

THE LAW SOCIETY OF ALBERTA
RESIGNATION COMMITTEE REPORT

**IN THE MATTER OF THE *Legal Profession Act, R.S.A. 2000, c. L-8*, and the
Resignation of Floyd Campbell, a
Member of the Law Society of Alberta**

A. Introduction

1. On April 13, 2015, a Resignation Committee comprised of Gillian Marriott, Q.C. (Chair), Calvin Johnson, Q.C. and Robert Armstrong convened at the Law Society of Alberta ("LSA") offices in Calgary, AB to hear the resignation application of Mr. Floyd Campbell. The LSA was represented by Mr. K. Seidenz. Mr. Campbell attended at the application by video conference and was unrepresented by Counsel. The resignation application under s.61(1) of the Legal Professions Act (the "Act") was granted.

B. Jurisdiction and Preliminary Matters

2. The parties were advised that Mr. Armstrong was a partner with one of the law firms involved in this matter but had no personal knowledge in relation to it. Mr. Campbell advised that he took no issue with Mr. Armstrong hearing this matter and he had no objection to the composition of the Panel.

3. The jurisdiction of the Resignation Committee was established with the admission by consent of the following exhibits:

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| Exhibit 1 | Application for Resignation (Appointment of Committee), dated March 20, 2015. |
| Exhibit 2 | Correspondence regarding the Private Hearing Application Notice, dated April 7, 2015. |
| Exhibit 3 | Certificate of status dated March 25, 2015 confirming Mr. Campbell is a suspended Member of the LSA. |
| Exhibit 4 | Certificate of status dated April 1, 2015 confirming Mr. Campbell has no discipline record with the LSA. |
| Exhibit 5 | Member's materials |

4. A private hearing notice was issued in accordance with s.78 of the *Legal Profession Act C. L-8 RSA 2000* (the "Act") and Rule 98 of the Rules of the Law Society (the "Rules"). Those entitled to receive notice of a private hearing were provided such notice.

5. The Committee was advised that both the LSA and Mr. Campbell were applying to have the application, or parts of it, held in private. Further Mr. Seidenz applied to have the application for a private hearing to be held in private.

6. The Committee acknowledges it has a mandate to act in the public interest. Once citations have been laid, the transparency of the disciplinary proceeding prevails. Public confidence in the Law Society as a self-regulatory body requires no less.

7. It is well established that hearings ought to be held in public unless a compelling privacy interest requires protection, and then only to the extent necessary. The desirability for public scrutiny is then satisfied.

8. The balancing process, however, is not simply the pitting of the Member's right to privacy against the public's right to know, as non-disclosure can also be in the public interest.

9. Once it is established, on any piece of evidence, that the desirability of avoiding disclosure outweighs the principle that hearings be open to the public, the panel must order that the evidence be received in the absence of the public.

10. The Member advised that the information he sought to be protected, touched upon a past personal health issue; and all of the materials provided to the Committee including the Statement of Facts and a Confidential Document the terms of which are confidential. The Law Society of Alberta took no issue with the health matters and agreed that the nature of the Confidential Document was such that disclosure of its terms should be prevented and non-disclosure was in the public interest

11. The Committee considered various factors in arriving at its decision, including:

- (a) Balancing the privacy rights of the member and the public's right to be informed; and
- (b) Different degrees of privacy depending upon context;

12. The Resignation Committee determined that the privacy application would be heard in private, noting that there were no members of the public in attendance.

13. The Member's privacy application which related to personal information about his health issues engaged strong privacy issues, and went beyond inconvenience or potential embarrassment. As a result all references to it will be redacted. The balance of his application is denied.

14. The Member's application, which was supported by the LSA, with respect to references to "the Confidential Document" and its terms is granted as non-disclosure is determined to be in the public interest and outweighs the need or desirability of public disclosure of those matters.

15. The Resignation Committee then directed that the Hearing be held partly in public and partly in private. The Committee directed that any third party names and client names should be redacted from this Committee report as should any reference to the "Confidential Document". The transcripts of the

proceedings and the exhibits filed prior to any publication of same shall also have that redaction and this includes an extension to any identifying personal information.

16. The Resignation Committee was advised that Mr. Campbell's application for resignation pursuant to section 61(1) was proceeding with the consent of the LSA. Mr. Campbell provided the necessary application documents which were admitted by consent as follows:

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| Exhibit 5 | Member's materials |
| Exhibit 5a | The Application for Resignation dated March 20, 2015 and signed by Mr. Campbell. |
| Exhibit 5b | A Statutory Declaration sworn by Mr. Campbell on March 20, 2015 confirming that: <ul style="list-style-type: none">i) all trust funds and client property for which he was responsible had been accounted for and paid or delivered to the persons entitled thereto, or transferred to Mr. J. Shafir which assumed responsibility for Mr. Campbell's practice in 2012; and that,ii) Mr. Campbell was not aware of any outstanding claims against him. |
| Exhibit 5c | An undertaking dated March 20, 2015 signed by Mr. Campbell confirming his agreement: <ul style="list-style-type: none">i) to cooperate with the Law Society of Alberta and the Alberta Lawyer's Insurance Association in respect of any future claim made against him or the Assurance Fund regarding him now or in the future.ii) to abide by the terms of the Confidential Document and in the event that he defaults on the Confidential Document, he agrees to pay the Law Society of Alberta, on its demand and in accordance with the terms of the Confidential Document, any amount of any claim paid on his behalf by the Law Society's Assurance Fund, or any deductible with respect to any claim paid on his behalf by the Law Society's insurer.iii) to locate and surrender to the Law Society of Alberta the Certificate of Enrolment issued by the Law Society pertaining to his admission to the Bar.iv) not to reapply for reinstatement as a member of the Law Society of Alberta. In the event that he does wish to reapply, he will first pay the sum of \$50,000 to the Law Society of Alberta prior to applying to the Benchers to be relieved of his undertaking. |
| Exhibit 5d | An Agreed Statement of Facts dated February 13, 2015 signed by Mr. Campbell. |

C. Admitted Facts and Outstanding Citations

17. The Agreed Statement of Facts which is Exhibit 5(D) 1 is attached as Schedule "A" to this decision and is an integral part of it. (Paragraph 2 and all references to the "Confidential Document" are to be redacted)

18. Mr. Campbell's conduct was the subject of two completed investigations by the Law Society of Alberta and there are numerous outstanding complaints. His conduct has been the subject of 20 completed Assurance Fund investigations. In 10 of the Assurance Fund Investigations, the Investigator found evidence of misappropriation on his part and in another four investigations, the Investigator found evidence of possible misappropriation. To date, the Assurance Fund has paid six (6) Assurance Fund claims totaling \$3,527,854.67. Mr. Campbell's conduct is set out more particularly in Schedule "A".

19. In addition to the Agreed Statement of Facts signed by Mr. Campbell, the Resignation Committee was also provided with the following documents which were entered by consent as Exhibits 6 and 8:

Exhibit 6	Notice to the Profession
Exhibit 7	Estimated Statement of Costs
Exhibit 8	Statement of Estimated Custodian Costs

20. Both parties made submissions to the Resignation Committee.

D. Analysis

21. The issue to be determined by the Resignation Committee is whether, given the totality of the evidence as set out in the Exhibits, the Member's application pursuant to 61(1) of the *Act*, should be granted? Further, the Resignation Committee is to consider whether it is in the best interest of the public and members of the Law Society to permit the Member to resign prior to the resolution of the outstanding matters of concern or under review by the Law Society as set forth in the Resignation Guideline at paragraph 21.

22. Given the facts which the Member has admitted, it is the finding of the Resignation Committee that the best interests of the public and the Law Society of Alberta are served with the acceptance of the resignation of the Member

23. Had the matter proceeded to hearing, and the hearing resulted in a finding of guilt respecting all allegations against the Member, the most severe citation available would be that of disbarment. By electing to resign the Member has voluntarily created the same result. As set out in paragraph 10 of the Statutory Declaration entered as Exhibit 5(B) in these proceedings, the Member confirmed:

"I have read section 61 of the *Legal Profession Act* concerning resignation, and have considered the definition of "disbar" in section 1 (c) of the *Act*."

24. The Member was further questioned by the Chair, and confirmed that he understood that his resignation under section 61 did constitute "disbarment" in accordance with section 1 (c) of the *Act*.

25. Further the Member has undertaken never to reapply to the Law Society for reinstatement in the future, and if he wishes to reapply, he has undertaken to pay the sum of \$50,000.00 to the Law Society of Alberta prior to applying to the Benchers to be relieved of his undertaking not to do so. He has then undertaken to pay both the costs of these proceedings and the custodian's costs prior to being reinstated if he is relieved of his undertaking.

26. Some may suggest this is too little consequence for the conduct of the Member. To this, we would state that from the point of view of the Law Society of Alberta, it is the most serious consequence that we have the authority to impose.

E. Decision

27. The Resignation Committee finds that the Member's conduct is incompatible with the best interests of the public and his failures either as a lawyer or in his business dealings.

28. The Resignation Committee accepts the Member's application for a resignation pursuant to section 61(1) of the LPA.

29. The Resignation Committee notes the extensive undertakings given by Mr. Campbell and accepts those Undertakings. The Resignation Committee reiterates that those Undertakings form an integral part of the reasons for granting this application for resignation under section 61(1).

F. Costs

30. The estimated Statement of Costs was entered as Exhibit 7 in the amount of \$82,256.05. The Custodian Costs are Exhibit 8 in these proceedings. These costs will continue to increase in the future years. The Resignation Committee directs that the Member pay all those costs prior to and in the event that he makes an application in future for reinstatement as a Member of the Law Society of Alberta, and his undertaking not to apply for reinstatement is waived.

G. Final Matters Arising

31. With respect to matters arising the Resignation Committee directs that:

- (a) all exhibits in these proceedings be available for inspection and copying, subject to redaction of the names of third parties, the member's personal health information and all references to the "Confidential Document" for privacy purposes;
- (b) Mr. Campbell shall surrender his certificate of admission to the Law Society of Alberta.

- (c) the details of this decision shall be noted in the Roll, including the condition related to repayment and costs. The record of these proceedings, including the Statement of Admitted Facts and the exhibits put before the Committee shall be preserved for reference in any future application for reinstatement;
- (d) a referral to the Attorney General shall be made.

Dated at Edmonton, Alberta, June 4, 2015

Gillian D. Marriott, Q.C.

Robert Armstrong

Calvin Johnson, Q.C.

Schedule "A"

**IN THE MATTER OF *THE LEGAL PROFESSION ACT*
AND**

**A RESIGNATION APPLICATION PURSUANT TO SECTION 61
BY FLOYD H. CAMPBELL,
A MEMBER OF THE LAW SOCIETY OF ALBERTA**

AGREED STATEMENT OF FACTS

INTRODUCTION

1. I was admitted to the Law Society of Alberta on July 23, 1997, and practiced in Edmonton and Calgary until January 10, 2013.
2. XXXXX
3. My conduct has been the subject of two completed investigations by the Law Society of Alberta, which form the basis of the facts contained herein. In addition to the two completed investigations, there are numerous other outstanding complaints to the Law Society of Alberta.
4. My conduct has been the subject of 20 completed Assurance Fund investigations. In 10 of the Assurance Fund investigations the investigator found evidence of misappropriation on my part and in another four investigations the investigator found evidence of possible misappropriation.
5. To date, the Assurance Fund has paid six (6) Assurance Fund claims totalling \$3,527,854.67.
6. I have applied to resign as a member of the Law Society of Alberta and admit all of the facts set out in this Statement of Facts, which facts are tendered as admissions in support of my resignation application pursuant to s. 61 of the *Legal Profession Act*.

FACTS

Background

7. B.A. and I had been business associates since 2007, and among our business ventures were:
 - a "mortgage brokerage" business where we matched private lenders with lending opportunities such as bridge financings and mortgages and

- the development of two real estate projects in Mexico, the V. project (“V.”) and the O. project (collectively, the “M. Projects”).

8. B.A. and I had two main companies through which we operated our businesses:

- XXXXXXXX Alberta Ltd.

XXXXXXXX Alberta Ltd. (“B.”) operated various businesses under various names, including “T.M.” (a small mortgage brokerage) and “P.P.”. Between 2007 and 2012, B.A. and I were the directors and B.A. and my wife were the shareholders of B. B.A. and I had signing authority on B.’s bank account. In January 2012, I ceased to be a director but I retained signing authority on the bank account until January 2013. B.A. has had sole control of B. since then.

- XXXXXXXX Alberta Ltd.

XXXXXXXX Alberta Ltd. (“O.”) was the company through which B.A. and I ran our main operating business for the development of the Mexican Projects. It also operated under the trade name V.D. When O. was incorporated in 2008, B.A. and I were both directors and were equal shareholders. B.A. and I had signing authority on O.’s bank account. In June 2012, I ceased to be a director and B.A. became the sole director.

Assurance Fund Claims

9. To date, the Law Society has received 22 Assurance Claims alleging misappropriation, which claims have been or are being investigated by the Law Society. Although the facts of each claim are different, many of the claims exhibit similar fact patterns.

10. I dispute the validity of one of the unpaid claims and deny involvement in three others. I also dispute the quantity of some of the claims or state that the claimants had been paid back a portion of the claim.

11. The Mexican Projects required substantial sums of money and B.A. and I exhausted our ability to fund the projects through legitimate means. We resorted to various means to obtain funds.

Complaint of G.N. — CO20122857

12. The complaint of G.N. relates to one of the ways in which B.A. and I obtained funds to finance the Mexican Projects.

13. In May 2012, I was retained by E.N. to act on the sale of a property owned by C. Ltd., a corporation owned by E.N. and his wife, G.N. The sale closed on June 12, 2012.

14. E.N. and G.N. had separated and G.N. had filed a caveat against the property. I received a discharge of the caveat from G.N.'s lawyer on trust that I not use it unless I had E.N.'s agreement that the sale funds would "be used firstly to payout the registered encumbrance and secondly the balance of the monies will be held until we have either an agreement between E.N. and G.N. or Court Order." I used the Discharge of Caveat and by doing so became bound by the trust condition.

15. I received the cash balance to close of \$2,023,241.58 from the purchaser's lawyer and deposited it to my trust account on June 18, 2012. These funds were disbursed as follows:

Date 2012	Item--Payee	Amount
June 27	V.D.	225,500.00
July 10	Scotiabank payout of encumbrance	280,415.02
July 10	Realtor commission	21,872.50
July 10	Floyd Campbell legal fees	1,896.30
July 10	C. Ltd.	1,494,057.76
Sept 19	XXXXXXX Alberta Ltd. (received to balance ledger—cheque for \$225,500 had been posted as \$225,000)	<u>(500.00)</u>
	Total	\$2,023,241.58

16. I issued the trust cheques for \$225,500.00 to "V.D." (the "V. Cheque"—Exhibit 1) and for \$1,494,057.76 to "C. Ltd." (the "CSM Cheque"—Exhibit 2) before any agreement between the N.s had taken place or any court order issued. Neither E.N. nor G.N. knew of or agreed to the issuance of the V. Cheque or the C. Cheque, nor did the lawyer for G.N..

17. The V. Cheque was deposited into the bank account of O. and the funds were used to support our Mexican Projects. Although the C. Cheque was made payable to "C. Ltd.", I did not give it to the N.s or to C. Ltd. I gave the C. Cheque to B.A. so that he could deposit it. I had deliberately named "C. Ltd." as the payee on the C. Cheque and noted "Sale Proceeds" on it in order to give it the appearance of legitimacy in case my trust accounts were audited. The funds from the C. Cheque were used to pay various creditors of our businesses and ventures.

18. In early December 2012 G.N.'s lawyer advised me that the balance of the funds could be released to E.N. and G.N. When I received the instructions to release the funds, I advised E.N. in conversations and text messages that the funds would not be available for release until December 17, 2012, and then later advised him that the cheques had been issued and would

be delivered by courier. In fact, the funds had already been converted to the use of B. and O. and no cheques were ever issued.

19. When he did not receive the cheques, E.N. attempted to contact me on a number of occasions. I did not respond to him.

20. I acted in breach of the trust condition imposed on me by G.N.'s lawyer when I disbursed the sale proceeds before E.N. and G.N. had reached an agreement.

21. I converted over \$1,700,000.00 for the use of B. and O. when I issued the V. Cheque and the C. Cheque knowing that the funds would not be used for the benefit of the persons entitled to the funds but rather the funds were used by B.A. and me to pay our creditors.

22. I misled E.N. in mid December 2012 when I led him to believe that I was still holding the sale proceeds and when I told him that the funds would be released as instructed on December 17th and I further misled him when I said that I had issued the cheques and would have them delivered as instructed. In fact, those funds had been used to help finance the Mexican Projects five months earlier.

Complaint of J.D./B.A. CO20130782

23. During the period from November 2009 to July 2012 I signed documents with signatures purporting to be those of B.A. or XX on at least six occasions and specifically I signed as B.A. or XX on the following documents:

- i. I signed as B.A. on the Resolution in Writing of E. Corporation ("E. Corporation") dated November 30, 2009 (Exhibit 3);
- ii. I signed as B.A. on a Discharge of Caveat dated January 20, 2011 (Exhibit 4);
- iii. I signed as B.A. on a Lease Amending Agreement dated November 16, 2011 (Exhibit 5);
- iv. I signed as B.A. an Affidavit dated February 13, 2012 (Exhibit 6), in which B.A. purportedly swore to the truth of information regarding the judicial sale of a property. I then signed my own name as the Commissioner for Oaths who had purportedly received B.A.'s oath that the contents of his affidavit were true;
- v. Transfer of Land dated April 18, 2012 (Exhibit 7):
 - I signed as XX as Transferor and signed my own name as witness XX signature;
 - I signed the Affidavit of Execution, swearing that I had witnessed XX's signature;

- I signed B.A.'s name on the Affidavit of Execution as the Commissioner for Oaths who had purportedly received my oath that the contents of my affidavit were true;
 - I signed as XX on the Dower Affidavit in which XX purportedly swore that she was the Transferor and that neither she nor I had resided on the lands. I then signed my own name as the Commissioner for Oaths who had purportedly received XX's oath that the contents of her affidavit were true;
- vi. I signed as B.A. on a cheque dated July 18, 2012, purportedly drawn by B. in favour of E. Corporation for \$75,000 (Exhibit 8).

24. In addition to the improperly commissioned affidavits listed above, I signed as the Commissioner for Oaths who had purportedly received the Dower Affidavit of L.A. on November 20, 2012 (Exhibit 9). L.A. did not appear before me nor did he affirm or swear to me that the contents of his affidavit were true.

ADMISSION OF FACTS

25. I admit the statements in the Statement of Facts for the purpose of providing a record of the events which preceded and precipitated my application to resign.

This Statement of Facts is made this 13th day of February, 2015.

"Floyd Hunter Campbell"
Floyd Hunter Campbell