

LAW SOCIETY OF ALBERTA
IN THE MATTER OF THE *LEGAL PROFESSION ACT*;
AND
IN THE MATTER OF A HEARING REGARDING
THE CONDUCT OF MARK DUPRES
A MEMBER OF THE LAW SOCIETY OF ALBERTA

Single Bencher Hearing Committee:

Kent Teskey, QC - Bencher

Appearances:

Counsel for the Law Society – Karl Seidenz

Counsel for the Mark Dupres – Brian Beresh, QC

Hearing Date:

October 3, 2017

Hearing Location:

Law Society of Alberta at 800 Bell Tower, 10104 – 103 Avenue, Edmonton, Alberta

HEARING COMMITTEE REPORT

Jurisdiction, Preliminary Matters and Exhibits

1. On October 3, 2017 a Single Bencher Hearing Committee (Committee) convened at the office of the Law Society of Alberta (LSA) to conduct a hearing regarding Statement of Facts and Admission of Guilt.
2. Mr. Dupres and counsel for the LSA were asked whether there were any objections to the constitution of the Committee. There were no objections to the identity of the Bencher hearing the submissions, on the grounds of bias or otherwise and the hearing proceeded.

3. The Hearing was held in public.
4. The jurisdiction of the Committee was established by Exhibits 1 through 4, consisting of the Letter of Appointment of the Committee, the Notice to Solicitor pursuant to section 60 of the *Legal Profession Act*, the Notice to Attend to the Member and the Certificate of Status of the Member with the Law Society of Alberta. Exhibit 5 was marked as the Certificate of Service and the Exercise of Discretion, Exhibit 7 as the Conduct Committee Panel minutes, Exhibit 8 - the Discipline Record of the Member, Exhibit 9 - Statement of Costs. Mr. Beresh on behalf of Mr. Dupres marked two letters of reference from his colleagues, LL (Exhibit 10) and BR (Exhibit 11)

Statement of Facts and Admission of Guilt

5. The Statement of Facts and Admission of Guilt is attached hereto as Exhibit A (the "Agreed Statement"). This Agreed Statement has been found to be in an acceptable form by a Conduct Committee Panel on July 19, 2017 and therefore this hearing was convened by a single bencher pursuant to section 60(3) of the *Legal Profession Act*.
6. Pursuant to section 60(4) of the *Legal Profession Act*, after a statement of admission of guilt is accepted by the Conduct Committee, it is deemed to be a finding of the Hearing Committee that the lawyer's conduct is conduct deserving of sanction. After hearing submissions by counsel for the LSA and Mark Dupres and confirming Mr. Dupres's understanding that the Bencher was not bound by the Joint Submission on Sanction, the Bencher confirmed the Agreed Statement of Facts and the Admission of Guilt constituted a finding of conduct deserving of sanction on the single citation pursuant to s. 49 of the *Legal Profession Act*.
7. The only question for determination by this Committee is one of appropriate sanction.

Discussion on Sanction

8. The LSA sought a reprimand and hearing costs in the amount of \$6,500. The LSA made the following submissions on sanction:
 - a. That Mr. Dupres has no previous discipline history with the LSA.
 - b. That Mr. Dupres had been cooperative with the investigation and had admitted his wrong doing immediately at the earliest phase of the investigation.
 - c. That Mr. Dupres had proactively sought assistance to deal with any underlying issues that had contributed to the conduct and was evaluated to be a low risk for recidivism.
9. These comments were echoed by Mr. Beresh, Q.C. on behalf of Mr. Dupres. He submitted that Mr. Dupres was deeply remorseful for what had occurred and had internalized a number of important lessons that would assist him in practice going forward. The Hearing

Committee agrees and views Mr. Dupres's acceptance of responsibility and pro-active efforts as a strong sign of remorse.

10. The approach taken by both Mr. Dupres and the LSA in dealing with this matter through a Single Bencher hearing avoided an unnecessary contested hearing, witness inconvenience, and process costs. This is commendable.

Concluding Matters

11. The reprimand was issued by the Hearing Committee as follows:

Members of the public depend on lawyers to provide impartial, cogent and ethical legal advice in times of times of need. When lawyers inject their own emotional agenda into the solicitor-client relationship, it erodes the public's confidence in the legal profession. More significantly, it trivialized the legal problem that your client was dealing with and added to the stress she was facing. I view your efforts since this incident as a sign of your remorse and I trust that the lessons you will take from this incident will serve to make you a better lawyer in the future.

12. Hearing costs shall be payable within seven months of the hearing date.
13. Hearing exhibits shall be made available to the public, with the exception that they shall be redacted to prevent the disclosure of the names of third parties and other private, confidential and privileged information.
14. There shall be no Notice to the Profession issued.
15. There will be no Notice to the Attorney General.

Dated at the City of Edmonton in the Province of Alberta, this 16th day of October, 2017.

Kent Teskey, QC

EXHIBIT A

IN THE MATTER OF THE *LEGAL PROFESSION ACT*

- AND -

IN THE MATTER OF A HEARING REGARDING THE CONDUCT OF
MARK E. DUPRES
A MEMBER OF THE LAW SOCIETY OF ALBERTA

HEARING FILE HE20160307

STATEMENT OF FACTS AND ADMISSION OF GUILT

A. INTRODUCTION

1. I was admitted as a member of the Law Society of Alberta (the "**Law Society**") on August 7, 2014. At all material times, I practiced matrimonial law with the Long Family Law Group in Edmonton, Alberta.

B. STATEMENT OF FACTS

2. On May 26, 2015, I was retained by R.J. to represent her in separation and divorce proceedings from her then spouse (the "**Matrimonial Proceedings**").
3. During the course of my retainer, which lasted for approximately 7½ months, I worked with R.J. to gather information and prepare materials in support of her position during the Matrimonial Proceedings. These activities included reviewing and assessing the materials provided to me, communicating in person and over the telephone with her, communicating with her then spouse (who was self-represented at the time), and drafting pleadings.
4. In mid-October 2015, my relationship with my long-term girlfriend came to an end, which breakup caused me great emotional distress.
5. In November 2015, I met twice with R.J. and communicated with her a few times by telephone and by text message. At the time, I believed that there was a mutual attraction between us. It is clear to me now that I misjudged the situation and used insensitive and inappropriate language in my communications with her during this period.
6. Throughout the time that I served my client, I worked diligently and effectively in attending to the demands of her file and to providing legal services required by her.

7. On January 5, 2016, R.J. terminated my retainer and her file materials were returned to her shortly thereafter.
8. On February 8, 2016, R.J. submitted a Lawyer Complaint Form to the Law Society (the “**Complaint**”), which the Law Society proceeded to investigate.
9. During the course of the investigation, I fully cooperated and provided three written responses to the Law Society in which I apologized for my conduct and admitted that I had acted in an unprofessional manner.
10. On November 2, 2016, a panel of the Conduct Committee of the Law Society directed that my conduct be dealt with by a Hearing Committee.
11. In March 2017, I travelled to Toronto and consulted on a voluntary basis with Dr. [GG], a senior [•with 40 years of experience and extensive experience in assessing lawyers who are subject to disciplinary proceedings, for a full [•] assessment with a view to assessing any issues relevant to [•]. Dr. [GG] concluded that the risk of repeating the unprofessional conduct is low.
12. While in Toronto, I also participated in full-day course on professional boundaries (relating specifically to lawyers) and appropriate professional behaviours with Dr. [PS], a registered psychologist. Dr. [PS] also concluded that the risk of future unprofessional conduct is low.

C. AMENDMENT OF CITATION

13. In June 2017, the Law Society and I submitted a joint application to the Vice-Chair of Conduct to amend the citation pursuant to Rule 90.1(8)(e) of the *Rules*.
14. The Vice-Chair of Conduct allowed the application and directed that the citation be amended as follows:

It is alleged that Mr. Dupres briefly failed to maintain a professional relationship with his client and that such conduct is conduct deserving of sanction.

D. ADMISSION OF GUILT

15. I admit that I briefly failed to maintain a professional relationship with R.J. during the month of November 2015 and that I used insensitive and inappropriate language in my communications with her during this period. I further admit that such conduct is conduct deserving of sanction.

E. DISCIPLINE HISTORY

16. I do not have a discipline history with the Law Society.

F. ADMISSION OF FACTS

17. I admit as facts the statements contained in this Statement of Facts and acknowledge that they shall be used for the purpose of these proceedings.

G. PROPOSED SANCTION

18. If this agreed Statement of Facts and Admission of Guilt is accepted by the Conduct Committee, it is proposed that it will be presented to a Single Bencher Hearing Committee and that the parties will submit jointly that the appropriate sanction should be a reprimand and payment of costs of \$6,500.00 to be paid to the Law Society over a period of seven months following disposition.

H. INDEPENDENT LEGAL ADVICE

19. I agree that I have had the opportunity to consult legal counsel and that I have signed this Statement of Facts and Admission of Guilt voluntarily and without any compulsion or duress.

THIS STATEMENT OF FACTS AND ADMISSION OF GUILT IS MADE THIS 14th DAY OF JUNE, 2017.

“Mark E. Dupres”

MARK E. DUPRES