

THE LAW SOCIETY OF ALBERTA HEARING COMMITTEE REPORT

IN THE MATTER OF THE LEGAL PROFESSION ACT AND IN THE MATTER OF A HEARING REGARDING THE CONDUCT OF JEFFREY PLANTJE A MEMBER OF THE LAW SOCIETY OF ALBERTA

Introduction

1. On June 28th, 2007 a Hearing Committee of the Law Society of Alberta (LSA) convened at the Law Society office in Edmonton to inquire into the conduct of Jeffrey Plantje (the “Member”). The Committee was comprised of Neena Ahluwalia, as Chair, Douglas Mah Q.C. and Brian Beresh Q.C. The LSA was represented by Michael Penny. The Member was represented by P.G.Lister Q.C.

Jurisdiction and Preliminary Matters

2. Exhibits 1 through 4, consisting of the Letter of Appointment of the Hearing Committee, the Notice to Solicitor, the Notice to Attend, and the Certificate of Status of the Member, established the jurisdiction of the Committee.
3. There was no objection by the Member or Counsel for the LSA regarding the constitution of the Committee.
4. The Certificate of Exercise of Discretion was entered as Exhibit 5. Counsel for the Law Society advised that the LSA did not receive a request for a private hearing. Counsel for the Member confirmed that no request for a private Hearing was being made. The Hearing was held in public. It was decided that any report that is generated by the Hearing Committee would not disclose the names of the two female staff members.
5. Exhibits 6 through 14, contained in an exhibit binder provided to the Committee members and the parties, were admitted into evidence by consent.
6. The following additional exhibits were also entered into evidence by consent:
 - Exhibit 15-Agreed Statement of Facts and Admission of Guilt dated June 28th, 2007 and signed by the Member;

- Exhibit 16 –Letter to Mr. Penny from Mr. Busch dated June 27th, 2007, certifying that the Member has no discipline record.

Citation

7. The member faced the following citation:

It is alleged that you engaged in improper sexual conduct with female staff of the firm at which you were practicing which conduct is conduct deserving of sanction.

Agreed Statement of Facts and Admission of Guilt

8. The Agreed Statement of Facts and Admission of Guilt (Exhibit 15) states as follows:
 1. Jeffrey Plantje is a member of the Law Society of Alberta, having been admitted to membership on March 30, 2005. He elected to become inactive on June 30, 2006, and remains so. At all times relevant to the Citation he practiced with the firm, Prentice Chow with which he is no longer associated.
 2. These matters arise during Mr. Plantje's employment at Prentice Chow, and as a result of interaction between Mr. Plantje and two female employees of Prentice Chow.
 3. The Citation and its particulars are:
 1. It is alleged that you engaged in improper sexual conduct with female staff of the firm at which you were practicing which conduct is conduct deserving of sanction.

The particulars of this citation include:

- (a) you sexually harassed two female staff of the firm at which you were practicing;
 - (b) you engaged in improper sexual conduct with two female staff of the firm at which you were practicing; and
 - (c) you engaged in other sexually related conduct of an improper nature.
4. On May 18, 2006, Plantje, in an attempt to reconcile with his estranged wife, Ms. G., sent a letter to her, in which he confessed to having conducted himself inappropriately with each of two legal assistants at Prentice Chow, "A" and "B" [Exhibit 6, Tab 1]

5. Ms.G. filed a complaint against Plantje with the Law Society on May 25, 2006 alleging “gross misconduct with support staff” to which she attached Plantje’s confessional letter. [Exhibit 6]
 6. When Ms.G.’s complaint was brought to his attention, Plantje responded by admitting “to engaging in completely inappropriate behaviour with [“A” and “B”]”. [Exhibit 10]
 7. Plantje’s inappropriate conduct with “A” began with his making inappropriate sexual comments to her. These comments developed into explicit conversations about sexual activity, in which Plantje says “A” was a “willing participant”. Plantje acknowledges that in the context of an employment relationship, in which he was “A”’s superior, his actions constituted sexual harassment. [Exhibit 6, Tab 1]
 8. “A” was dismissed by Prentice Chow and on October 6, 2006, she sued the firm, its partners and Plantje for damages arising from wrongful termination of her employment. That lawsuit remains unresolved. [Exhibit 13]
 9. Plantje’s relationship with “B” began with discussions Plantje characterizes as “flirting” between himself and “B”. Their conversations progressed to explicit discussion of sexual activity, and then engaging in sexual activity in the office and elsewhere. Plantje says again that “B” was a “willing participant”, but again acknowledges that in the context of an employment relationship in which he was “B”’s superior, his actions constituted sexual harassment.
 10. On March 17, 2006, when Prentice Chow became aware of Plantje’s activities, they suspended him without pay. Prentice Chow merged their practice with Duncan & Craig LLP, and shortly after, Plantje resigned his employment, and then chose to become inactive.
 11. Plantje is a member, currently also inactive, with the Law Society of Manitoba.
 12. Mr. Plantje admits that he is guilty of the citation in this matter, with regard to the particulars at subparagraph (a) and (b) above, and acknowledges his conduct is conduct deserving of sanction.
9. Mr. Penny indicated that the particulars with regard to the citation were to be amended to delete subparagraph (c). The Hearing Committee determined that on the Agreed Statement of Facts, the particulars in subparagraph (b) were also to be amended to read as follows:
- (b) you engaged in improper sexual conduct with one female staff of the firm at which you were practicing

Other Evidence

10. The Member testified under oath. He is 42 years old. He has one child. He has moved back to Manitoba and is currently looking for employment. He moved to Alberta in 2005 to be closer to his family. He started his employment with Prentice Chow in 2005 and his practice consisted mainly of corporate/commercial work along with some real estate matters. He spent 3 days a week in the Stony Plain office of Prentice Chow and 2 days a week in Drayton Valley. He acknowledged that his letter to Ms. G. [Exhibit 6 Tab 1] was honest and written at her behest to help her through a difficult time. He related that in March of 2006, there was a decision made to terminate "A"'s employment at Prentice Chow because of her inability to get along with other staff members. It was at that time, his conduct became the source of a complaint by "A" to other lawyers of the firm. The Member realized that when other lawyers in the firm went to investigate the complaint, other conduct with another staff member would also come to light. The firm was in the process of merging with another firm and his conduct would become of concern and embarrassment. It was at that time that he resigned from the firm. In June of 2006, he went on the inactive list of the Law Society of Alberta.

The Member stated that he has been seeing Dr. Joseph Rallo since early November of 2006. Dr. Rallo is a registered psychologist in Winnipeg, Manitoba. He sees Dr. Rallo two or three times a month. The Member told the Hearing Committee that he is gaining insight into his behaviour. He told the Hearing Committee that he has identified triggers that lead to his inappropriate behaviour and is able to call upon coping mechanisms and tools to sway him from repeating his mistakes. The Member indicated that one step in his rehabilitative process is to take responsibility for his actions. To that end, he acknowledged that his conduct towards two female staff in his office was inappropriate and that he was admitting his guilt in the citation before the Hearing Committee.

Decision as to Citation

11. The Hearing Committee found that on the Agreed Statement of Facts and Admission of Guilt, the conduct of the Member, as stated in the citation is conduct deserving of sanction.

Sanctions

12. The Hearing Committee heard submissions regarding sanction from both counsel.
13. The Hearing Committee, mindful of the fact that the member had no prior discipline record, directed that the Member be suspended for a period of 30 days. It was encouraging to hear the Member state that he believed that the assistance that he was receiving from Dr. Rallo would ensure that the conduct complained of at this Hearing would not be repeated. The Hearing Committee was of the view that before the member returned to practice, another committee should be satisfied that the Member had taken steps to avoid a repeat of this behaviour. The Hearing Committee also ordered the following condition with regard to the Member's return to practice:

The Member shall not be reinstated to active practice without a mandatory referral to the Practice Review Committee.

It is noted that the Hearing Committee was not unanimous in imposing this condition. Mr. Beresh Q.C. dissented on this point and will provide reasons separately.
14. Mr. Lister, on behalf of the Member, requested that the Notice of Suspension that is distributed not include the name of the Member. The purpose of this request was to protect the identities of the two female staff members. The Hearing Committee was of the view that, by not identifying the Member in the Notice of Suspension to the public and the profession, the entire purpose of the notice would be rendered meaningless. The request was denied.
15. The Hearing Committee also ordered the Member to pay costs of the Hearing set at \$1500.00. Upon request, the Member was given until December 31, 2007 to pay those costs.

Concluding Matters

16. The Hearing Committee directed that there be no report to the Attorney General with respect to the conduct of the Member in this matter. The Hearing Committee directed that the Mandatory Notice of Suspension of the member be worded as follows:

On June 28, 2007, a Hearing Committee found the conduct of Jeffrey Plantje, who resides in Winnipeg, Manitoba was deserving of sanction in that he sexually harassed two female co-workers, while he was practicing in Alberta.

He was ordered to be suspended for 30 days, having already been on the inactive list for a year, and not to be reinstated to active practice without a mandatory referral to the Practice Review Committee.

17. The Hearing Committee directed that the exhibits, other than Exhibits 6, 10, 12 and 14, be available to the public with the names of the complainant and female staff members redacted.

Dated this ____ day of _____, 2007.

Neena Ahluwalia, Bencher
Chair

Douglas Mah Q.C. Bencher

Brian Beresh Q.C. Bencher

Dissent

(In relation to one aspect of the sentence to be imposed)

I am in full agreement with the other members of the panel as to the appropriate sanction to be imposed in this case with one exception.

I note that the member was an active member of the Law Society of Manitoba prior to joining the Law Society of Alberta. In addition, exhibits filed in court confirm his continuing connection with the province of Manitoba.

Accordingly, my view in relation to reinstatement is that Mr. Plantje is not to be reinstatement to active status without mandatory referral to the Practice Review Committee or until such time as he has become an active member of another Law Society of Canada.

Briefly my reasons for this include that Alberta is a signatory to the National Mobility Agreement and should another Law Society of Canada, in its wisdom, decide to admit him that no further conditions ought to be imposed by the Law Society of Alberta.

BRIAN A. BERESH, Q.C.