orders Mr. Martin to pay costs in the amount of \$2,500.00.
8. Mr. Martin will have one year from the date of the hearing to pay the fine and costs.

### **Preliminary Matters**

9. There were no objections to the constitution of the Committee or its jurisdiction, and a private hearing was not requested so the hearing proceeded in public.

### **Agreed Statement of Facts/Background**

10. An Agreed Statement was submitted to the Conduct Committee by the parties and the Conduct Committee found it to be acceptable on May 16, 2023. Pursuant to section 60(4) of the *Act*, each admission of guilt in the Agreed Statement is deemed to be a finding by this Committee that Mr. Martin's conduct is deserving of sanction under section 49 of the *Act*.
11. The events that give rise to the citation are detailed in the Agreed Statement and are set out in the following paragraphs.
12. Mr. Martin's firm acted on behalf of T.C. with regard to a claim against S.G., who brought an application to dismiss T.C.'s claim on the basis of long delay pursuant to Rule 4.33 of the Rules of Court (Application).
13. At the request of P.T., a senior partner at Mr. Martin's firm, Mr. Martin represented T.C. at the application on July 31, 2018. The Master who was hearing the application

reserved their decision. On September 24, 2018, the Master issued a decision granting the application and dismissing T.C.'s claim.

14. Mr. Martin failed to inform T.C. or P.T. that the application had been granted and that T.C.'s claim had been dismissed.
15. Shortly after the Master's decision was released, P.T. asked Mr. Martin if he had received the decision. Although he had received the decision, Mr. Martin told P.T. that he had not.
16. On October 11, 2018, counsel for S.G. sent a draft form of Order (Order) and Bill of Costs to Mr. Martin for his review. Mr. Martin objected to the inclusion of costs in the Order and suggested instead that the costs be assessed in accordance with the Rules of Court. S.G.'s counsel agreed with this suggestion and sent Mr. Martin a revised form of Order.
17. Mr. Martin signed the Order confirming dismissal of T.C.'s action in October of 2018. The Order was filed by the Court on November 6, 2018.
18. On November 6, 2018, D.S., the principal of T.C., enquired by email as to the status of the application. Mr. Martin replied "I do not yet have an update for you. I will call as soon as I do." After November 6, 2018, Mr. Martin continued to indicate to T.C. and P.T. that the decision of the application had not yet been released.
19. Counsel for S.G. scheduled an appointment for an Assessment of Costs on January 22, 2019. The Notice of Appointment included a Proposed Bill of Costs totaling \$31,579.44.
20. On January 21, 2019, Mr. Martin sent an email to S.G.'s counsel outlining his concerns with the Bill of Costs and asserting that the fees should be reduced to a total of \$16,815.68. The same day, S.G.'s counsel responded, accepting Mr. Martin's proposal and attached a form of order confirming costs.
21. On several occasions, S.G.'s counsel followed up with Mr. Martin regarding signing the Costs Order. On February 22, 2019, Mr. Martin returned the signed Costs Order to S.G.'s counsel.
22. Mr. Martin did not inform T.C. of his negotiations with S.G.'s counsel regarding the costs and did not seek T.C.'s instructions prior to consenting to the Costs Order.
23. In November of 2019, T.C. retained a new lawyer who discovered that T.C.'s action had been dismissed and Costs Order granted.
24. When another partner of the firm came to Mr. Martin's office in early December of 2019 and told him that T.C. had hired another lawyer who had discovered the existence of

decision, Mr. Martin admitted the truth about the decision to that partner and disclosed to him his struggles with mental health. It was agreed that Mr. Martin would take a leave of absence to deal with his mental health.

25. Although he did not realize it at the time, Mr. Martin was experiencing significant health issues during the time he was dealing with the application and its outcome. Mr. Martin received a diagnosis from his family doctor in December of 2019, and went on disability. Mr. Martin remained on disability until July 19, 2022, when he was cleared by his health care providers to return to work. Mr. Martin continued to receive treatment for his health issues. In October of 2022, one of Mr. Martin's health care providers discharged him to the care of his family doctor with the understanding that he could be referred back if necessary.
26. During the hearing Mr. Martin acknowledged that he understood that, despite the admissions of guilt, although a joint submission is entitled to deference, the Committee is not bound to accept it on sanction.

### **Submissions on Sanction**

27. LSA counsel submitted a joint submission on sanction of a reprimand, fine of \$4,500.00 and costs to be capped at \$2,500.00. LSA counsel added that an LSA hearing committee is to accept a joint submission on sanction unless it feels that the joint submission would bring the administration of justice into disrepute or is otherwise contrary to the public interest.
28. Counsel for the LSA argued that Mr. Martin's conduct was serious. Any time a lawyer lies, misleads, or fails to be candid there is a risk to the public and to the reputation of the legal profession. Specific deterrence is required as Mr. Martin continues to practice in civil litigation, and he needs to be forthright with clients, obtain proper instructions, and be honest.
29. In mitigation, LSA counsel argued that Mr. Martin signed the Agreed Statement which saved time and expenses, and potential witnesses. Mr. Martin was cooperative, and he attended with Practice Management, which accepted recommendations from Mr. Martin's health care providers and closed its file. Mr. Martin has been practicing law since 2006 with no discipline record. LSA counsel argued that most importantly, Mr. Martin had been suffering from serious health issues during the time of his misconduct, causing him to go on long-term disability, which provides some context for his actions. Additionally, Mr. Martin has engaged in treatment for his health issues and the risk to the public has been mitigated, and such misconduct is likely not to recur.
30. Counsel for the LSA provided four cases that support the joint submission on sanction:
  - 1) *Law Society of Alberta v. Moughel*, 2016 ABLs 38.

- 2) *Law Society of Alberta v. Field*, 2018 ABLS 9.
  - 3) *Law Society of Alberta v. Makuch*, 2013 ABLS 10.
  - 4) *Law Society of Alberta v. Murtaza*, 2014 ABLS 49.
31. With respect to costs, LSA counsel argued that costs should be capped at \$2,500.00. In support of capping the costs, LSA counsel noted that some of the costs were investigative costs, and that Mr. Martin was cooperative with the LSA. The costs, along with the \$4,000.00 fine would make the total combined amount reasonable. One year to pay both the costs and fine was supported by both LSA counsel and Mr. Martin.
  32. Mr. Martin apologized for his conduct and stated that he was ashamed and embarrassed. He submitted that he was cooperative with the LSA and accepted LSA counsel's submissions.

### **Analysis and Decision on Sanction**

33. While a hearing committee is not bound to accept joint submission on sanction, such submissions carry significant weight.
34. In *R. v. Anthony-Cook*, 2016 SCC 43, the Supreme Court of Canada held that a joint submission should be accepted unless the proposed sanction "would bring the administration of justice into disrepute or is otherwise contrary to the public interest" (at paragraph 32). *Anthony-Cook* is a criminal law case, but it has been applied in other LSA conduct matters.
35. According to paragraph 185 of the LSA Pre-Hearing and Hearing Guideline (Guideline), the "fundamental purposes of sanctioning are to ensure the public is protected from acts of professional misconduct and to protect the public's confidence in the integrity of the legal profession". The Guideline sets out a number of factors that may be taken into account when determining sanction, including, among others, the goals of specific and general deterrence and denunciation of the misconduct.
36. Paragraph 198 of the Guideline indicates that "[t]he prime determinant of the appropriate sanction is the seriousness of the misconduct". It then suggests that in determining the seriousness of the misconduct, a hearing committee may consider a list of nine factors, including the degree to which the misconduct constitutes a risk to the public or to the reputation of the legal profession, the harm or potential harm caused by the misconduct, the number of incidents involved, and the length of time involved.
37. Paragraph 204 of the Guideline indicates that a hearing committee may also consider additional factors that have either an aggravating or mitigating effect on the appropriate sanction. These may include whether the lawyer has a prior discipline record, whether the lawyer acknowledged their wrongdoing, any expression of remorse, the lawyer's

level of cooperation with the LSA's conduct process, whether restitution has been made, and the extent to which the lawyer benefited from the misconduct.

38. In *Anthony-Cook*, the Supreme Court of Canada made it clear that “a joint submission should not be rejected lightly.” This is because (paragraph 34):

[r]ejection 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.

39. The Committee is of the view that the joint submission on sanction in this case does not fall within that category. To the contrary, the Committee was satisfied that the jointly proposed sanction was an appropriate, negotiated resolution in the circumstances of this case.
40. Mr. Martin's conduct was serious. He failed to be honest and candid with his client and another lawyer and acted without his client's knowledge or instructions. This goes to the heart of a lawyer's integrity and undermines the confidence of the public in the legal profession.
41. The Committee recognizes that Mr. Martin has been practicing since 2006 and has no discipline record. He was dealing with health issues at the time of his misconduct, and the approach taken by both Mr. Martin and the LSA in dealing with this matter through an Agreed Statement also avoided an unnecessary contested hearing, witness inconvenience, and process costs.
42. Accordingly, the Committee was satisfied that the jointly proposed sanction is proportionate to the circumstances, comparable to prior decisions, and sufficient to affect the necessary specific and general deterrence.
43. The Committee accepted the jointly proposed sanction and ordered a reprimand, a fine of \$4,500.00 and costs of \$2,500.00. The fine and costs are to be paid in full within a year of the hearing.
44. The Committee delivered the following oral reprimand:

The Hearing Guide of the Law Society requires that Hearing Committees take a purposeful approach to sanctioning a member who has been found guilty of conduct deserving of sanction.

The fundamental purpose of sanctioning is the protection of the best interests of the public and the protection of the reputation and standing of the legal profession generally.

Mr. Martin, I acknowledge your co-operation with the Law Society leading up to today and resolving these complaints by admitting guilt and by proceeding with a single Bencher hearing. A joint submission on sanction is to be given deference. You have admitted guilt to two citations which evidence very serious conduct matters. However, your cooperation in proceeding with the process today helped to avoid unnecessary hearing costs and avoid time and inconvenience to various parties and witnesses, as well as process costs. I conclude that, in light of all of these circumstances and considerations, it is in the public interest to accept the joint submission, the \$4,000.00 fine and the \$2,500.00 costs. Your admissions have permitted these citations to be resolved on a more efficient basis, which is not just a benefit to you, but is a benefit to the public and to the Law Society.

Mr. Martin, the right to practice law in the Province of Alberta is a privilege that has been bestowed upon you by the Law Society of Alberta in exercise of its authority under the Legal Profession Act.

Your conduct in regard to the complaints in this matter is cause for concern. You have a responsibility to the members of the public and to the Law Society to represent their best interest. You failed in this case.

This failure represents the type of thing that the Law Society strives to avoid. And the confidence we need to instill in the public is that we have to ensure that they believe and know that they will be treated, by our members, conscientiously and honestly. You failed in this case. You must do better.

As a Member of this Law Society, you will be expected to look at what you have done to determine whether or not you can improve on what's happened, learn from this particular matter, and, of course, to move forward.

But again, holding this office requires you to understand the obligation you have to the public and to the Law Society and to its Members. And you, as an example of that, to be that type of exemplary individual who represents those interests.

In these matters, you put your professional reputation and integrity at risk and your clients' interests at risk. In making these comments today and in expressing this reprimand today, I urge you to constantly have at the forefront of your mind and your practice the integrity required of all of us as members of this profession and the diligence that we all must demonstrate to protect our clients' interests and to maintain our reputation and the reputation of this profession.

So, I hope, from today's appearance, that you can do more for yourself, and I require you to do more for the members of the public that you serve.

I wish you good luck, Mr. Martin, in your continued work, with your new employment. I hope you can learn from this particular matter, and we can move forward from it.

### **Concluding Matters**

45. There shall be no Notice to the Profession and no referral to the Attorney General.
46. Exhibit 6 is ordered to remain a private. All other exhibits, 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. Martin will be redacted and further redactions will be made to preserve client confidentiality and solicitor-client privilege (Rule 98(3)).

Dated October 11, 2023

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Sanjiv Parmar