

LAW SOCIETY OF ALBERTA
IN THE MATTER OF THE *LEGAL PROFESSION ACT*;
AND
IN THE MATTER OF AN APPLICATION TO RESIGN PURSUANT TO SECTION 61
OF THE *LEGAL PROFESSION ACT*,
BY NANCY PEARSON
A MEMBER OF THE LAW SOCIETY OF ALBERTA

Resignation Committee:

Adam Letourneau, Chair (Bencher)
Julie Lloyd, Committee Member (Bencher)
Glen Buick, Committee Member (Lay Bencher)

Appearances:

Counsel for the Law Society – Sharon Borgland
Counsel for Nancy Pearson – self-represented

Application Date:

December 15, 2015

Location:

Law Society of Alberta at 500, 919 – 11th Avenue S.W., Calgary, Alberta

RESIGNATION COMMITTEE REPORT

Introduction

1. On December 15, 2015, a Resignation Committee (“Committee”) comprising of Adam Letourneau (Chair), Julie Lloyd and Glen Buick convened at the Law Society of Alberta

("LSA") offices in Calgary to hear the resignation application of Ms. Nancy M. R. Pearson ("Member"). The LSA was represented by Ms. Sharon Borgland. The Member attended at the application in person and was unrepresented by Counsel. The jurisdiction of the Committee was established. Neither party applied for the application, or parts of it, to be held in private. The Committee therefore directed that the application be held in public.

2. The Committee was advised that the Member's application for resignation pursuant to section 61(1) of the *Legal Profession Act*, RSA 2000 c L-8 ("Act") was proceeding with the consent of the LSA.
3. The resignation application was granted.

Admitted Facts and Outstanding Citations

4. The Agreed Statement of Facts and the Agreed Statement of Facts Addendum dated December 3, 2015, are attached as Schedules "A" and "B" to this decision and are an integral part of it.
5. The Member's conduct was the subject of investigations by the LSA. There are eight outstanding complaints with thirty-seven total outstanding citations. Her conduct has been the subject of eight completed Assurance Fund investigations. In all eight of the Assurance Fund Investigations, the Investigator found evidence of misappropriation of trust funds. To date, the Assurance Fund has paid claims totaling approximately \$108,000. There remain three outstanding Assurance Fund claims in the sum of approximately \$107,000. Ms. Pearson's conduct is set out more particularly in Schedules "A" and "B".

Analysis

6. The issue to be determined by the Committee is whether the Member's application pursuant to section 61(1) of the Act should be granted given the totality of the evidence. The Committee must also consider whether it is in the best interest of the public and members of the LSA to permit the Member to resign prior to the resolution of the outstanding matters of concern or under review by the LSA.
7. Given the facts that the Member has admitted, it is the finding of the Committee that the best interests of the public and the LSA are served with the acceptance of the resignation of the Member
8. The Committee notes the undertakings given by the Member pursuant to Rule 92(2) of the *Rules of the Law Society of Alberta* and accepts those Undertakings. The Committee

iterates that those Undertakings form an integral part of the reasons for granting this application for resignation under section 61(1). More specifically, the Member has undertaken to cooperate with the LSA with respect to claims made against her or the Assurance Fund, to pay any deductible with respect to any claim paid by the LSA insurer, to pay the LSA any amount of any claim paid by the Assurance fund or the indemnity program fund and to surrender her LSA certificate of enrolment.

9. The Committee accepts the submissions of the LSA that the Member has shown by her actions, especially those actions subsequent to undertakings made to the LSA, that she is ungovernable.
10. The Committee finds that the Member's conduct is incompatible with the best interests of the public.
11. 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 9 of the Statutory Declaration entered as Exhibit 7 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."

12. The Member was further questioned by the Chair, and confirmed that she understood that her resignation under section 61 did constitute "disbarment" in accordance with section 1 (c) of the *Act*.
13. 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 LSA, it is the most serious consequence that we have the authority to impose.

Decision

14. The Committee accepts the Member's application for a resignation pursuant to section 61(1) of the *Act*.

Costs

15. The estimated Statement of Costs was entered as Exhibit 12 in the amount of \$55,874.70. An updated Statement of Costs was submitted to the Chair and the total costs were accepted at a sum of \$55,473.60 The Committee directs that the Member pay all those costs on or before December 15, 2018 and prior to making an application for reinstatement as a Member of the LSA.

Final Matters Arising

16. With respect to matters arising the Committee directs that:
- a. The Member shall surrender her certificate of enrolment to the LSA.
 - b. The details of this decision shall be noted in the Roll, including the conditions related to costs. The record of these proceedings, including the Statement of Admitted Facts and Addendum Statement of Facts and the exhibits put before the Committee shall be preserved for reference in any future application for reinstatement;
 - c. A referral to the Attorney General shall not be made.

Dated at City of Calgary, in the Province of Alberta, March 4th, 2016

Adam Letourneau

Julie Lloyd

Glen Buick

Schedule "A"

IN THE MATTER OF THE *LEGAL PROFESSION ACT*

AND IN THE MATTER OF A HEARING REGARDING THE CONDUCT OF

NANCY MARGARET ROSE PEARSON,

A MEMBER OF THE LAW SOCIETY OF ALBERTA

LAW SOCIETY HEARING FILE HE20140044

STATEMENT OF AGREED FACTS

INTRODUCTION

1. Nancy Margaret Rose Pearson ("Ms. Pearson") was admitted to the Law Society of Alberta (the "Law Society") on August 31, 1992.
2. Ms. Pearson practiced law in Edmonton, Alberta as an active member from the date of her admission until she was suspended by a Hearing Committee on June 1, 2011.
3. Ms. Pearson's four month disciplinary suspension commenced September 1, 2011 and ended on January 1, 2012.
4. Ms. Pearson's applied for reinstatement but her application is on hold and she currently remains suspended due to the outstanding conduct matters that are the subject of this hearing.
5. From 1992 until 2011, Ms. Pearson practiced as a sole practitioner or as part of a two-person law firm. Her primary area of practice was family law.

CITATIONS

6. Ms. Pearson faces 37 citations directed to hearing by the Conduct Committee arising out of eight complaints, as follows:

CO20132170

1. It is alleged that Nancy Pearson misappropriated or wrongfully converted money entrusted to her and that such conduct is deserving of sanction;
2. It is alleged that Nancy Pearson breached the Rules of the Law Society of Alberta, and that such conduct is deserving of sanction;
3. It is alleged that Nancy Pearson breached her undertaking to the Law Society and that such conduct is deserving of sanction.

CO20120595

4. It is alleged that Nancy Pearson misappropriated or wrongfully converted money entrusted to her, or allowed money to be removed from trust without authorization, and that such conduct is deserving of sanction;
5. It is alleged that Nancy Pearson breached the *Rules* of the Law Society of Alberta, and her undertaking to the Law Society, and that such conduct is deserving of sanction;
6. It is alleged that Nancy Pearson failed to respond to another lawyer and that such conduct is deserving of sanction;
7. It is alleged that Nancy Pearson failed to respond to requests from the Law Society, and that such conduct is deserving of sanction.

CO20100165

8. It is alleged that Nancy Pearson misappropriated or wrongfully converted money entrusted to her, and thereby breached the *Code of Professional Conduct*, and the *Rules* of the Law Society, and that such conduct is deserving of sanction;

9. It is alleged that Nancy Pearson breached her undertaking to another lawyer and thereby breached the *Code of Professional Conduct*, and that such conduct is deserving of sanction;
10. It is alleged that Nancy Pearson misinformed or failed to inform, her clients and thus breached the *Code of Professional Conduct*, and that such conduct is deserving of sanction;
11. It is alleged that Nancy Pearson breached her undertaking to the Law Society, the *Code of Professional Conduct*, and the *Rules* of the Law Society.

CO20101741

12. It is alleged that Nancy Pearson misappropriated or wrongfully converted money entrusted to her, or allowed money to be removed from trust without authorization, and that such conduct is deserving of sanction;
13. It is alleged that Nancy Pearson lied to, or failed to inform, her client regarding the receipt of payments on the client's behalf, and that such conduct is deserving of sanction;
14. It is alleged that Nancy Pearson breached the *Rules* of the Law Society of Alberta, and that such conduct is deserving of sanction;
15. It is alleged that Nancy Pearson breached her undertaking to the Law Society;
16. It is alleged that Nancy Pearson failed to respond to requests from the Law Society, and that such conduct is deserving of sanction.

CO20120878

17. It is alleged that Nancy Pearson misappropriated or wrongfully converted money entrusted to her, and breached her trust obligations and that such conduct is deserving of sanction;
18. It is alleged that Nancy Pearson breached the *Rules* of the Law Society and that such conduct is deserving of sanction;
19. It is alleged that Nancy Pearson breached her undertaking to the Law Society and that such conduct is deserving of sanction;

20. It is alleged that Nancy Pearson failed to respond to communications from the Law Society, and that such conduct is deserving of sanction;
21. It is alleged that Nancy Pearson is ungovernable by her regulator.

CO20121520

22. It is alleged that Nancy Pearson misappropriated or wrongfully converted money entrusted to her, or allowed money to be removed from trust without authorization, and that such conduct is deserving of sanction;
23. It is alleged that Nancy Pearson breached the *Rules* of the Law Society of Alberta, and her undertaking to the Law Society, and that such conduct is deserving of sanction,;
24. It is alleged that Nancy Pearson failed to respond to another lawyer and that such conduct is deserving of sanction;
25. It is alleged that Nancy Pearson failed to cooperate with a Law Society Investigator and failed to respond to requests from the Law Society, and that such conduct is deserving of sanction;
26. It is alleged that Nancy Pearson is ungovernable by her regulator.

CO20120828

27. It is alleged that Nancy Pearson misappropriated or wrongfully converted money entrusted to her, or allowed money to be removed from trust without authorization, and that such conduct is deserving of sanction;
28. It is alleged that Nancy Pearson lied to or misinformed her client and that such conduct is deserving of sanction;
29. It is alleged that Nancy Pearson breached the *Rules* of the Law Society of Alberta, and that such conduct is deserving of sanction;
30. It is alleged that Nancy Pearson breached her undertaking to the Law Society and that such conduct is deserving of sanction;

31. It is alleged that Nancy Pearson failed to respond to requests from the Law Society, and that such conduct is deserving of sanction;
32. It is alleged that Nancy Pearson is incapable of being governed by her regulator.

CO20121145

33. It is alleged that Nancy Pearson misappropriated or wrongfully converted money entrusted to her, or allowed money to be removed from trust without authorization, and that such conduct is deserving of sanction;
34. It is alleged that Nancy Pearson breached her obligations to Legal Aid Alberta, and that such conduct is deserving of sanction;
35. It is alleged that Nancy Pearson breached the *Rules* of the Law Society of Alberta, and that such conduct is deserving of sanction;
36. It is alleged that Nancy Pearson breached her undertaking to the Law Society and that such conduct is deserving of sanction;
37. It is alleged that Nancy Pearson is ungovernable by her regulator.

CITATIONS 1 – 3

[paragraphs incorrectly numbered in original]

6. On March 28, 2011, Ms. Pearson provided an undertaking to the Law Society to maintain her law firm books and records in compliance with the *Rules of the Law Society of Alberta* (“the Rules”).
7. In 2011, Ms. Pearson acted for Client A in respect of a divorce and matrimonial property matters as well as a real estate refinancing matter.
8. On April 13, 2011, Ms. Pearson received the refinance amount of \$59,871.32 into trust and the majority of the funds were disbursed in accordance with Client A’s instructions.
9. Fee payments from trust to Ms. Pearson’s Professional Corporation (“PC”) amounted to \$7,000.00.

10. Ms. Pearson invoiced Client A a total of \$4,207.74.
11. Ms. Pearson received an overpayment of \$2,792.26 from Client A.
12. Client A did not authorize and was not invoiced for the fee overpayment.
13. Ms. Pearson balanced the trust ledger card with funds that should have been allocated to another unrelated client.
14. Ms. Pearson admits the facts set out above in paragraphs 6 – 13 inclusive in relation to Citations 1 – 3.

CITATIONS 4 – 7

15. In May 2010, Ms. Pearson was retained by Client B to represent him in respect of a divorce and matrimonial property matters. Subsequently, she was retained to assist Client B with the sale of the matrimonial home, a refinancing of that home and in negotiating the settlement of a debt.
16. On March 28, 2011, Ms. Pearson provided an undertaking to the Law Society to maintain her law firm books and records in compliance with the *Rules of the Law Society*.
17. Fee payments from trust to Ms. Pearson's PC amounted to \$28,230.00.
18. Ms. Pearson invoiced Client B a total of \$11,171.55.
19. Ms. Pearson received an overpayment of \$17,058.45 from Client B.
20. The Law Society Investigator (the "Investigator") issued a report regarding Client B's complaint, which noted the following additional accounting irregularities:
 - a. Invoices recorded in Client B's account could not be located;
 - b. Disbursements in the amounts of \$577.50 and \$2,075.93 could not be verified;
 - c. \$1000.00 was referenced as a "correction" but no deposit could be located.
21. On May 19, 2011, a \$3,700.00 payment to Client C (see Citations 12 – 16) was allocated to Client B's trust account. Client B did not authorize the \$3,700.00 payment to Client C.
22. On August 31, 2011, two transfers were made from inactive files to Client B's account to cure the trust deficiency of \$3,700.00.
23. On August 31, 2011, \$157.03 was transferred to Client B's account from the account of Client G (see Citations 33 – 37).

24. On September 1, 2011, Ms. Pearson's membership with the Law Society was suspended and a custodian was appointed.
25. The custodian, Mr. Joseph Shafir, wrote to Ms. Pearson seeking an explanation for the accounting irregularities on Client B's file.
26. On July 30, 2013, the Law Society requested a response to the allegations from Ms. Pearson.
27. Ms. Pearson admits the facts set out above in paragraphs 15 – 27 inclusive in relation to Citations 4 – 7.

CITATIONS 8 – 11

28. In response to a telephone complaint by a former employee of Ms. Pearson's law firm, an Investigation Order was issued on September 7, 2010.
29. The investigation report indicates the following:
 - a. Between August 2009 and January 2011, Ms. Pearson wrote 13 cheques from her firm's trust account payable to her personal Royal Bank of Canada VISA account;
 - b. The cheques amounted to a total of \$114,300.00;
 - c. The cheque amounts were allocated to various clients' accounts;
 - d. Each cheque created a shortage in the firm's trust account and in the client trust accounts that were charged;
 - e. Ms. Pearson repaid \$72,821.33 to the trust account through cash advances from her VISA;
 - f. Ms. Pearson paid fees from client trust accounts without invoicing the clients and without the clients' authorization or knowledge;
 - g. Ms. Pearson paid fees from client trust accounts in excess of billings;
 - h. Ms. Pearson paid fees to her firm from client trust accounts that held no funds;
 - i. Ms. Pearson's balanced her monthly trust reconciliations by including "outstanding deposits"; she carried the outstanding deposits forward for several months without the deposits being made;

- j. The “outstanding deposits” were cleared in the books and records without a corresponding deposit being made; and
 - k. Ms. Pearson used trust deposits belonging to one client to cover outstanding deposits recorded to other client trust accounts.
30. In breach of clear undertakings to another member of the Law Society, Ms. Pearson failed to hold proceeds from the sale of properties in trust and used the proceeds to pay her fees.
31. Ms. Pearson admits the facts set out above in paragraphs 29 – 31 inclusive in relation to Citations 8 – 11.

CITATIONS 12 – 16

32. In May 2006, Client C retained Ms. Pearson to assist her with a divorce, matrimonial property settlement, child support and custody issues.
33. On March 22, 2011, Client C dismissed Ms. Pearson and requested her file.
34. On March 28, 2011, Ms. Pearson provided an undertaking to the Law Society to maintain her law firm books and records in compliance with the *Rules of the Law Society*.
35. On May 19, 2011, Ms. Pearson provided Client C with a trust cheque in the amount of \$3,700.00 and a portion of Client C’s file.
36. On March 21, 2012, Client C’s new lawyer advised the Law Society that from July 2007 until May 2011, Ms. Pearson had received 35 letters from opposing counsel enclosing child support cheques payable to Client C. The cheques totaled \$5,235.00.
37. Mr. Pearson did not provide the child support cheques to Client C.
38. The majority of the child support cheques were deposited to Evans Pearson and Company (“EPCO”) trust accounts as fee payments.
39. *[this paragraph blank in original]*
40. Law firm records indicate that Client C paid fees in the total amount of \$9,340.00.
41. Client C advised the Law Society that she paid additional fees in the amount of \$1,700.00 in cash. The cash payments were not recorded in the law firm records.

42. When Ms. Pearson wrote the trust cheque for \$3,700.00 to Client C, there was a balance of \$160.00 in Client C's trust account. The \$3,700.00 trust cheque was posted to the account of Client B.
43. On July 30, 2013, Ms. Pearson was provided with a copy of the investigator's report with a request for her written response to the complaint and the report.
44. Ms. Pearson admits the facts set out above in paragraphs 33 – 43 inclusive in relation to Citations 12 – 16.

CITATIONS 17 – 21

45. On March 28, 2011, Ms. Pearson provided an undertaking to the Law Society to maintain her law firm books and records in compliance with the *Rules of the Law Society*.
46. Ms. Pearson acted for Client D in respect of her divorce. Client D later transferred her file to a new lawyer.
47. In April 2012, the new lawyer contacted Mr. Shafir, the court appointed custodian of Ms. Pearson's practice, to inquire as to whether Ms. Pearson held \$6,000.00 in trust on behalf of Client D.
48. The new lawyer advised that on October 26, 2011, a \$40,000.00 cheque was sent by opposing counsel payable to "Nancy M. Pearson Professional Corporation in Trust".
49. On October 26, 2011, Ms. Pearson provided \$34,000 to Client D.
50. Client D's ledger card indicated receipt of \$34,000.00 on October 28, 2011 and payment of \$34,000.00 to Client D on November 3, 2011.
51. On October 28, 2011, \$6,000.00 was received into the trust account of an unrelated client.
52. On April 16, 2012, the Law Society sent Mr. Pearson a letter by registered mail requesting her response to the allegations. The letter was returned as "unclaimed". The same letter was sent by regular mail to Ms. Pearson on May 4, 2012.
53. On May 1, 2012, Ms. Pearson purchased a bank draft in the amount of \$6,000.00 and forwarded it to Legal Aid with instructions to credit the money to Client D's legal aid account.
54. Follow-up letters were sent by the Law Society to Ms. Pearson on May 28 and June 11, 2012.

55. On June 27, 2012, a further follow-up letter was sent to Ms. Pearson by registered mail. The letter was returned as “unclaimed”. The same letter was sent by regular mail to Ms. Pearson on July 20, 2012.
56. The letters sent to Ms. Pearson by regular mail were not returned to the Law Society.
57. Ms. Pearson admits the facts set out above in paragraphs 45 – 56 inclusive in relation to Citations 17 – 21.

CITATIONS 22 – 26

58. On March 28, 2011, Ms. Pearson provided an undertaking to the Law Society to maintain her law firm books and records in compliance with the *Rules of the Law Society*.
59. Beginning in January 2010, Ms. Pearson acted for the Personal Representative (“Client E”) of an estate (the “Estate”).
60. The investigation report indicates the following:
 - a. Ms. Pearson paid her firm \$1,000 on January 25, 2010; the cheque cleared on January 26th. There were no funds in the Estate trust account at that time. A trust shortage of \$1,000 existed until the \$1,000 retainer was provided on January 28, 2010.
 - b. As of March 26, 2010, Ms. Pearson had paid fees from trust totaling \$3,500. The Estate trust account had received to its credit only the \$1,000 retainer. The fee payments left a trust shortage of \$2,500 in the Estate trust account as of March 26th.
 - c. Ms. Pearson brought the trust account balance to zero when she posted (or arranged to be posted) to the Estate ledger card a receipt of \$2,500 from the Government of Canada. She posted the receipt two weeks before the funds were actually received.
 - d. Ms. Pearson wrote three more trust cheques payable to her firm and allocated them to the Estate account. These payments totaled \$6,500. As no funds were held in trust for the benefit of the estate, the Estate trust account was short by \$6,500.
 - e. The trust reconciliation for July 2010 included three outstanding deposits to trust for the Estate. These were recorded on the client ledger and cleared the negative balance; however, there were no such subsequent deposits.

- f. Ms. Pearson did not render accounts to Client E for fees paid despite the client's request to do so.
 - g. Fees paid from trust exceeded the total sum of the invoicing found on the file by an amount of \$6,002.03.
 - h. Ms. Pearson wrote the last cheque drawn on the Estate trust account as a fee payment to her firm: trust cheque 13532 dated August 4, 2011, for \$300. She rendered no account to Client E.
 - i. A trust cheque of \$3,000 was made on behalf of another client but posted to the Estate ledger. This error was not corrected on the Estate ledger.
 - j. \$10,225.12 was posted as a charge to the Estate ledger. This payment could not be verified and did not relate to the Estate.
61. On September 1, 2011, Ms. Pearson's membership with the Law Society was suspended and a custodian was appointed.
62. The custodian, Mr. Joseph Shafir, wrote to Ms. Pearson seeking an explanation for the accounting irregularities on Client E's file.
63. A copy of the investigator's report was delivered to Ms. Pearson on January 21, 2013 with a request for her response pursuant to s. 53 of the *Legal Profession Act*.
64. Ms. Pearson admits the facts set out above in paragraphs 58 – 63 inclusive in relation to Citations 22 – 26.

CITATIONS 27 – 32

65. On March 28, 2011, Ms. Pearson provided an undertaking to the Law Society to maintain her law firm books and records in compliance with the *Rules of the Law Society*.
66. On May 24, 2012, John Williams, a member of the Law Society, complained to the Law Society on behalf of his client, Client F, regarding the conduct of Ms. Pearson. Mr. Williams advised that Ms. Pearson had failed to account for \$38,807.90 of Client F's funds.
67. By registered mail on May 25, 2012, the Manager, Complaints sent Ms. Pearson a copy of Mr. Williams' complaint and requested her response pursuant to s.53 of the *Legal Profession Act*. The letter was returned by Canada Post marked "Unclaimed". The letter was re-sent to Ms. Pearson by regular mail on June 15, 2012.

68. On July 4, July 23, and August 7, 2012 follow up letters were sent to Ms. Pearson reminding her that her response had not been received. None of the letters sent by regular mail were returned to the Law Society.
69. On August 28, 2012 the Director of Lawyer Conduct issued a direction to the Investigator to investigate the conduct of Ms. Pearson and the complaint of Mr. Williams.
70. On June 14, 2013 the Investigator issued her report which may be summarized as follows:
- a. Ms. Pearson was retained by Client F with respect to the administration of the estate of her spouse. Fees were to be paid by the client when billed.
 - b. The client's \$1,500 retainer from the brief initial meeting was immediately deposited to the law firm's general account.
 - c. Ms. Pearson's firm received \$2,616.34 more than was invoiced to Client F.
 - d. On June 22, 2011, Ms. Pearson received \$363,807.90 from TD Canada Trust for the estate. Only \$318,109.07 was credited to Client F's trust ledger. Without instructions, the balance of \$45,698.83 was divided among three other unrelated client ledgers, each falsely referenced as "RBC Receipt of sale proceeds". These deposits were traced as follows:
 - i. \$38,406.57 was credited to an inactive client trust account. Later, a cheque for \$38,306.45 was written to the inactive client trust account. No reason for this payment could be determined.
 - ii. \$2,292.26 was credited to another unrelated client's account. This covered a shortage of the same amount in that account.
 - iii. \$5,000 was allocated to another unrelated account. These funds were later transferred to another unrelated client account with a description "payment of account".
 - iv. Another unrelated client ledger had a \$6,000 shortage due to payments to Ms. Pearson's firm in excess of available funds in trust, which also exceeded the amounts invoiced. This shortage was covered by the \$5,000 transfer mentioned in iii) above, the deposit of \$300 from another client's funds, and a further \$700.00 transferred from Client F's account on July 11, 2011. Client F did not authorize the transfer.

- e. Deposits of \$10,000 (August 16/11) and \$2,000 (August 18/11) were recorded to Client F's account. The source of these funds is unknown.
 - f. On August 19, 2011, Ms. Pearson gave Client F a trust cheque for \$325,000. All but \$249.07 had already been transferred to unrelated clients' accounts. Eight days later, \$249.07 was paid to Ms. Pearson's firm. Ms. Pearson has not accounted for the remaining funds.
 - g. An entry in Client F's records led to the examination of another unrelated client's trust records. Payments to that client and Ms. Pearson's firm created trust shortages. An entry of March 31, 2010 recorded that the law firm deposited \$368.92 to trust on this account to bring the balance to zero. No matching deposit to trust could be identified.
 - h. In addition to Client F's file, Ms. Pearson paid her law firm more in fees than was invoiced on two of the unrelated client's files.
 - i. During the period of May 2011 and September 2011, Ms. Pearson:
 - i. used \$46,398.83 of Client F's trust money to offset what appeared to be shortages in other clients' trust accounts, thereby creating a shortage of the same amount in Client F's trust account;
 - ii. paid her law firm from Client F's trust account, in contravention of her client's instructions to provide invoices to her for payment;
 - iii. failed to inform Client F that she paid her law firm fees from trust in addition to receiving payments from Client F;
 - iv. *[this paragraph blank in original]*
 - v. held back \$249.07 in the trust account at the time she made the \$325,000 payment to Client F and then paid that amount to her law firm;
 - vi. with respect to Client F and two other unrelated clients, Ms. Pearson paid her law firm more in fees than was invoiced.
71. On July 30, 2013, the Manager, Complaints emailed Ms. Pearson a copy of the Investigator's report and requested her response pursuant to s.53 of the Legal Profession Act.
72. Ms. Pearson admits the facts set out above in paragraphs 65 – 71 inclusive in relation to Citations 27 – 32.

CITATIONS 33 – 37

73. During the course of a Law Society investigation, the Investigator became aware of irregularities in Ms. Pearson's client trust accounts. One of these client accounts was in the name of Client G.
74. Ms. Pearson was acting for Client G on two matters:
 - a. a divorce and matrimonial property matter, pursuant to a Legal Aid certificate effective June 2, 2010 (the "Divorce File"); and
 - b. the sale of the matrimonial home, which was complicated by a foreclosure action (the "Real Estate File").
75. With respect to the Divorce File, the Legal Aid certificate contained a condition that if the matrimonial property was sold an assignment of proceeds to Legal Aid was required. Further, a lawyer cannot accept remuneration from the client or anyone else for work covered by a Legal Aid Certificate, nor can she accept payment for any other work for that client without approval from Legal Aid.
76. With respect to the Real Estate File, the home was listed with a realtor April 29, 2011. Ms. Pearson received notification of the sale from the realtor June 30, 2011 and the sale closed August 1, 2011.
77. On March 28, 2011, Ms. Pearson provided an undertaking to the Law Society to maintain her law firm books and records in compliance with the *Rules of the Law Society*.
78. On April 19, 2012, the Investigator wrote to Client G requesting her confirmation of transactions posted to her client trust ledger. Client G responded on May 9, 2012, stating that Ms. Pearson had removed money from trust without her knowledge or consent.
79. On December 14, 2012, the Investigator issued her report, which states that Ms. Pearson:
 - a. opened two files for Client G; the Divorce File and the Real Estate File;
 - b. received from Legal Aid a certificate of coverage for the Divorce File;
 - c. received into trust for Client G the proceeds of the home sale;
 - d. submitted 4 invoices to Legal Aid for payment;

- e. received payment from Legal Aid for the invoices she submitted;
 - f. paid fees from the Real Estate File trust account to her firm totaling \$12,300.00;
 - g. produced two statements of account on the Real Estate File; one for \$2,400, the other for \$400.00;
 - h. issued a trust cheque in the amount of \$1,255.00 from Client G's trust account dated August 31, 2011 and payable to the Canada Revenue Agency. Client G did not authorize the payment and the social insurance number on the back of the cheque was not that of Client G or her husband.
 - i. transferred \$157.03 from Client G's sale file to an unrelated client trust ledger with the notation "correction of posting"; however, there was no error in posting of receipts on Client G's file. Client G did not authorize this transfer.
80. Ms. Pearson accepted payment for other legal work she did for Client G without approval from Legal Aid.
81. The trust accounting irregularities on Client G's file occurred between approximately July 29, 2011 and August 31, 2011.
82. On July 9, 2014 by email, a request was sent to Ms. Pearson for her response pursuant to s.53 of the Legal Profession Act to the Investigator's Report.
83. Ms. Pearson admits the facts set out above in paragraphs 73 – 82 inclusive in relation to Citations 33 – 37.

This Statement of Agreed Facts is not exhaustive. Both parties may lead additional evidence that is not inconsistent with the facts stated herein.

This Statement of Agreed Facts is dated the 26th day of November, 2015.

“Witness”

WITNESS

“Nancy Margaret Rose Pearson”

Nancy Margaret Rose Pearson

Schedule "B"

IN THE MATTER OF THE *LEGAL PROFESSION ACT*

**AND IN THE MATTER OF A HEARING REGARDING THE CONDUCT OF
NANCY MARGARET ROSE PEARSON,
A MEMBER OF THE LAW SOCIETY OF ALBERTA**

LAW SOCIETY HEARING FILE HE20140044

STATEMENT OF AGREED FACTS - ADDENDUM

1. This Statement of Agreed Facts – Addendum is an addendum to the Statement of Agreed Facts executed by Nancy M. R. Pearson on November 26, 2015 (the "Original ASOF") in relation to the same matter (Law Society Hearing File HE20140044).
2. The 37 citations identified at paragraph 6 of the Original ASOF arose out of six (6) investigations conducted by Nancy Stenson, formerly an investigator with the Law Society of Alberta (the "Law Society"). The six investigations were IN20120025, IN20120032, IN20120033, IN20120028, IN20130016 and IN20100039.
3. The investigations resulted in Final Investigation Reports regarding each investigation, comprised of seven (7) binders containing the Final Investigation Reports and Exhibits thereto (the "Investigation Reports").
4. While I do not agree with the entirety of the contents and conclusions contained within the Investigation Reports, I nonetheless acknowledge that:
 - a. the Investigation Reports raise a number of concerns about my involvement and conduct in connection with the various transactions detailed therein and summarized in the Original ASOF (the "Transactions");
 - b. the Law Society, as my regulator, has concerns about my involvement and conduct in connection with the Transactions;

- c. certain aspects of my conduct, in connection with the Transactions, were not in accordance with the expectations of the Law Society;
- d. I did not strictly adhere to the accounting guidelines or rules established by the Law Society in relation to the Transactions; and
- e. at the end of a hearing in respect of the citations, if certain of the citations were proven on a balance of probabilities, I would be facing serious sanctions, including disbarment.

5. In order to:

- a. avoid a lengthy and costly hearing;
- b. avoid inconveniencing witnesses; and
- c. bring a resolution to the 37 citations directed to hearing as set out in the Original ASOF

I am hereby agreeing to resign from the Law Society pursuant to s. 61 of the *Legal Profession Act*.

- 6. I acknowledge that there are outstanding claims for compensation from the Law Society of Alberta Assurance Fund ("Assurance Fund Claims") that have been made in relation to my involvement and conduct in connection with the Transactions. I acknowledge that my resignation application including the Original ASOF and Addendum are in no way meant to act as a release or determination of the Assurance Fund Claims. I acknowledge that these Assurance Fund Claims will be dealt with in due course in accordance with the statutory regime established to deal with such claims.
- 7. I have executed this Addendum for the sole purpose of applying to resign from the Law Society of Alberta and for no other purpose. I executed the Original ASOF and the Addendum of my own free will and with the full understanding of their meaning and consequences. I have either obtained independent legal advice in relation to my execution of the Original ASOF and Addendum or I have elected to forego obtaining independent legal advice.

This Statement of Agreed Facts - Addendum is dated the 3rd day of December, 2015.

"Witness"

WITNESS

"Nancy Margaret Rose Pearson"

Nancy Margaret Rose Pearson