

**IN THE MATTER OF PART 2/3 OF THE
LEGAL PROFESSION ACT, RSA 2000, c. L-8**

AND

**IN THE MATTER OF A SECTION 32 RESIGNATION APPLICATION
REGARDING DARWYN ROSS
A MEMBER OF THE LAW SOCIETY OF ALBERTA**

Resignation Committee

Grant Vogeli, KC – Chair and Benchers
Stephanie Dobson – Benchers
Mary Ellen Neilson – Benchers

Appearances

Henrietta Falasinnu – Counsel for the Law Society of Alberta
Darwyn Ross – Self-represented

Hearing Date

June 18, 2025

Hearing Location

Virtual Hearing

RESIGNATION COMMITTEE REPORT

Overview

1. Darwyn Ross was admitted as a member of the Law Society of Alberta (LSA) on November 14, 2002. Between 2002 and 2007 he practiced with two law firms. From 2007 until 2022 he worked in varying capacities as a crown prosecutor with Alberta Justice. He was administratively suspended in 2022.
2. Darwyn Ross applied for resignation from the LSA pursuant to section 32 of the *Legal Profession Act*, R.S.A. 2000, c.L-8 (*Act*). Because his conduct is the subject of citations issued pursuant to the *Act*, a Resignation Committee (Committee) was constituted to hear this application on June 18, 2025.
3. At the time of this hearing, Mr. Ross was a suspended member of the LSA. He did not have any disciplinary record with the LSA.
4. After reviewing all of the evidence and hearing the submissions of counsel for the LSA and the submissions of Mr. Ross, the Committee allowed the resignation application

pursuant to section 32 of the *Act* and advised that a written decision would follow. This is that written decision.

Preliminary Matters

5. There were no objections to the constitution of the Committee or its jurisdiction.
6. There were two applications to have the hearing conducted in private. Paragraphs 125 to 134 of the LSA Pre-Hearing and Hearing Guideline (Hearing Guideline) address private hearing applications. In considering the private hearing applications, the Committee took particular note of the following paragraphs of the Hearing Guideline:

125. In accordance with section 78 of the Act, a conduct hearing will be held in public unless the Hearing Committee determines, on its own motion or on the application of the lawyer, the complainant, a potential witness or any other interested person, that some or all of the hearing will be held in private.

...

129. In considering whether some or all of the hearing is to be held in private, the Hearing Committee must consider both necessity and the principles of transparency and accountability.

130. With respect to necessity, the Hearing Committee considers whether granting a private hearing is necessary to prevent a serious risk to an important interest and whether alternative measures would be sufficient to protect the interest at stake...

132. With respect to the principles of transparency and accountability, the Hearing Committee may consider the following factors:

- a) the public interest and the Law Society's regulatory commitment to transparency in open and accessible hearings;
- b) the impact on public confidence in the ability of the profession to self-regulate;
- c) general deterrence for the profession;
- d) the effectiveness and efficiency of the hearing process; and
- e) the detrimental effect on the applicant.

7. The Committee considered whether it was necessary to conduct all or a portion of the hearing in private to protect the privacy of the complainant while balancing that interest with the principles of transparency and accountability.

8. The Committee decided, in balancing the interests of transparency and accountability with privacy, that the entire hearing would be conducted in public subject to the following conditions:
 - a) the complainant would be referred to as “the complainant” or “Ms. X” and not by her name.
 - b) the exhibits dealing with the detailed facts would not be quoted from during the hearing or available to public after the hearing.
9. The Committee made this decision on the basis that the Statement of Admitted Facts, Exhibits and Admissions of Guilt (Agreed Statement) without any exhibits provided sufficient facts to satisfy the principles of transparency and accountability and allow the Committee to properly address the application.

Citations

10. Mr. Ross faced the following citations:
 - a) that he engaged in an inappropriate relationship with a complainant in a criminal matter while acting as a crown prosecutor and that such conduct is deserving of sanction.
 - b) that he failed to act honourably and with integrity and acted in a manner that would bring the administration of justice into disrepute and that such conduct is deserving of sanction.

Agreed Statement of Facts

11. The Agreed Statement was found to be in a form of acceptable to the Committee. A summary those facts is set out below.
12. The LSA received a complaint that Mr. Ross had engaged in an inappropriate relationship with a complainant while acting as a crown prosecutor and the LSA became aware that he had acted in a conflict of interest.
13. Mr. Ross cooperated in the LSA investigation.
14. Mr. Ross complied with the requirements for a resignation application that are set out in section 92(1) of the Rules of the LSA. He provided a statutory declaration setting out his personal particulars and confirming that:
 - a) he did not have a trust account and was not handling any trust money;

- b) he had not practiced law since his administrative suspension on November 1, 2022 and therefore had no clients or files; and
- c) he was not aware of any open Alberta Lawyers Indemnity Association claims against him.

Summary of Facts regarding Citation 1: Engaging in an inappropriate relationship with a complainant in a criminal matter.

- 15. In April 2020 Mr. Ross was acting as crown prosecutor with Alberta Justice. Ms. X was a complainant in a domestic violence matter related to her estranged spouse. Her estranged spouse was charged with criminal harassment.
- 16. On October 5, 2020, Ms. X contacted Mr. Ross asking him to meet to discuss the charges against her estranged spouse. Mr. Ross initially refused to meet with Ms. X.
- 17. On June 16, 2021, Mr. Ross met with Ms. X at the Courthouse along with a representative from Victim Services. This was the first personal interaction and meeting between Mr. Ross and Ms. X.
- 18. On June 24, 2021, Mr. Ross sent an email to Ms. X and they agreed to meet to discuss an outstanding concern that police had previously received which Ms. X had not followed up on. Ms. X and Mr. Ross then met again at the courthouse on June 29, 2021, with a representative from Victim Services.
- 19. Commencing on June 29, 2021, the content of communications between Mr. Ross and Ms. X became less professional and more personal.
- 20. Between June 29, 2021 and August 2021, Mr. Ross and Ms. X exchanged email communications that were of a personal and sexual nature, not related to the criminal case.
- 21. In July 2021, Mr. Ross met with Ms. X at a lounge for a drink. Following that, Mr. Ross and Ms. X met 10 times, including at Mr. Ross's home while his partner was away.
- 22. Mr. Ross admitted that he engaged in inappropriate contact with Ms. X while he was a crown prosecutor and she was a complainant and potential witness in a criminal domestic violence matter and that his conduct was deserving of sanction.

Summary of Facts regarding Citation 2: Failing to act honourably and with integrity and acting in a manner that would bring the administration of justice into disrepute.

- 23. Between July 26, 2021 and August 12, 2021, while acting as crown prosecutor in a criminal matter in which Ms. X was the complainant and a potential witness, Mr. Ross sent emails to Ms. X's ex-husband's counsel. The emails attempted to negotiate a

favourable outcome for Ms. X in her family law matter in exchange for a favourable position to the accused (Ms. X's ex-husband) in the criminal law matter.

24. Mr. Ross used his personal email account to attempt to conceal his actions.
25. Mr. Ross admitted that his actions were inappropriate for a crown prosecutor and brought the administration of justice into disrepute. He also admitted that this conduct was deserving of sanction.

The Submissions of the Parties

26. Counsel for the LSA advised that the LSA supported the application of Mr. Ross to resign pursuant to section 32 of the *Act*.
27. Counsel for the LSA directed the Committee to paragraph 20 of the LSA Adjudicator Guideline – Resignations (Resignation Guideline) that sets out the test for acceptance of a resignation application:
 - a. The nature of the lawyer's alleged conduct and whether it would likely result in disbarment if the matter were to proceed to a hearing and the citations proved; and
 - b. Whether there are disputed facts or other factors ... that would be taken into account by a Hearing Committee and which would mitigate against disbarment and make it an unlikely outcome if the matter were to proceed to a hearing.
28. Further, it was pointed out that, in accordance with paragraph 22 of the Resignation Guideline, the fundamental issue for a resignation committee is whether it is in the best interests of the public and in the interests of the legal profession to permit a resignation in the face of serious unresolved conduct matters.
29. LSA counsel stated that Mr. Ross had acknowledged his misconduct, cooperated with the LSA, signed an undertaking not to practice law again and signed the Agreed Statement.
30. Counsel for the LSA submitted that because the LSA was supporting the application it was tantamount to a joint submission and subject to deference as set out in *R. v. Anthony-Cook*, 2016 SCC 43 and paragraphs 207 – 215 of the Hearing Guideline.
31. LSA counsel also referred to paragraphs 185 and 186 of the Hearing Guideline that relate to the purposes of sanctioning. She submitted that the fundamental purpose of protecting the public from acts of professional misconduct and public confidence in the integrity of the profession would be satisfied by allowing the application. She also submitted that the other purposes of sanctioning set out in paragraph 186 of the Hearing Guideline were satisfied for the following reasons:

- a) specific deterrence of Mr. Ross was not applicable because he would no longer be practicing;
 - b) protection of the public would be satisfied as Mr. Ross would no longer be practicing;
 - c) general deterrence of other lawyers would be satisfied by the serious consequences to Mr. Ross;
 - d) governance of Mr. Ross was not applicable as he will no longer be practicing;
 - e) the resignation of Mr. Ross pursuant to section 32 would be sufficient denunciation of his misconduct.
32. Mr. Ross concurred with the submissions of LSA counsel and pointed out that his application, admissions and cooperation prevented the need for a lengthy hearing and saved a lot of time, costs and inconvenience.

Analysis

33. Under the *Act*, a member may apply to resign under either section 32 or section 61. There is a material distinction between these applications. If a member resigns pursuant to section 61 of the *Act*, that member's resignation amounts to a deemed disbarment if accepted. Under section 32 of the *Act*, the application is merely one of resignation and does not amount to disbarment. Regardless of whether the application for resignation is submitted under section 32 or 61, the core issue, as stated above, is whether it is in the best interests of the public and in the interests of the profession to allow a lawyer to resign in the face of serious unresolved conduct matters.
34. The resignation application in this case was made pursuant to section 32 of the *Act*. The Committee was not asked to consider whether a resignation under section 61 would be appropriate, and the application was therefore considered under only section 32. Nonetheless, in considering whether to accept the section 32 application, the Committee determined that the conduct would not have resulted in disbarment if the matter had proceeded to a hearing and the citations were proved.
35. Additionally, LSA counsel supported the application by Mr. Ross for resignation pursuant to section 32 of the *Act*. As such, the Committee considered this application to be tantamount to a joint submission and therefore deserving of deference unless it brought the administration of justice into disrepute or was otherwise contrary to the public interest.

Decision

36. Along with the Agreed Statement, the Committee accepted the Undertakings made by Mr. Ross as required under Rule 92.
37. The Committee determined that it was in the best interests of the public to accept the application of Mr. Ross to resign pursuant to section 32 of the *Act*, effective as of the date of the hearing, June 18, 2025.
38. The Committee reviewed the estimated costs of this application prepared by the LSA. The Committee determined that Mr. Ross must pay costs in the amount of \$12,875.25 upon any application for reinstatement.
39. Pursuant to section 32(2) of the *Act*, the roll shall reflect that Mr. Ross's application under section 32 was allowed on June 18, 2025.

Concluding Matters

40. A Notice to the Profession was ordered by the Committee and was issued on June 19, 2025.
41. A Notice to the Attorney General is not required.
42. Pursuant to the privacy application discussed above, the exhibits attached to the Agreed Statement shall not be available for public inspection. This decision was made to preserve privacy of the complainant as explained above. 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. Ross will be redacted and further redactions will be made to preserve client confidentiality and solicitor-client privilege (Rule 98(3)).

Dated September 18, 2025.

Grant Vogeli, KC

Stephanie Dobson

Mary Ellen Neilson