LSA FILE NO.: HE20100024

IN THE MATTER OF THE *LEGAL PROFESSION ACT,* R.S.A. 2000, C. L-8, AND IN THE MATTER OF A HEARING REGARDING THE CONDUCT OF BONNIE WALD, A MEMBER OF THE LAW SOCIETY OF ALBERTA

The Hearing Committee:

J. T. Eamon, Q.C. (Chairperson)

R. J. Everard, Q.C.

W. Jacques

Counsel appearances:

L. MacDonald, Q.C., for the Law Society of Alberta ("LSA")

L. Stevens, Q.C., for Bonnie Wald (the "Member ")

Date and place of hearing:

Edmonton, Alberta

Oral hearing, June 21, 2011

Written submissions, January 2012

WRITTEN REASONS AND REPORT OF THE HEARING COMMITTEE

I. SUMMARY OF CITATIONS AND FINDINGS

1. Ms. Wald is charged with the following Citations under Part 3 of the *Legal Profession Act*:

    1. It is alleged that you entered a Default Judgment knowing it was improper to do so in the circumstances and that such conduct is deserving of sanction.

    2. It is alleged you refused to take the necessary steps to set aside a Default Judgment which you knew you had improperly entered and that such conduct is deserving of sanction.

    3. It is alleged that you improperly administered oaths as a Commissioner for Oaths and that such conduct is deserving of sanction.

2. The Citations were dismissed.

II. JURISDICTION, PRIVATE HEARING MATTERS, RECORD AND PROCEDURES

3. Jurisdiction of the Hearing Committee was established through Exhibits J-1 through J-5. Both parties agreed the Hearing Committee had jurisdiction, and the Hearing Committee concluded it had jurisdiction. Both parties were asked whether there was any objection to any member of the Hearing Committee. There were none.

4. The Chairperson invited private hearing applications as required by Rule 98(1) of the LSA Rules. Two parties were served with a private hearing notice. No one asked that the hearing be held in private. The hearing proceeded in public.

5. No evidence was heard on Citations 1 and 2. The Hearing Committee entered Exhibit 1, an Agreed Statement of Facts, into evidence on Citation 3. The statement included copies of the two affidavits which are the subject matter of Citation 3 (the "Affidavits"). At the Hearing Committee's invitation, Ms. Wald gave oral testimony respecting Citation 3. Following her testimony and oral argument, the hearing was adjourned at the request of LSA's counsel (Ms. Wald not objecting) for the parties to submit additional written argument. Both sides agreed that following written argument there was no need for further oral argument on the issue whether the Member committed conduct deserving of sanction.

6. Written argument was received from LSA's counsel on January 9, 2012 and the Member's counsel on January 11, 2012. The parties confirmed that they did not require any additional oral hearing arising from these filings. These submissions, as well as copies of Statutes, Rules and cases provided to the Hearing Committee by counsel during the oral hearing, are included in the Record returned by the Chairperson to the LSA.

III. FACTS

7. Ms. Wald was a sole practitioner in Ponoka, Alberta.

8. Ms. Wald represented two clients ("Clients"), who are spouses. One of the Clients was previously married. That Client's ex-wife had custody of the 3 children of their previous marriage, and that Client had rights to visit the children.

9. An occurrence on a Sunday evening in November, 2009 lead to an application for a restraining order by the Clients against the father of the ex-wife (We refer to him as the "ex-father in law"). Ms. Wald represented the Clients in this application.

10. The Affidavits in support of the application purportedly sworn by the Clients give rise to Citation 3. It is not necessary for us to make findings about what actually occurred the evening in question and we do not do so. We describe some of the matters deposed in these Affidavits because it is important to understand the context and urgency in which Ms. Wald was representing her Clients.

11. Removed to protect client confidentiality.

12. Removed to protect client confidentiality.

13. Removed to protect client confidentiality.

14. The Clients further deposed in their Affidavits that they were stressed and fearful for their safety and the children's safety as a result of the incident. They were receiving counselling and sought counselling for the children as a result of the incident.

15. Ms. Wald issued the Originating Notice to commence the Restraining Order application the following Tuesday. Ms. Wald administered the oaths on the Affidavits the same day. The Clients were in City X, Alberta. Ms. Wald was in Ponoka, Alberta. They were connected by telephone and email. The oaths were administered by telephone. The Clients remained on the telephone with Ms. Wald until the Affidavits, which were signed by the Clients when the oaths were administered, were emailed to and received by Ms. Wald. Ms. Wald knew the Clients well, and she had no doubt concerning Client identification or signatures.

16. The Affidavits each contained the following form of jurat: "SWORN BEFORE ME at the City Of Ponoka, in the Province of Alberta...". In each Affidavit, Ms. Wald struck the word "City" and inserted the word "Town".

17. Ms. Wald testified that she had seen instances where witnesses had given evidence by "closed circuit" video or Skype. She told the Law Society that she took these oaths by telephone because the matter was urgent and she believed it was lawful to do so.

18. When the application was first returned in Chambers, it was adjourned to allow for cross-examination on Affidavits. Until those cross-examinations, neither the Court nor opposing counsel knew that the Affidavits were commissioned by telephone. The time between the service of the Affidavits and the cross-examinations was 20 days.

19. On cross-examination, counsel for the father in law questioned the Clients about how the Affidavits were sworn. Counsel for the ex-father in law strenuously objected to the Affidavits, taking the position they were not sworn at all.

20. We accept Ms. Wald's evidence that she administered an oath on both Affidavits.

21. Ms. Wald says that the position taken by opposing counsel came as a complete shock to her. She contacted one of LSA's Practice Advisors for advice the same day as the cross-examinations.

22. On the same day as the issue was raised by opposing counsel, Ms. Wald had the Clients re-swear their affidavits, containing the same content. Although she believed the Affidavits were not deficient, she did so to keep the litigation moving and avoid being derailed by the objections. Eventually the application became unnecessary because the matter was resolved by other process.

23. The court awarded costs of the application against the Clients. Ms. Wald paid the costs of the application because she believed the court awarded them due to the manner in which the Affidavits were sworn. She did not charge the Clients fees for preparing the impugned Affidavits or the Chambers application. The Clients continued as her clients until she retired from active practice. She had a very good relationship with the Clients.

24. Counsel for the ex-father in law complained to LSA about the Affidavits.

25. Ms. Wald testified that when the complaint was made, she could see that she had engaged in poor practice. She recognized in her complaint response letter that swearing the Affidavits by telephone was poor practice, and that the standard jurat should have been amended. She testified she would not do it again. We accept her testimony.

IV. WHETHER THE CONDUCT IS DESERVING OF SANCTION

(a) Parties' positions and conduct deserving of sanction

26. Counsel for the Law Society did not lead evidence on citations 1 and 2 and provided an explanation of the events and the reasons why he proposed not to proceed with these citations. The Hearing Committee was satisfied that it was appropriate to dismiss citations 1 and 2, and it dismissed them during the hearing.

27. Citation 3 references the manner in which the oaths were administered. Counsel for LSA argued that it is unlawful or improper to take an oath by telephone, and the jurat completed by the Member was misleading. Reference was also made to Chapter 10, Rule 14 of the old Code of Professional Conduct[1], which provided that a lawyer must not mislead the Court

[1] Since replaced by the Code of Professional Conduct, November 1, 2011.

nor assist a client or witness to do so. LSA Counsel also referred to Commentary 14.2 of the same Code and noted that the Member tendered the allegedly misleading Affidavits to the opposing party and the Court. LSA counsel submits that the manner in which the jurat was completed deprived the opposing party and the Court of the opportunity to consider issues of validity, admissibility and weight of the Affidavits.

28. Counsel for Ms. Wald did not agree that the oaths were unlawful or that the conduct is deserving of sanction. She argued that a deponent who took an oath by telephone would not escape criminal responsibility for perjury, and in any case it is not necessary to resolve the issue whether the oath was valid because even if it were not, the Member's conduct did not rise to the level of sanctionable conduct.

29. Section 49 of the *Legal Profession Act* defines conduct deserving of sanction:

> 49 (1) For the purposes of this Act, any conduct of a member, arising from incompetence or otherwise, that
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> (a) is incompatible with the best interests of the public or of the members of the Society, or
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> (b) tends to harm the standing of the legal profession generally,
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> is conduct deserving of sanction, whether or not that conduct relates to the member's practice as a barrister and solicitor and whether or not that conduct occurs in Alberta.

30. Conduct deserving of sanction need not be disgraceful, dishonourable or reprehensible. ***Brendzan v LSA*** (1997), 52 Alta. L.R. (3d) 64 (Q.B.), at paras 30 - 32. Error of judgment may or may not amount to conduct deserving of sanction. ***Law Society of Alberta v. Oshry***, [2008] L.S.D.D. No. 164; ***Law Society of Alberta v. Ter Hart***, [2004] L.S.D.D. No. 25; ***Law Society of Alberta v. Smeltz***, [1997] L.S.D.D. No. 144.

31. The issue is whether the conduct rises to the level of conduct deserving of sanction. In assessing sanctionable conduct, hearing panels often refer to ***Re Stevens and Law Society of Upper Canada*** (1979), 55 O.R. (2d) 405 (Div. Ct.), at p. 410:

> What constitutes professional misconduct by a lawyer can and should be determined by the discipline committee. Its function in determining what may in each particular circumstance constitute professional conduct ought not to be unduly restricted. No one but a fellow member of the profession can be more keenly aware of the problems and frustrations that confront a practitioner. The discipline committee is certainly in the best position to determine when a solicitor's conduct has crossed the permissible bounds

> and deteriorated to professional misconduct. Probably no one could approach a complaint against a lawyer with more understanding than a group composed primarily of members of his profession.

32. A variety of factors may be considered. These include: whether a specific rule or duty was breached; whether the Member was acting dishonestly or in bad faith; whether the act was isolated or planned; whether personal gain was involved; the opportunity to reflect before the conduct was undertaken; the results or impact of the conduct on the parties, litigants, profession, administration of justice, or public; any steps to cover up the conduct; and, what steps could have been and were taken to correct any errors.

(b) Assessment of Ms. Wald's belief concerning taking oaths by telephone

33. Ms. Wald is a Commissioner under the *Commissioners for Oaths Act*, R.S.A. 2000, c. C-20 because she is a lawyer. The *Commissioners for Oaths Act* and the *Alberta Evidence Act*, R.S.A. 2000, c. A-18 do not explicitly prohibit or authorize taking an oath by telephone.

34. The Affidavits were prepared for use in Court. The Rules of Court, A.R. 390/1968 as amended ("Old Rules") applied to the Affidavits. The affidavit had to be signed by the deponent and the person "before whom" the affidavit was sworn, the place where the affidavit is taken had to be expressed in the jurat, and the affidavits had to be sworn "before a judge, clerk of the court, deputy clerk, notary public, justice of the peace or commissioner empowered to administer oaths"(Old Rules 299, 300 and 309). Old Rule 306 permitted the affidavit to be used with the Court's permission notwithstanding an irregularity in form. The word "before" in these rules was not defined.[2]

35. No judicial precedent was provided to the Hearing Committee that taking an oath by telephone is unlawful. In ***Holoboff v. ASC***, [1991] A.J. No. 465 (C.A.), the Alberta Court of Appeal doubted whether the Alberta Securities Commission could take sworn evidence by telephone, but did not decide the issue or elaborate on its doubts.

36. LSA counsel points out that jurats have been held fatally defective where they do not recite that the oath was sworn "before me". However, these do not inform the question whether "before me" means in the physical presence of the commissioner. They merely reflect that in some cases, non-compliance with a required statutory form (which included a requirement that "before me" be in the jurat) is fatal (***Archibald v. Hubley*** (1890), 18 S.C.R. 116), or in others that the affidavit was ambiguous whether the oath was administered by the commissioner who signed the certificate or some other person (***The***

[2] Similar requirements were carried into the new Rules of Court, A.R. 124 /2010, as amended, Rule 13.19.

Queen v. Bloxham Inhabitants (1844), 6 Q.B. 528, 115 E.R. 197). Counsel for the Member points out that where the statute did not require particular words in the jurat, mere deviations from the form were not always fatal (***Re Looyenga*** (1966), 56 W.W.R. 111 (Sask. C.A.), affirmed [1967] S.C.R. vi) and that perjury can be committed by taking an oath regardless whether the jurat was properly completed or whether the Court would read the affidavit in a civil suit (***R. v. Atkinson*** (1866), 17 U.C.C.P. 295).

37. The essence or main purpose of an oath is to impress on the witness' conscience an obligation that he or she tell the truth. In ***R. v. Seath***, [2000] 9 W.W.R. 755 (Alta. C.A.), the Court stated:

> …Although s. 16(2) of the Alberta Evidence Act, R.S.A. 1980, ch. A-21 allows an oath to be taken or sworn in any one of the four Gospels and also makes provision for the Scottish oath and affirmation in lieu of an oath and a solemn declaration, there is no specific set of words that must be uttered in order for an oath to be properly administered. The object of the oath "is to get at the truth ... by getting a hold on the conscience of the witness." ***R. v. Bannerman*** (1996), 48 C.R. 110 (Man. C.A.) per Dickson, J. (as he then was) at p. 138.

38. Similarly, in ***R v. Dix*** (1998), 224 A.R. 50 (Q.B.), the Court described the essence of the oath as binding the witness' conscience.

39. Only "minimum procedural requirements" (Wachowich, L.J.S.C. in ***R. v. Nicholls***, [1975] 5 W.W.R. 600 (Alta. S.C., T.D.)) apply to swearing affidavits. In ***Seath***, the Court accepted the parties' concession that a legal assistant's practice in administering an oath on a lawyer by handing the lawyer the affidavit and asking "Is this your affidavit" and receiving the response "I so swear", was a valid means of administering an oath. Similarly, in ***Crown Lumber Co. Ltd. v. Hickle***, [1925] 1 W.W.R. 279 (Alta. S.C., A.D.), Beck J.A., Hyndman J.A. concurring, accepted that if the affiant is asked, "Will you swear to this paper?" and replies that he will, a mere failure to hold up his hand will not invalidate this oath. Other members of the Court did not agree or decided the case on other grounds, so no majority on this point was achieved. There must be a ceremony of some sort. A mere interview where the deponent affirms the facts is not sufficient, though a commissioner holding an honest belief that it was sufficient could lack the necessary intent to sustain a criminal charge for falsely swearing an affidavit. ***R. v. Chow***, [1987] 3 W.W.R. 767 (Sask. C.A.).

40. One must have due concern for evidentiary considerations. Physical attendance of the Commissioner with the deponent would usually ensure that identity is confirmed. This

protects against fraud and gives teeth to a perjury prosecution. Are these considerations so important that a physical meeting between Commissioner and deponent is essential?

41. Current Alberta practice does not appear to require, as part of the essential validity of an oath, confirmation of identity of the deponent. It is not essential to a valid oath that a Commissioner ask for identification or even ask who the deponent is.

42. Alberta practice leaves the Commissioner to decide how to verify a signature. If a witness attends on a Commissioner with an affidavit that is already signed, the Commissioner is only required under Alberta practice to ask the witness if the signature is his/hers. The Government of Alberta has published a set of guidelines for Commissioners containing this instruction[3]. It does not appear to be essential to the validity of an oath that the affidavit be signed by the witness, or that the Commissioner see the witness sign the affidavit.

43. It is not essential to the validity of an oath that the deponent's conscience is subjectively bound by the oath. The Commissioner is entitled to take the witness' word that a particular ceremony binds his or her conscience (*Alberta Evidence Act*, s. 14), or that he or she wishes to affirm rather than swear (*Alberta Evidence Act*, s. 17).

44. Placing too many requirements for essential validity of an oath is contrary to the public interest because it would permit dishonest witnesses from escaping prosecution for perjury. There is a distinction between what is essential and what is desirable. As Beck, J.A. said in ***Crown Lumber***:

> I take occasion to add that notwithstanding the conclusion I have arrived at I think it is highly desirable that a much greater seriousness and solemnity ought to accompany the taking and administration of an oath; but I have now only to consider what are the essentials and not what are the desirable solemnities.

45. It is arguable from the above that physical proximity between commissioner and deponent is not essential to the validity of an oath. This is supported by instances in case law where communications technology has been used to take sworn evidence.

46. A well known Alberta example of receiving evidence by video conference, before the Criminal Code was amended to permit evidence through video conference, is ***R v. Dix***[4].

[3] The booklet is quoted in the Agreed Statement of Facts, Exhibit 1.

[4] Cited above. The cases generally concern witnesses outside the jurisdiction, and the main concern apart from identification and ability to see the witness to assess credibility, has been to

47. There are examples of oaths being administered by telephone. In ***Norrena v. Kulig,*** [1997] O.J. No. 3225 (S.C.), the Court observed:

> The evidence of Doctor Skeith, a specialist in rheumatology and internal medicine who practices in Alberta was taken by telephone. This was not done without some misgivings. My recollection is that a law student in Ontario was severely disciplined by the Law Society in 1966 for purporting to swear a client's affidavit over the telephone**.** On the other hand (1883) 3 Canadian Law Times page 86 contains a note to the effect that the Albany Law Journal for the 21st of October, 1882 discussed the swearing of affidavits by telephone and suggested that it was proper. This, of course, was very shortly after the invention of that medium. In Northern Justice: The Memoirs of Mr. Justice William G. Morrow (1995, Osgoode Society, Toronto) p. 135, Morrow recounts taking evidence from a doctor by telephone on an application to take a child into care so a transfusion could be administered. The doctor in that case was sworn over the telephone.

48. Since 1998, the Alberta Rules of Court have provided that the Court may authorize receipt of evidence by telephone, video conference, or other means (See Old Rule 261.1 in force at the time of the events in question[5]). Rule 261.1 did not prescribe how the oath is administered or by whom. In one case, Justice Lee stated the oath should be administered via video conference though he suggested that arrangements also be made to administer an oath at the witness' locale. ***Edmonton v. Lovatt Tunnell Equipment*** (2000), 79 Alta. L.R. (3d) 262 (Q.B.), para. 23.

49. Various steps in criminal procedure permit evidence by video or telephone, including oaths by telephone for telewarrants and electronic trial evidence. ***Criminal Code***, sections 487.1, 714.1 – 714.8. While these rules and statutes are of limited value in informing requirements for validity of an oath at common law, they illustrate that legislative policy is often tolerant of the risks of taking evidence by electronic means where necessary.

50. Can it be said that a Commissioner may <u>never</u> take an oath by telephone? It is up to the Courts to determine whether such an oath is valid. A Hearing Committee's decision on the point would have no precedential value, and answering that a Commissioner may take an

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avoid jurisdictional concerns by requiring the oath conform to the law of both places. See ***R v. Dix.***

[5] This rule applied to examination for discovery (***DeCarvalho v. Watson*** (2000), 264 A.R. 83 (Q.B.)) and cross-examination on affidavit (***Alberta Central Airways Ltd. v. Progressive Air Services Ltd***., 2000 ABCA 36) as well as proceedings in Court or Chambers.

oath by telephone could mislead practitioners into something which the Courts later find unlawful. On the facts of this case, it is not necessary or useful to answer the question. It is sufficient for this disciplinary proceeding to conclude that there were good arguments that physical presence between deponent and commissioner is not required as a matter of the essential validity of an oath, and that accordingly, LSA, who bears the onus, has not persuaded the Hearing Committee that the Affidavits were invalid.

51. The Hearing Committee cannot conclude that Ms. Wald's belief in the lawfulness of her actions should be criticized.

(c) Did the affidavits contain misrepresentations in the jurat?

52. The jurat in each Affidavit was inaccurate. It implied that the oath was taken in Ponoka Alberta. If a oath by telephone is valid, it cannot be said that the Affidavits were sworn before the Commissioner in Ponoka when the parties were on a telephone link between Ponoka and City X, Alberta. Ms. Wald ought to have recognized this error in the jurat.

53. If the words "before me" imply physical presence, there was a further misrepresentation in the jurats. Whether there was one misrepresentation or two on such closely related matters does not affect the Hearing Committee's assessment whether the conduct is deserving of sanction, so it does not need to decide whether "before me" implies physical proximity.

(d) Was the conduct deserving of sanction?

54. Several cases were cited to the Hearing Committee finding or accepting an admission of professional misconduct in connection with commissioning affidavits. In the cases cited, misconduct was found or admitted where:

(a) portions of the affidavit were left blank for completion after the affidavit was sworn. ***Law Society of British Columbia v. Walters***, 2005 LSBC 39, paras 1, 2,4;

(b) affidavits were commissioned by a lawyer who did not administer an oath or purport to do so. ***Law Society of British Columbia v. Stunden***, [1994] L.S.D.D. No. 126; ***Law Society of Upper Canada v. Kelly***, September 8, 2009, paras 100 – 102; ***Law Society of Upper Canada v. Maroon***, September 8, 2005, para 6; ***Law Society of Upper Canada v. Kazman,*** [2005] L.S.D.D. No. 89, paras 62, 340, 341, 350(b);

(c) affidavits were commissioned by a lawyer who was not present when the affidavit was signed and there is no suggestion they were sworn by telephone or other means. ***Law Society of Upper Canada v. Adler,*** [2005] L.S.D.D. No. 62, paras 1, 2;

(d) a document purporting to be an affidavit was created by superimposing the sworn jurat from one affidavit onto another unsworn document using a photocopier . ***LSA v. Edgar***, [2008] L.S.D.D. No. 161; and,

(e) a lawyer swore a false affidavit. ***LSA v. Stephan***, [1994] L.S.D.D. No. 218; ***LSA v. Coley***, [2008] L.S.D.D. No. 162.

In many of these cases the conduct was aggravated by the lawyer's attempt to cover up the problem with the commissioning of the affidavit.

55. One case cited to the Hearing Committee, ***Law Society of Upper Canada v. Wong***, [2009] L.S.D.D. No. 73, appeal allowed on other issues, 2011 ONLSAP 0015, is similar to the present case. The condominium sale documents were commissioned over the telephone by a witness in Malaysia by a solicitor in Ontario. The conduct was described as a false attestation as to the witness' presence in Toronto or with the Commissioner when the documents were commissioned. The false attestation was not justified by the lawyer's explanation of convenience and time pressure. The report does not indicate whether the lawyer did or did not claim that he believed the documents were sworn before him or valid. Though not discussed in ***Wong***, the fact the witness and Commissioner were in different jurisdictions would give rise to complications concerning whose law must be complied with to ensure a valid oath and is an aggravating factor. Those are not present in Ms. Wald's case.

56. In the present case, the Member was caught up in the urgency of the situation. The evidence does not indicate the Member administered the oath by telephone merely to suit the Clients' convenience, but also does not indicate there were no other alternatives.

57. The Member believed her actions were lawful. As stated above, the Hearing Committee does not conclude that her belief should be criticized.

58. Most lawyers would understand the risk of mis-identification. The Member knew the witnesses as clients for several years, was frequently in contact with them, and had no doubts of their identity or signatures. They remained on the telephone with her until the affidavits were emailed to her. There was no real issue over identification.

59. However, the procedure was unusual and liable to cause costs and delays in the Clients' litigation. Given the lack of case law and judicial approval for the procedure, a lawyer taking an oath by telephone exposes his or her client to allegations that the affidavit is a nullity. That may cause uncertainty in commercial transactions. In litigation, the client

risks losing his or her application. Some remarks in the Alberta Court of Appeal[6] come to mind:

> …We were inclined to dispose of this appeal by quoting the trenchant judgment of Dea J. in a chambers decision which reached this court a few years ago: "No evidence -- no order."…

60. Ms. Wald has rightly admitted that the practice was poor practice.

61. Also, Ms. Wald ought to have revised the form of jurat to accurately disclose the place where the oath was administered, which would have required disclosure that the oath was administered by telephone. The Rules of Court then required (and still require) in all cases that the place where the affidavit is taken be stated.

62. The Court and opposing counsel were initially deprived of the opportunity to question whether oaths can be taken by telephone. However, had the jurat been correctly completed, the Court probably would have ruled on an objection (if any) or abridged time to permit Ms. Wald to file re-sworn affidavits with the same content. It is doubtful that the Court would have refused new affidavits if it found the Affidavits to be a nullity. The Clients never retracted their recitations of the events, and there is no evidence that the substance of their recollections were not accurate.

63. When the potential error was raised, Ms. Wald promptly sought advice from a senior member of the legal profession, provided new affidavits, and paid the costs arising from the use of the Affidavits. Fortunately, the clients were not prejudiced by delay or costs and the underlying matter was resolved through other legal processes.

64. On balance, the Hearing Committee characterizes the case as a situation where Ms. Wald was urgently called on to obtain protection for her Clients from an apparently outrageous physical and verbally abusive attack on their safety and well being. There was not much opportunity to reflect on the dangers inherent in her course of action, and she acted without any intent to deceive, any understanding that her conduct was poor practice, or self interest. It would not have been clear from case law that taking the oath by telephone was unlawful. In commissioning the Affidavits, she innocently committed two related errors in judgment. The Hearing Committee is not able to conclude that Ms. Wald's conduct deserves sanction.

V. RECORD OF DECISIONS

65. The Citations are dismissed.

[6] ***Crown Life Assurance Co. v. A.E. LePage (Ontario) Co***., [1989] A.J. No. 900 (C.A.).

66. The Record and this report must not be published unless client names and personal information identifying the clients or the litigants in the restraining order action are redacted. Any publication restriction relating to the affidavits in the underlying Queen's Bench action must also be respected.

Dated at Calgary, Alberta on __ January 27 __, 2012.

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J. T. Eamon, Q.C. (Chairperson)

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R. J. Everard, Q.C. W. Jacques