**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 MARK FREEMAN**
**A MEMBER OF THE LAW SOCIETY OF ALBERTA**

**Single Bencher Hearing Committee**
Jim Lutz, KC – Chair

**Appearances**
Will Cascadden, KC – Counsel for the Law Society of Alberta (LSA)
Mark Freeman – Self-represented

**Hearing Date**
May 13, 2025

**Hearing Location**
Virtual Hearing

## HEARING COMMITTEE REPORT - SANCTION

### Overview

1. The following citations were directed to hearing by the Conduct Committee Panel on October 22, 2024:

    1) It is alleged that Mark C. Freeman took steps in the representation of a client that were clearly without merit, and that such conduct is deserving of sanction.

    2) It is alleged that Mark C. Freeman unreasonably delayed the process of a tribunal, and that such conduct is deserving of sanction.

2. The LSA and Mr. Freeman entered into a Statement of Admitted Facts and Admission of Guilt (Agreed Statement) in relation to Mr. Freeman's conduct.

3. The Conduct Committee found the Agreed Statement 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. Freeman's conduct is deserving of sanction in relation to the above citations.

4. On May 13, 2025, the Committee convened a hearing into the appropriate sanction.

5. After reviewing all of the evidence and exhibits and hearing the submissions of the LSA and Mr. Freeman, for the reasons set out below, the Committee determined that a reprimand was appropriate as well as hearing costs in the amount of $1,000.00.

**Preliminary Matters**

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.

**Agreed Statement of Facts/Background**

7. After the commencement of proceedings in relation to Mr. Freeman's conduct, counsel for both the LSA and Mr. Freeman submitted the Agreed Statement. The Conduct Committee had previously found the Agreed Statement to be acceptable on March 11, 2025. 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. Freeman's conduct is deserving of sanction under section 49 of the *Act*.

8. As provided by section 60(3) of the *Act*, once the Agreed Statement was accepted by the Conduct Committee, the hearing into the appropriate sanction could be conducted by a single Bencher. As a result, I was appointed to conduct the sanction hearing and comprised the Committee.

9. The Agreed Statement, appended to this Hearing Report (Appendix A), sets out the relevant facts in more detail and has been relied upon by the parties for this hearing. However, in the subsequent two paragraphs I will briefly summarize the events.

10. Mr. Freeman was counsel for the Sturgeon Lake Cree Nation (SLCN) in relation to an action involving Treaty Land Entitlements (TLE) within Canada, contemplating a release by the SLCN of all its obligations to Canada relating to the land. An action was commenced by SCLN against Canada. Mr. Freeman was not involved in the initial claim, but became involved several years later after the Statement of Claim was filed and amended, along with co-counsel.

11. The action proceeded and Justice S as the assigned trial Judge was also the case management Justice that dealt with a number of applications in relation to the matter. A number of stay applications were filed in relation to an Undertakings Order issued by

Justice S against SCLN and of note were the subsequent stay applications September 29, 2016, and January 3, 2017. These were the subject of a costs decision issued on December 14, 2022 wherein Justice S found Mr. Freeman and his co-counsel pursued two stay applications when they knew or ought to have known there was no basis for doing so, and found that costs should be paid by the lawyers themselves personally. The Court found that Mr. Freeman's conduct on filing the applications constituted "serious misconduct" and was a marked departure from the reasonable conduct of a member of the Bar.

12. It was agreed by LSA counsel and Mr. Freeman that his conduct in pursuing two stay applications was in fact unnecessary and was conduct deserving of sanction. More specifically, they agreed with the Judgment of Justice S that the decision to seek stays in the face of the orders granted by the court was conduct that was inconsistent with the best interest of the LSA and contrary to the public interest.

**Submissions on Sanction**

13. Counsel for the LSA advised the Committee that a joint submission had been arrived at in consultation with Mr. Freeman and that both parties agreed that the appropriate sanction would be that of a reprimand.

14. Mr. Freeman on his behalf also agreed with the LSA and that a reprimand was appropriate given the circumstances and especially noted some of the conduct that was at issue occurred 10 years ago.

**Decision on Sanction**

15. Counsel for the LSA and Mr. Freeman confirmed their understanding that the Committee was not bound by a joint submission on sanction. That said, a hearing 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.

16. The Committee found the joint submission in this case to be appropriate and to not be contrary to the public interest.

17. Specific and general deterrence are the major factors in terms of acceptance of this joint submission. In mitigation, LSA counsel pointed out there were no aggravating factors. There were substantial mitigating factors. Mr. Freeman was cooperative, made admissions of guilt, did not delay the discipline process and has no discipline record. Notably, his conduct had been addressed through the payment of the costs in the court process evidencing that the public is protected.

18. Mr. Freeman submitted this was lengthy and litigious. Also, the decision on conduct comes several years after the applications were made and the costs decision was issued.

19. Mr. Freeman was cooperative throughout, and his payment of the costs order was significant. The approach taken by both Mr. Freeman and the LSA in dealing with this matter through an Agreed Statement and admission of guilt also avoided an unnecessary contested hearing, witness inconvenience, and hearing costs.

20. Notably, the fundamental purpose of sanction is to ensure the public is protected from acts of professional misconduct and to maintain public confidence and the integrity of the profession. These fundamental purposes are critical to the independence of the profession and the proper functioning of the administration of justice.

21. The Committee considered the specific deterrence to Mr. Freeman, general deterrence to other members and the denunciation of improper conduct. The sanction process must be purposeful and the factors that relate most closely to fundamental purposes outlined above carry more weight than others.

22. The approach taken by both Mr. Freeman and the LSA in dealing with this matter comes through the Agreed Statement. This also avoided unnecessary contested hearing, witness inconvenience, and hearing costs.

23. The Committee delivered an oral reprimand at the hearing as follows:

> Our role as counsel and members of the profession have a duty to the public, and that is included in the fact that the public has to see what we do in court, and they model their behaviour on it, and it's important that they see us acting, again, with the upmost transparency and propriety.
>
> In this case, I looked at the facts, and I would say this: I commend you for being a zealous advocate for your client, and we have in the Code of Conduct a specific provision that deals with that, and we're required to do so. We take unpopular causes, and we defend our clients. There is nothing wrong with that. Sometimes we forget where that line is, and sometimes we cross that, and we do that to our own detriment and sometimes to the detriment of our clients. So, it's important to remember where that line is and not to cross it.
>
> Again, I say this to you: You were sanctioned by Justice [S]; you were sanctioned here by the Law Society. In my mind, those are two aspects of this reprimand that I think will carry forward, and in the future you will probably consider where that line is and maybe not cross it. But, again, I

> hope my decision does not deter you from acting zealously for your clients, but just try to remember to see the forest for the trees and try to remember our duty to the Court is always foremost in our mind when we're considering and balancing against that of our clients.
>
> So that will be your reprimand, sir. Again, I hope you take those comments and I hope you take them with you into the profession and remember that, again, we know you can do better, and I do not expect that to be a problem in the future.

**Concluding Matters**

24. The issue of costs of the hearing was canvased by both LSA counsel and Mr. Freeman and it appears the Estimated Statement of Costs do not adequately represent what the true costs of this case would have been.

25. Mr. Cascadden on behalf of the LSA indicated Mr. Freeman's cooperation was significant, especially in processing this conduct matter as quickly as possible. Mr. Freeman also agreed he had no prior discipline record as noted, and a reprimand is the appropriate disposition.

26. Mr. Freeman had to pay costs personally in relation to the action which was significant and a substantial amount of time had passed since those costs were in fact paid. The payment of the costs themselves is a significant deterrent factor and should be properly considered by the Committee both for penalty and costs. The Committee accepts that litigation can be very heated and a difficult process, but it is important that lawyers do not lose sight of where zealous advocacy ends, and improper conduct begins.

27. There was a joint submission of costs and both parties agreed the appropriate view of costs was set out in the Court of Appeal in *The Law Society v. Farrell,* 2024 ABLS 11. The Chair of the committee Ken Warren, KC, discussed the issue of costs and that the Alberta Court of Appeal supports costs in professional disciplinary proceedings. At the time of this hearing, *K.C. vs The College of Physiotherapists,* 1992 ABCA 253 and the factors outlined at paragraph 31 were the appropriate factors to apply. The Committee concluded that partial costs were appropriate in this set of circumstances.

28. The Committee expressly rejected the Court of Appeal's decision in *Jinnah vs. Alberta Dental Association and College,* 2022 ABCA 336. LSA counsel and Mr. Freeman as well as the Committee agreed it is not applicable to proceedings before the LSA and that the relevant caselaw, including decisions by the Court of Appeal in *Tan v. Alberta Veterinary Medical Association,* 2024 ABCA 94 and *Alsaadi v. Alberta College of Pharmacy,* 2021 ABCA 303, were informative and appropriate jurisprudential authorities for costs.

29. As such, given Mr. Freeman's cooperation in the matter, given the payment of costs by him and the dated nature of the conduct, LSA counsel confirmed that there is no joint submission on costs but that a significant reduction in costs is appropriate and that the costs be set at $1,000.00. Mr. Freeman agreed, and the Committee decided that it was the appropriate quantum of costs for this particular case.

30. Mr. Freeman asked for 30 days to pay. Accordingly, he was ordered to pay the costs of $1,000.00 by June 30, 2025.

31. No Notice to the Attorney General was ordered.

32. No Notice to the Profession was ordered.

33. 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. Freeman will be redacted and further redactions will be made to preserve client confidentiality and solicitor-client privilege (Rule 98(3)).

Dated July 23, 2025.

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Jim Lutz, KC

**Appendix A**

IN THE MATTER OF THE LEGAL PROFESSION ACT

- AND -

IN THE MATTER OF A HEARING REGARDING THE CONDUCT OF
MARK C. FREEMAN
A MEMBER OF THE LAW SOCIETY OF ALBERTA

HEARING FILE HE20240278

STATEMENT OF ADMITTED FACTS AND EXHIBITS,
AND ADMISSIONS OF GUILT

## INTRODUCTION

1. This hearing arises out of one complaint (CO20220045) and relates to the following citations:

    I. It is alleged that Mark C. Freeman took steps in the representation of a client that were clearly without merit, and that such conduct is deserving of sanction.

    II. It is alleged that alleged that Mark C. Freeman unreasonably delayed the process of a tribunal, and that such conduct is deserving of sanction.

## ADMITTED FACTS

### Professional Background

2. Mr. Freeman was admitted as a member of the Law Society of Alberta (the "LSA") on July 3, 1991.

3. Mr. Freeman's present status with the LSA is Active/Practicing.

4. Mr. Freeman does not have any discipline record with the LSA.

### Procedural Background

5. On January 6, 2022, the Law Society received a complaint from Legal Counsel at the Department of Justice Canada regarding the conduct of Mr. Freeman during the course of a litigation matter that occurred in 2015, and into 2017.

6. The LSA subsequently investigated the complaint, and, on October 22, 2024, a panel of the Conduct Committee directed that the citations set out in paragraph 1 above be dealt with by a Hearing Committee.

**Substance of Complaint**

7. In 1990, following a 1987 action and several years of negotiations, the Sturgeon Lake Cree Nation ("SLCN") entered into a Treaty Land Entitlement ("TLE") settlement agreement with Canada, which contained a Release by SLCN of all obligations of Canada relating to land. A referendum was part of the process that led to the Agreement and the Agreement acknowledged that SLCN had received independent legal advice.

8. In 1997, SLCN commenced an action against Canada, making additional claims and asserting that Canada had obtained SLCN's consent to the Agreement through breach of trust, breach of fiduciary duty and without fully informing SLCN of the impact of the Agreement on its members' rights.

9. [J.R.] was subsequently retained and on SLCN's instructions, he amended the claim to include a land claim, to assert that the Release pursuant to the Agreement was not binding, that pursuant to Treaty No. 8, SLCN was entitled to select land on the basis of current population in perpetuity and that the Agreement had failed to account for those individuals who subsequently became members and had not been afforded the opportunity to receive independent legal advice or vote in the referendum.

10. Mr. Freeman was not involved in the initial claim. Rather, Mr. Freeman became involved several years after the Statement of Claim was filed and amended.

11. In November 2020, following a successful Summary Judgment Application heard in 2015, Canada and Alberta filed Notices of Application to determine Costs. At the time of the application, [J.R.] and Mr. Freeman no longer represented SLNC, Canada, but not Alberta, submitted that SLCN former counsel should have to bear a portion of the costs personally as the complexity of the application was "created by its former counsel."

12. In particular, following an order requiring SLNC to produce undertakings was issued on December 4, 2014 (the "Undertakings Order"), SLNC brought multiple stay applications. The second stay application, heard on September 29, 2016, was drafted, filed and argued by a lawyer, unrelated to these proceedings, and was filed after the Undertakings Order had been unsuccessfully appealed to the Alberta Court of Appeal and leave to

appeal had been denied by the supreme Court of Canada. The Court dismissed the second stay application, noting, “It is, in my view, outrageous to argue irreparable harm flows from the enforcement of the three-time adjudicated order of this Court.” **[TAB 1, para. 73].**

13. Lawyers at [R] & Company then filed an appeal of the dismissal of the second stay application, which was granted in part and referred to the ABCA panel hearing the Strike/Dismiss Appeal **[TAB 2].** The Appeal was subsequently dismissed. The Court of Appeal did not take issue with the lawyers’ conduct, however in the first instance, the Queen’s Bench (as it was then) Justice stated, “were your clients, for instance, in the position of being self-represented, one would almost consider that they could be declared vexatious litigants.” **[TAB 1, para. 75]**.

14. On December 14, 2022, Justice [S] issued a decision on costs. The Court Ordered Mr. Freeman and [J.R.] to pay a portion of their client’s party and party court costs for steps taken in the litigation, requiring them to pay 75% of the costs of the stay applications due to their “serious misconduct,” which the Court found “was a marked and unacceptable departure from reasonable conduct” **[TAB 1, para. 122]**. In addition, the Court ordered that they personally pay 25% of the costs of the strike/dismissal application due to their “unreasonable, persistent, and disruptive” conduct **[TAB, para. 157].**

15. In 2012, Canada filed an application for Summary Judgment/Dismissal (the “Strike/Dismiss Application”).

16. In January 2014, Madam Justice [S], the Case Management Justice, scheduled the Strike/Dismissal Application for a five-day hearing in January 2015.

17. In November 2014, Alberta filed its own application to strike/dismiss and supporting affidavits, to be heard at the same time as Canada’s application.

18. On December 4, 2014, Justice [S] issued an order requiring SLNC to produce a number of undertakings (the “Undertakings Order”). SLNC filed an appeal of the Undertakings Order, which was dismissed on July 27, 2015. SLNC then applied for leave to appeal the decision dismiss the Undertakings Order to the Supreme Court of Canada, which was denied on March 10, 2016.

19. On May 24, 2016, SLNC filed an application to stay the Undertakings Order (“Stay Application 1”). The Court effectively granted the Stay, directing the status quo continue because the Strike/Dismissal Decision was pending.

20. On July 8, 2016, Justice [S] issued her decision in the Strike/Dismissal Application and struck the land claim portion of the action and granted the Defendants’ applications to

strike those paragraphs in the Statement of Claim relating to land (the "Strike/Dismissal Order").

21. On September 29, 2016, SLNC applied to stay the Undertakings Order pending the appeal of the Strike/Dismissal Order ("Stay Application 2") based on grounds of the Foundational Rules of Court (R. 1.4). On November 25, 2016, Justice [S] dismissed Stay Application 2 and refused to stay the Undertakings Order pending appeal of the Strike/Dismissal Order on the basis that the test for a stay as per RJR-Macdonald was not appropriate and had not been met.

22. On December 12, 2016, SLNC filed an appeal to the Court of Appeal of Justice [S]'s refusal to stay the Undertakings Order. On January 3, 2017, SLNC filed an application to stay the refusal to stay the Undertaking Order pending hearing of the appeal ("Stay Application 3"). On January 18, 2017, Justice [S] dismissed Stay Application 3, refused to stay the refusal to stay the Undertaking Order, and ordered that the undertakings be provided by February 24, 2017.

23. The deadline for SLNC to provide its undertakings as directed by Justice [S] was subsequently extended by the Court of Appeal until it made a determination of the appeal of Justice [S]'s refusal to stay the Undertaking Order. The Court of Appeal ultimately dismissed SLNC's appeal of the refusal to stay the Undertaking Order on October 6, 2017, and ordered that the Undertakings be produced.

24. SLNC unsuccessfully appealed the Strike/Dismiss Order to the Court of Appeal and then unsuccessfully sought leave to appeal to the Supreme Court of Canada.

25. In a subsequent decision on costs, released on December 14, 2022, the Court found that [J.R.] and Mr. Freeman pursued two stay applications (Stay Application 2 and Stay Application 3) when they knew or ought to have known that there was no basis for doing so, notwithstanding that neither [J.R.] or Freeman filed the Applications, drafted the Briefs of Law, nor argued the Applications in Court. Justice [S] stated:

> I agree that 75% is a reasonable figure for allocation of costs. The lawyers pursued these applications when they knew, or should have known, that the Undertakings Order should have been complied with immediately or a stay sought pending appeal. There was no basis for a stay once the Court of Appeal and the Supreme Court of Canada had rejected their appeal. **[TAB 1, para. 135]**

The Court further stated that [J.R.] and Mr. Freeman's conduct in filing the applications constituted "serious misconduct" and that it was "a marked and unacceptable departure from reasonable conduct."

## ADMISSIONS OF FACT

26. Mr. Freeman admits as facts the statements in this Statement of Admitted Facts the purposes of these proceedings.

## ADMISSIONS OF GUILT

27. Mr. Freeman admits that he took steps in the representation of a client that were clearly without merit, and that such conduct is deserving of sanction.

28. Mr. Freeman admits that he unreasonably delayed the process of a tribunal, and that such conduct is deserving of sanction.

## ACKNOWLEDGEMENTS

29. Mr. Freeman unequivocally admits guilt to the essential elements of the citations describing the conduct deserving of sanction.

30. Mr. Freeman has signed this statement freely and voluntarily, without compulsion or duress.

31. Mr. Freeman understands the nature and consequences of these admissions.

32. Mr. Freeman understands that if there is a joint submission on sanction or any other matters, the Hearing Committee will show deference to it but is not bound by it.

33. Mr. Freeman has had the opportunity to consult with legal counsel.

34. Mr. Freeman acknowledges that pursuant to Rule 92(4) of the Rules of the Law Society of Alberta, this Statement will be published, and the Application or Hearing for which this Statement has been endorsed will be heard in public before the Benchers or a panel constituted by the Benchers.

**THIS STATEMENT OF ADMITTED FACTS AND ADMISSIONS OF GUILT IS MADE THIS ____ DAY OF FEBRUARY 2025.**

**MARK C. FREEMAN**