

**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 SHELLEY SMITH  
A MEMBER OF THE LAW SOCIETY OF ALBERTA**

**Hearing Committee**

Mandy Kinzel – Chair and Lawyer Adjudicator  
Cal Johnson, KC – Former Benchler  
Edith Kloberdanz – Public Adjudicator

**Appearances**

Will Cascadden, KC – Counsel for the Law Society of Alberta  
Peter Northcott – Counsel for Shelley Smith

**Hearing Date**

June 12, 2025

**Hearing Location**

Virtual Hearing

**HEARING COMMITTEE REPORT**

**Overview**

1. The following citation was directed to hearing by the Conduct Committee Panel on November 19, 2024:
  - 1) It is alleged that Shelley Smith breached a Court Order on multiple occasions and that such conduct is deserving of sanction.
2. On June 12, 2025, the Hearing Committee (Committee) of the Law Society of Alberta (LSA) convened a hearing into the conduct of Ms. Smith, based on the above citation. The parties presented an Agreed Statement of Facts and Admissions of Guilt (Agreed Statement) dated March 25, 2025.
3. After reviewing the evidence and exhibits, and hearing the submissions of the parties, for the reasons set out below, the Committee finds Ms. Smith guilty of conduct deserving of sanction on the citation, pursuant to section 71 of the *Legal Profession Act* (Act).

4. Based on the facts of this matter, the Committee finds that the appropriate sanction is a reprimand. In accordance with section 72 of the *Act*, the Committee orders that Ms. Smith be reprimanded as set out below.
5. In addition, pursuant to section 72(2)(b) of the *Act*, the Committee orders Ms. Smith to pay a penalty in the amount of \$10,000.00 on or before December 31, 2025.
6. Costs were agreed and, pursuant to section 72(2)(c) of the *Act*, ordered to be paid by Ms. Smith in the amount of \$2,000.00 on or before December 31, 2025.
7. Pursuant to section 85(3) of the *Act*, the Committee orders a Notice to the Profession. There will be no referral to the Attorney General.

### **Preliminary Matters**

8. 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 Ms. Smith's conduct proceeded.
9. It is to be noted that although Ms. Kloberdanz was a member of the Committee at the time of the hearing, her term as a Public Adjudicator for the LSA expired on August 31, 2025, so she ceased to be a member of the Committee at the time of the issuance of the written decision, but the remaining members are able to issue the same (section 66(3) of the *Act*).
10. No witnesses were called.

### **Background**

11. Ms. Smith was admitted to the LSA on August 26, 1991, and is an active/practicing member. Ms. Smith is a senior member of the Alberta bar and does not have a discipline record with the LSA.
12. On or about October 27, 2023, a complaint about the conduct of Ms. Smith was submitted to the LSA (Complaint).
13. The LSA subsequently investigated the Complaint, and, on November 19, 2024, a panel of the Conduct Committee directed the citation to be directed to a hearing.
14. Ms. Smith is a lawyer practicing in Edmonton, Alberta, and at all material times was practicing at [VL] LLP.

## **Agreed Statement of Facts**

15. On or about March 25, 2025, Ms. Smith and the LSA entered into the Agreed Statement, pursuant to which Ms. Smith admitted guilt to the citation. The Agreed Statement is summarized below.
16. In October 2021, Ms. Smith began representing the personal representative of an estate in an estate administration matter. Conflict arose between Ms. Smith's client, the brother, and a beneficiary, the sister (Complainant), who was represented by legal counsel at [MR] LLP.
17. A March 29, 2022 consent order (Order) directed all funds that formed part of the estate to be paid into trust with Ms. Smith's firm [VL] LLP and could not be paid out without the consent of both the Complainant and Ms. Smith's client, or the approval of the court.

### ***Breach 1***

18. On September 15, 2022, Ms. Smith advised counsel at [MR] LLP that while Ms. Smith's client deposited some estate funds to the trust account, a portion was withheld by her client, and Ms. Smith stated, "I confirm that I advised [client] that it would be appropriate for him to reimburse himself for these expenses". Counsel for the Complainant informed Ms. Smith that by advising her client to disburse estate funds for his own expenses in relation to the estate, Ms. Smith had caused her client to breach the Order.

### ***Breaches 2 and 3***

19. On January 31, 2023, Ms. Smith wrote counsel at [MR] LLP advising that two invoices from her firm had been paid from the estate funds without the Complainant's consent. Counsel for the Complainant advised that prior consent had not been provided by both parties to pay the invoices, and that Ms. Smith had again breached the Order.

### ***Breach 4***

20. On October 12, 2023, Ms. Smith wrote counsel at [MR] LLP to advise of another breach of the Order as Ms. Smith's office had paid another of Ms. Smith's firm's statements of account from the estate funds held in trust without the Complainant's consent.

### ***Response to Breaches***

21. Ms. Smith advised all breaches were resolved by November 2023. Specifically, regarding the first breach, Ms. Smith's client had deposited the estate funds to the estate account rather than to Ms. Smith's trust account. Once the issue was brought to Ms. Smith's attention, the funds were deposited into Ms. Smith's trust account, and communication was sent to opposing counsel explaining the fund deficit. With regard to

the second and third breaches, the invoices were subsequently provided to the Complainant and her counsel, and neither objected to those invoices. Pertaining to the fourth breach, the funds were subsequently returned to trust.

### **Additional Information Provided Before the Committee**

22. After signing the Agreed Statement, but before the hearing, Ms. Smith submitted a letter of apology on May 15, 2025, addressed to the LSA.
23. The Committee noted a potential disconnect between the letter of apology and the exhibit to the Agreed Statement where the exhibit indicated Ms. Smith advised her client that “it would be appropriate for him to reimburse himself for these expenses”, contrary to the Order, but the apology stated, “Regrettably, and against my specific instructions, the PR chose to reimburse himself from Estate funds prior to placing them in counsel’s hands”.
24. Through submissions to the Committee, counsel for Ms. Smith advised that Ms. Smith never counseled her client to breach the Order, although the letter sent to [MR] LLP included language that gives that impression.

### **Admissions of Fact, Guilt and Acknowledgements**

25. In the Agreed Statement, Ms. Smith admits as fact that she breached a Court Order on multiple occasions and that such conduct is deserving of sanction.
26. Ms. Smith’s Agreed Statement included the following acknowledgements.
  - 1) Ms. Smith unequivocally admits guilt to the essential elements of the citation describing the conduct deserving of sanction.
  - 2) Ms. Smith signed the Agreed Statement freely and voluntarily, without compulsion or duress.
  - 3) Ms. Smith understands the nature and consequences of the admissions in the Agreed Statement.
  - 4) Ms. Smith understands that if there is a joint submission on sanction or any other matters, the Committee will show deference to it but is not bound by it.
  - 5) Ms. Smith had the opportunity to consult with legal counsel.

## Analysis and Decision on Conduct

27. The Committee convened to discuss the Agreed Statement. Pursuant to section 60 of the *Act* and paragraph 47 of the LSA Pre-Hearing and Hearing Guideline, the Committee concluded the Agreed Statement was in an acceptable form and accepted the Agreed Statement into the hearing record.
28. 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 Ms. Smith's conduct is deserving of sanction under section 49 of the *Act*. The sole question for the Committee was the appropriate sanction for the conduct.

## Analysis and Decision on Sanction

29. Counsel for the LSA and Ms. Smith agreed, by way of joint submission, that a reprimand was an appropriate sanction along with a penalty of \$10,000.00 and a Notice to the Profession.
30. Counsel for the LSA commenced with a reminder of the decision of *Law Society of Alberta v Saleem*, 2023 ABLS 3 which reiterated the factors for assessing joint submissions pursuant to *R v Anthony-Cook*, 2016 SCC 43, as adopted by professional disciplinary tribunals including the LSA.
31. Counsel for the LSA referred the Committee to various case authorities respecting the range of sanctions for similar conduct:
  - 1) *Law Society of Alberta v Skovberg*, [1999] L.S.D.D. No 80. A lawyer held money in trust pursuant to a court order which was not to be released until a further court order. The lawyer mistakenly thought he could release the trust money without a court order when the matter resolved and paid out money in accordance with the agreement but absent a second court order. The hearing committee ordered a reprimand and payment of costs.
  - 2) *Law Society of Alberta v Ouellette*, [2004] L.S.D.D. No 67. A lawyer breached court orders on many occasions and was found guilty on numerous other citations of conduct deserving of sanction. The lawyer was not suspended but reprimanded, ordered to pay a fine of \$25,000.00 and a Notice to the Profession was directed.
  - 3) *Law Society of Alberta v Nguyen (Fox)*, 2013 ABLS 15. A lawyer paid out trust funds in breach of court-imposed trust conditions and misinformed the parties by saying he did not pay out trust funds when he knew he did. The lawyer admitted the facts of the citations but did not admit guilt. The hearing committee ordered a reprimand, a fine of \$2,500.00 and costs.

- 4) In a British Columbia matter, *Kirkhope (Re)*, 2012 LSBC 5, on one citation only, a lawyer breached a standard term of an order in matrimonial proceedings. The discipline committee ordered a fine of \$4,500.00 and costs.
  - 5) *Law Society of Alberta v Mirasty*, 2016 ABLS 21. A lawyer acting as a power of attorney on behalf of a vulnerable client failed, among other things, to properly provide an accounting to The Public Guardian and Trustee that had been ordered by the Court in respect of a Trust established for that vulnerable client. In so doing, the lawyer ignored a court order requiring that compliance. The hearing committee commented, at paragraph 71, that conduct deserving of sanction need not be disgraceful, dishonorable, or reprehensible. The hearing committee ordered a 45-day suspension and costs.
  - 6) In an Ontario matter, *Sussman, Re*, 1995 CanLII 537(ON LST), a discipline committee found a senior member of the bar guilty of counselling his client to breach the terms of a court order related to a family law dispute. The discipline committee ordered a one-month suspension.
32. Counsel for the LSA outlined mitigating and aggravating factors and indicated these factors placed the conduct on the cusp between a significant fine and suspension.
- 1) Counsel for the LSA advised the mitigating factors included Ms. Smith's cooperation with the LSA, and Ms. Smith made full admissions of her conduct thereby obviating the need for a contested hearing. Counsel for the LSA advised Ms. Smith's conduct was not motivated by malicious intent but owed to poor management processes regarding office accounts. The LSA received assurances from Ms. Smith that this will not happen again.
  - 2) Counsel for the LSA advised the aggravating factors included the multiple breaches of the Order which amounted to not just inadvertence but a complete disregard of the Order, demonstrating extreme and gross negligence in how Ms. Smith conducted her practice. This disregard was further reflected during the investigation when Ms. Smith did not provide all relevant documents until later when her legal counsel became involved.
33. Having considered the submissions made by counsel, the Committee accepted the joint submission on sanction. The proposed sanction protects the public by imposing a sanction that reflects the seriousness of Ms. Smith's conduct and is a general deterrent to the profession as it is a reminder to the profession that a failure to comply with a court order may result in a serious sanction.

34. The Committee Chair delivered the following reprimand to Ms. Smith during the sanction phase of the hearing:

Ms. Smith, 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.

You have admitted guilt to one citation. Your conduct brought the administration of justice into disrepute. The Law Society demands and requires its members not to exhibit this standard of conduct. The Law Society must ensure that the public has confidence that our members will protect the best interests of the public, and our members must protect the reputation and standing of the legal profession generally. You failed in this case.

Ms. Smith, you are an experienced lawyer, having practiced since 1991. We expect that facing this citation now, at this stage of your career, is an enormous disappointment. You have admitted guilt on one citation. This citation is serious given the multiple breaches of the court order. In this matter, you put your professional reputation and integrity at risk.

In making these comments today and in expressing this reprimand today, we 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 maintain our reputation and the reputation of this profession. As a member of this Law Society, you will be expected to look at what you have done to determine whether you can improve on what's happened, learn from this particular matter, and, of course, to move forward.

We wish you the best as you move forward from these difficult circumstances and thank you for your attendance today.

### **Concluding Matters**

35. Counsel for the LSA and counsel for Ms. Smith made submissions on costs. The Committee accepted the joint submission that costs in the amount of \$2,000.00 be paid by Ms. Smith on or before December 31, 2025.

36. The Committee orders a fine in the amount of \$10,000.00 payable on or before December 31, 2025.
37. A Notice to the Profession was ordered and was issued on June 17, 2025 by the LSA.
38. No Notice to the Attorney General is required in this case.
39. 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 Ms. Smith will be redacted and further redactions will be made to preserve client confidentiality and solicitor-client privilege (Rule 98(3)).

Dated October 20, 2025.

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Mandy Kinzel

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Cal Johnson, KC