

**IN THE MATTER OF PART 3 OF THE
LEGAL PROFESSION ACT, RSA 2000, c. L-8**

AND

**IN THE MATTER OF A SECTION 84 APPLICATION
REGARDING GAVIN GRANT
A SUSPENDED MEMBER OF THE LAW SOCIETY OF ALBERTA**

Bencher Committee

Cal Johnson, KC – Chair and Bencher
Ryan Anderson, KC - Bencher
Sharilyn Nagina, KC - Bencher
Mary Ellen Neilson – Lay Bencher
Sanjiv Parmar - Bencher
Margaret Unsworth, KC - Bencher
Grant Vogeli, KC - Bencher
Louise Wasylenko – Lay Bencher

Appearances

Shanna Hunka – Counsel for the Law Society of Alberta (LSA)

Hearing Date

October 11, 2023

Hearing Location

Virtual Hearing

COMMITTEE REPORT

Overview

1. Gavin Grant was a member of the Law Society of Ontario (LSO) and had his licence to practice law revoked on November 30, 2021 for conduct unbecoming a licensee. The LSO hearing panel in the matter determined that the following allegations were established:
 - The respondent engaged in professional misconduct and conduct unbecoming a licensee by engaging in sexual acts with an underaged former client and by providing alcohol and drugs to that person and her underaged friend.
 - The respondent engaged in professional misconduct and conduct unbecoming a licensee by impregnating his underaged former client.
 - The respondent engaged in professional misconduct and conduct unbecoming a licensee with regard to an employee in his employer's law firm through

unwelcome sexual solicitations, sexual assault and unwelcome touching, requests for sexual favours, unwelcome comments, and the display of pornography in the respondent's law office and at office-related events, contrary to Rule 6.3 of the Ontario Rules of Professional Conduct.

- The respondent engaged in professional misconduct and conduct unbecoming a licensee by involving the employee in his purchase of an illicit drug from a client of the respondent's law firm.
 - In 2014, the respondent engaged in professional misconduct and conduct unbecoming a licensee by propositioning a potential client in his office as she tried to retain his legal services.
 - In 2016 and 2017, the respondent engaged in professional misconduct and conduct unbecoming a licensee by hosting parties at his employer's law office outside of regular business hours for minors and providing alcohol and drugs for their consumption and use.
 - In 2018, the respondent engaged in conduct unbecoming a licensee by assaulting a domestic partner.
2. Mr. Grant practiced in Alberta from October 1997 to March 2005 when he elected to be an inactive/non-practicing member of the LSA. He was subsequently suspended in March 2006 for non-payment of fees. He was reinstated to practice in May 2009 but was again suspended for non-payment of fees in July 2010. He remains suspended in Alberta and has not practiced in Alberta since July 15, 2010.
 3. On October 11, 2023, a Committee of the Benchers (Committee) held a hearing to consider the LSA's application for disbarment against Mr. Grant, pursuant to section 84 of the *Legal Profession Act (Act)*. Mr. Grant did not appear at the hearing.
 4. After reviewing all the evidence and exhibits, and considering the representations of the LSA, the Committee has determined that Gavin Grant should be disbarred.

Service

5. Section 84(3) of the *Act* requires the LSA provide at least 10 days' written notice of this application, and Section 84(4) of the *Act* and Rule 104(2) of the Rules of the LSA (Rules) indicate that an order for disbarment may only be made after the member has been given such notice and a reasonable opportunity to make oral or written representations to the Committee.
6. Counsel for the LSA introduced an affidavit of service dated September 29, 2023 as an Exhibit in the proceedings. That affidavit detailed the extensive efforts made by the LSA to both contact Mr. Grant and serve the applicable documents and materials on him. These efforts included:

- 1) Sending emails to Mr. Grant at several different emails and by email to his former counsel;
 - 2) Mailing a document package to Mr. Grant by registered mail to his address in Calgary last known to the LSA and to an address in Thailand being the last known address for Mr. Grant on the LSA file;
 - 3) Sending a similar package by courier to Mr. Grant at this Thailand address, but which package was not picked up at the delivery facility in Thailand; and
 - 4) Sending further emails to the email addresses on the LSA file for Mr. Grant and requesting a confirmation of delivery receipt from each of the two addresses. A copy of the delivery receipt for each of those email addresses was attached to the affidavit.
7. The Committee directed several questions concerning the methods of service to LSA counsel and received responses indicating that all practical means of effecting service had been utilized without success. Counsel for the LSA also pointed out to the Committee that the LSO proceeding had proceeded in the absence of Mr. Grant in 2021 and that it was not surprising that he similarly had not engaged in any manner in the Ontario proceeding.
8. The Committee reviewed the service affidavit and attached materials, the representations of LSA counsel, and the responses to various questions put to LSA counsel by the Committee in relation to the various aspects of the service attempts. The Committee also noted the provisions of The Sections 83 and 84 Suspension and Disbarment Guideline of the LSA (Guideline) and, in particular, paragraph 17.c. This paragraph provides that where the notice to the lawyer cannot be served either personally, at the official address for service or the last know address, then service can be affected in accordance with any other method provided for in section 114 of the *Act* or Rule 83.
9. Accordingly, the Chair ruled pursuant to Rule 104(5) that the Committee was satisfied that the requirements of Rule 104(2) and section 84(4) of the *Act* had been complied with, and that the hearing could continue and be concluded in the absence of Mr. Grant.

Preliminary Matters

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

Submissions

11. Counsel for the LSA tendered and exhibited materials in relation to the conduct of Mr. Grant, including (i) the reasons for decision of the LSO hearing panel on November 30, 2021 on the various allegations before it in relation to the conduct of Mr. Grant, and (ii)

the same day order for revocation of license by that hearing panel (collectively, LSO Order). Both the decision and the sanction order were subsequently published and made public on January 25, 2022. Accordingly, LSA counsel is seeking an order for disbarment.

Analysis and Decision

12. Sections 84(3) and 84(4) of the *Act* state in part:

(3) The Benchers, whether or not a suspension is ordered under subsection (2), may make an order against an Alberta member if:

(a) a disciplinary body of an extra-provincial law society, in disciplinary proceedings against the Alberta member makes an order having the effect of terminating the Alberta member's membership in that society.

(4) An order made against an Alberta member under subsection (3) shall be either

(a) an order for the suspension of the Alberta member's membership in the Society for a period prescribed by the order, or

(b) an order disbarring the Alberta member.

13. Section 49(1) of the *Act* sets out the following factors to be considered in determining the appropriate sanction:

49(1) For the purposes of this Act, any conduct of a member, arising from incompetence or otherwise, that:

(a) is incompatible with the best interests of the public or of the members of the Society, or

(b) tends to harm the standing of the legal profession generally, is conduct deserving of sanction, whether or not that conduct relates to the member's practice as a barrister and solicitor and whether or not that conduct occurs in Alberta.

14. The Committee noted that paragraph 28 of the Guideline advises that the Committee is not to reperform an adjudication of the merits of the LSO Order but is mandated to consider whether the additional disbarment sanction sought by LSA counsel should be imposed. Paragraph 29 of the Guideline provides that the Committee, in determining any additional sanction, may consider the sanctioning principles and factors set out in the LSA Hearing Guideline.

15. The Hearing Guideline specifies that 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 profession. The Committee focused on several additional specific purposes of sanctioning referenced in the Hearing Guideline, including:
 - 1) where appropriate, to protect the public by preventing the lawyer from practicing law through disbarment or suspension;
 - 2) general deterrence of other lawyers;
 - 3) ensuring the LSA can effectively govern its members; and
 - 4) denunciation of the misconduct.
16. The actions and conduct of Mr. Grant invoked all the above factors, and clearly demonstrated a lack of integrity, honesty, trustworthiness, and character. His actions harmed clients, minors, and vulnerable individuals and require the most serious sanction available.
17. The Committee concluded that the conduct of Mr. Grant was clearly incompatible with the best interests of the public and the members of the LSA, was contrary to the requirements of the LSA Code of Conduct and was seriously detrimental to the standing of the legal profession as a whole.

Order and Concluding Matters

18. Pursuant to section 84 of the *Act*, the Committee orders that Gavin Grant be disbarred, effective October 11, 2023.
19. The LSA shall issue a Notice to the Profession, pursuant to section 85 of the *Act*.
20. The exhibits and 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. Grant will be redacted and further redactions will be made to preserve client confidentiality and solicitor-client privilege.

Dated November 30, 2023.

Cal Johnson, KC - Chair

Ryan Anderson, KC

Sharilyn Nagina, KC

Mary Ellen Neilson

Sanjiv Parmar

Margaret Unsworth, KC

Grant Vogeli, KC

Louise Wasylenko