

**IN THE MATTER OF PART 3 OF THE  
LEGAL PROFESSION ACT, RSA 2000, c. L-8**

**AND**

**IN THE MATTER OF A HEARING REGARDING  
THE CONDUCT OF NORMAN KELLY  
A MEMBER OF THE LAW SOCIETY OF ALBERTA**

**Hearing Committee**

Buddy Melnyk – Chair and Bencher  
Sandra Mah – Lawyer Adjudicator  
Edith Kloberdanz – Public Adjudicator

**Appearances**

Shanna Hunka – Counsel for the Law Society of Alberta (LSA)  
C. John Hooker – Counsel for Norman Kelly

**Hearing Date**

December 3, 2018

**Hearing Location**

LSA office, at 500, 919 - 11 Avenue SW, Calgary, Alberta

**HEARING COMMITTEE REPORT**

**Background**

1. Mr. Kelly was admitted to the Law Society of Alberta in 1993. He practiced primarily criminal law in Calgary until he was suspended on April 20, 2017.
2. On March 28, 2018, and November 12, 2018 respectively, Mr. Kelly signed two Statements of Admitted Facts and Admissions of Guilt (collectively the “Agreed Statements”) in relation to his conduct. The Agreed Statements are appended to this Report and set out the relevant facts related to this matter. Those facts can be summarized as follows:

*Conduct related to Complaint CO20161481*

3. While acting in a criminal matter, Mr. Kelly failed to file a re-election to a judge alone hearing in a timely manner and failed to respond to numerous communications from both

the Court and Crown counsel.

4. Mr. Kelly failed to attend two Pre-trial Conferences and two court dates resulting in a warrant being issued against his client.
5. Following Mr. Kelly being referred to Practice Review, he failed to respond to communications sent to him from Practice Review.
6. Mr. Kelly failed to attend a scheduled meeting with an LSA investigator and failed to respond to numerous voicemail messages and emails from the investigator and a subsequent investigator. Mr. Kelly also did not respond to an Investigation Order.
7. In respect of accounting and trust related matters, Mr. Kelly failed to provide a yearly Accountant's Report or trust account data, failed to install approved accounting software, failed to correct Self-Report deficiencies, failed to notify the LSA of his bankruptcy and failed to respond to numerous telephone and email communications from Trust Safety.
8. Mr. Kelly failed to keep the LSA apprised of his contact information, and failed to respond to telephone and email communications from Practice Review and LSA investigators.
9. Mr. Kelly was not always candid with the LSA and, in particular, with both Trust Safety and the investigators.
10. Mr. Kelly did not reply with a complete response to the LSA's request for bankruptcy information.

*Conduct related to Complaint CO20171648*

11. Mr. Kelly breached accounting rules by accepting monies from a number of clients prior to issuing a statement of account, which monies he deposited into his general account, and used same for living expenses.
12. Mr. Kelly represented to the LSA that he did not accept trust funds from clients, but instead billed clients after work was completed.
13. On numerous occasions, Mr. Kelly failed to communicate and respond to emails, correspondence and other requests from the LSA.

## Citations

14. On December 3, 2018, the Hearing Committee (Committee) convened a hearing into the conduct of Mr. Kelly based on 13 citations:

### *CO20161481*

- 1) It is alleged that Mr. Kelly failed to comply with an undertaking to the Court;
- 2) It is alleged that Mr. Kelly failed to respond promptly and completely to communications from the Court and from opposing counsel;
- 3) It is alleged that Mr. Kelly failed to appear in Court and to meet Court deadlines;
- 4) It alleged that Mr. Kelly failed to respond promptly and completely to communications from the LSA;
- 5) It is alleged that Mr. Kelly failed to comply with the LSA's trust accounting rules;
- 6) It is alleged that Mr. Kelly failed to keep the LSA apprised of his contact information as required by the rules;
- 7) It is alleged that Mr. Kelly failed to be candid with the LSA;
- 8) It is alleged that Mr. Kelly failed to comply with a condition imposed by the Benchers;

### *CO20171648*

- 9) It is alleged that Mr. Kelly failed to comply with the LSA's trust accounting rules;
- 10) It is alleged that Mr. Kelly accepted trust funds when not authorized to do so by the LSA;
- 11) It is alleged that Mr. Kelly failed to be candid with the LSA;
- 12) It is alleged that Mr. Kelly misled or failed to be candid with the custodian of his practice; and
- 13) It is alleged that Mr. Kelly failed to respond promptly and completely to communications from the LSA.

## Preliminary matters

15. There were no objections to the constitution of the Committee or its jurisdiction.
16. An application for a private hearing was requested by Mr. Kelly. Counsel for the LSA did not oppose the application. Mr. Kelly sought to withhold sensitive personal medical information from publication and public access. In support of this application, the Committee was provided with copies of the following two decisions:
- *Law Society of Alberta v. McCullough*, 2013 ABLS 3;
  - *Law Society of Alberta v. MacGregor*, [2016] L.S.D.D. No. 246.

17. The Committee acknowledges it has a mandate to act in the public interest and that the transparency of disciplinary proceedings is an important component. Public hearings promote transparency and maintain the confidence of the public in the ability of lawyers to self-regulate. This, however, must be balanced against a member's privacy rights. If the evidence is such that the negative impacts of disclosure of the information outweighs the benefits of public hearings, then a panel may order that the evidence be received in private.
18. Mr. Kelly advised that the information sought to be protected touched upon past personal health issues that involved mental and psychological issues. The Committee, after reviewing the medical reports and evidence, concluded that a private hearing was appropriate for the following reasons:
  - (a) The public disclosure of the medical information would very likely have a material and negative impact on Mr. Kelly's emotional well-being;
  - (b) There is sufficient disclosure in the balance of Agreed Statements to permit the public to gain a full understanding of the context in which this Committee reached its decision, which allows the goal of transparency to still be met.
19. The Committee also concluded that any medical reports (marked as Exhibit 9), the letter of support from Mr. Kelly's partner (Exhibit 10), and any other specific references to the medical conditions of Mr. Kelly, be excluded from the publicly-available exhibits and redacted where necessary in the Agreed Statements, and that such medical reports not be available to the public.

### **Deemed Findings of Conduct Deserving of Sanction**

20. This Committee found the Agreed Statements acceptable pursuant to section 60(2) of the *Legal Profession Act* (the *Act*).
21. Since the Committee accepted the Agreed Statements, under section 60(4) of the *Act*, it is deemed to be a finding of the Committee that Mr. Kelly's conduct is deserving of sanction on the 13 citations. Accordingly, the Committee turned to consider the appropriate sanction under section 72 of the *Act*.

### **Sanctioning Factors**

22. The sanctioning process requires a purposeful approach. The intent of sanctioning is not punitive but rather the objective is to ensure the protection of the public, maintaining professional standards and the preservation of confidence in the legal profession.
23. This Committee, in determining an appropriate sanction, is required to consider the following factors:

- (1) The need to maintain the public's confidence and the integrity of the profession and the ability of the profession to effectively govern its own members;
- (2) Specific deterrence of the member and further misconduct;
- (3) Incapacitation of the member (through disbarment or suspension);
- (4) General deterrence of other members;
- (5) Denunciation of the conduct;
- (6) Rehabilitation of the member; and
- (7) Avoiding undue disparity with sanctions imposed in other cases.<sup>1</sup>

24. In addition, the Committee must also examine the nature of the conduct, intent, impact or injury, the number of incidents involved, the length of time involved, whether there is a breach of trust, along with the following additional circumstances:

- Prior discipline record;
- Risk of recurrence;
- Member's reaction to the discipline process;
- Resolution made, if any;
- Length of time lawyer has been in practice;
- General character;
- Whether the conduct involved taking advantage of a vulnerable party;
- A dishonest or selfish motive;
- Personal or emotional problems;
- Full and free disclosure to those involved in the complaint toward proceedings;
- Physical or mental disability or impairment;
- Delay in disciplinary proceedings;
- Interim rehabilitation;
- Remorse; and
- Remoteness of prior offences.

### **Analysis and Decision on Sanction**

25. Counsel for the Law Society argued for a six-month suspension. She noted, among other things, the following factors:
- (a) Mr. Kelly was non-responsive to the LSA, which conduct bordered on Mr. Kelly not being governable;
  - (b) Mr. Kelly was not candid with the LSA;
  - (c) Mr. Kelly potentially breached trust accounting rules;
  - (d) Mr. Kelly did take steps to address medical issues, but not until 2018, and only following Mr. Kelly being suspended;

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<sup>1</sup> Hearing Guide, Version 20013 V1 February 2013. Format updated April 2016, at paragraph 69.

- (e) There are 13 citations dealing with a lack of candor by Mr. Kelly and a lack of cooperation;
  - (f) The misconduct arose over a three-year period; and
  - (g) The medical evidence suggests that the medical conditions materially contributed to the misconduct, but that the diagnosis does not completely explain the behavior.
26. Counsel for Mr. Kelly argued for a nominal suspension. He noted, among other things, the following factors:
- (a) The positive character reference submitted in support of Mr. Kelly by his partner;
  - (b) Mr. Kelly's medical condition was untreated and unknown to him during the period of time when the misconduct occurred;
  - (c) Mr. Kelly had practiced for 23 years without complaint or misconduct;
  - (d) Mr. Kelly's health situation was exacerbated by the death of his father and an acrimonious divorce;
  - (e) The diagnosis was an epiphany for Mr. Kelly and allowed him to take steps to address his medical issues and to enter into an appropriate program of treatment;
  - (f) There is no question of the integrity of Mr. Kelly;
  - (g) Disability should not be a bar to practicing law;
  - (h) Mr. Kelly has hired an accountant and taken steps to address accounting practices;
  - (i) Mr. Kelly was initially misdiagnosed;
  - (j) Mr. Kelly has suffered shame and humiliation as a result of his misconduct;
  - (k) The humiliation, pressure and fear arising from this misconduct will serve as sufficient denunciation; and
  - (l) The rehabilitation of Mr. Kelly is a significant factor to consider in determining sanction.
27. In applying the above factors, additional considerations and circumstances related to this matter, and the arguments put forward by Counsel, the Committee has taken into account the following:
- (a) Mr. Kelly's misconduct was over an extended period of time and involved numerous periods of non-responsiveness and a lack of candor;
  - (b) The breach of accounting rules;
  - (c) Mr. Kelly has no prior discipline record;
  - (d) Mr. Kelly was likely cognitively and functionally impaired during the relevant periods of time as a result of his mental health disorders;
  - (e) Mr. Kelly had been in practice for 23 years;
  - (f) Mr. Kelly took active steps to address the medical factors which appear to have contributed to his misconduct;
  - (g) Mr. Kelly's mental health impairment is largely remedied, though his risk of relapse is not inconsequential;
  - (h) The medical information would support that Mr. Kelly is remorseful;

- (i) Mr. Kelly is a salvageable member; and
  - (j) Mr. Kelly has acknowledged his misconduct.
28. Counsel for the Law Society submitted the following decisions regarding sanction:
- *Law Society of Alberta v. Paul Leclair*, 2009 LSA 11 (CanLII);
  - *Law Society of Alberta v. Stephen Nelson*, 2014 ABLs 27 (CanLII);
  - *Law Society of Alberta v. Katherine Koska*, 2014 ABLs 39 (CanLII);
  - *Law Society of Alberta v. Darren Matwe*, 2006 LSA 20 (CanLII);
  - *Law Society of Alberta v. David Torske*, 2015 ABLs 13 (CanLII).
29. The Committee has carefully reviewed each of these cases, and while no case was exactly on point, the Committee found the *Leclair* decision to be most relevant and persuasive. The *Leclair* decision involved matters that the Committee viewed as less egregious in nature as compared to the misconduct of Mr. Kelly. In particular, the significant number of citations, the length of time over which the misconduct occurred and the failure of Mr. Kelly to follow accounting rules elevated the conduct of Mr. Kelly in relation to the conduct in the *Leclair* case.

### **Sanction and Costs**

30. The Committee finds that, based on the facts of this case, the appropriate sanction is a four-month suspension and in accordance with section 72 of the *Act*, the Committee orders that Norman Kelly be suspended for a period of four months. This sanction is subject to the following conditions:
- (a) Within one month following the term of suspension, Mr. Kelly must report to the Manager of Practice Management and abide by his or his delegate's directions.
  - (b) Any dispute regarding the directions of Practice Management may be resolved by the Practice Review Committee.
31. In addition, pursuant to subsection 72(2) of the *Act*, the Committee orders costs of \$18,000.00 payable within one year of reinstatement, subject to the discretion of the Executive Director to grant an extension of time to pay, if required.

### **Concluding Matters**

32. There shall be no referral to the Attorney General.
33. In accordance with section 85 of the *Act* and Rule 106, the Executive Director is obliged to provide Notice of Mr. Kelly's suspension.
34. All exhibits, hearing materials and a copy of this report shall be available for public inspection, including providing copies of exhibits for a reasonable copy fee, although

redactions will be made to preserve personal information, client confidentiality and solicitor-client privilege (Rule 98(3)), and with the following exceptions:

- (a) Exhibit 9 (medical records and reports) and Exhibit 10 (letter) shall not be available to the public;
- (b) The transcript shall not be available to the public;
- (c) Paragraph 28 of the Statement of Admitted Facts and Admission of Guilt dated November 12, 2018, shall be redacted.

Dated at Calgary, Alberta, December 20, 2018.

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Buddy Melnyk

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Sandra Mah

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Edith Kloberdanz



**IN THE MATTER OF THE LEGAL PROFESSION ACT**  
**AND**  
**IN THE MATTER OF A HEARING REGARDING THE CONDUCT OF**  
**NORMAN KELLY,**  
**A MEMBER OF THE LAW SOCIETY OF ALBERTA**  
**HE20170077**

**STATEMENT OF ADMITTED FACTS AND ADMISSION OF GUILT**

**INTRODUCTION**

1. I was admitted as a member of the Law Society of Alberta on July 9, 1993.
2. My present status with the Law Society of Alberta is Suspended.
3. I practiced in Calgary, Alberta until my suspension on April 20, 2017.
4. At the time of my suspension, my practice comprised Criminal (90%), Other (10%).

**CITATIONS**

5. On March 15, 2017, the Conduct Committee Panel referred the following conduct to hearing:

Original Citations

1. It is alleged that Norman Kelly failed to comply with an undertaking to the Court and that such conduct is deserving of sanction;
2. It is alleged that Mr. Kelly failed to respond promptly and completely to communications from the Court that such conduct is deserving of sanction;

3. It is alleged that Mr. Kelly failed to respond promptly and completely to communications from opposing counsel and that such conduct is deserving of sanction;
  4. It is alleged that Mr. Kelly failed to appear in Court and that such conduct is deserving of sanction;
  5. It is alleged that Mr. Kelly failed to meet Court deadlines and that such conduct is deserving of sanction;
  6. It is alleged that Mr. Kelly failed to respond promptly and completely to communications from the Law Society and that such conduct is deserving of sanction;
  7. It is alleged that Mr. Kelly failed to comply with the Law Society's trust accounting rules and that such conduct is deserving of sanction;
  8. It is alleged that Mr. Kelly failed to keep the Law Society apprised of his contact information as required by the rules and that such conduct is deserving of sanction;
  9. It is alleged that Mr. Kelly failed to be candid with the Law Society and that such conduct is deserving of sanction;
  10. It is alleged that Mr. Kelly failed to comply with a condition imposed by the Benchers and that such conduct is deserving of sanction.
6. On March 28, 2018, the PHC Chair allowed the amendment of the citations as follows:

#### Amended Citations

1. It is alleged that Norman Kelly failed to comply with an undertaking to the Court and that such conduct is deserving of sanction;
2. It is alleged that Mr. Kelly failed to respond promptly and completely to communications from the Court and from opposing counsel that such conduct is

deserving of sanction;

3. It is alleged that Mr. Kelly failed to appear in court and failed to meet court deadlines and that such conduct is deserving of sanction;
4. It is alleged that Mr. Kelly failed to respond promptly and completely to communications from the Law Society and that such conduct is deserving of sanction;
5. It is alleged that Mr. Kelly failed to comply with the Law Society's trust accounting rules and that such conduct is deserving of sanction;
6. It is alleged that Mr. Kelly failed to keep the Law Society apprised of his contact information as required by the rules and that such conduct is deserving of sanction;
7. It is alleged that Mr. Kelly failed to be candid with the Law Society and that such conduct is deserving of sanction;
8. It is alleged that Mr. Kelly failed to comply with a condition imposed by the Benchers and that such conduct is deserving of sanction.

## FACTS

1. In the matter of *R. v. [W]* (the "[W] matter"), in which I acted as counsel for the accused, I failed to file a re-election to a judge-alone trial on a timely basis. As a result, on [...], 2016, 175 members of the public attended Court for jury selection. I was requested by the Court to address the jury pool and explain why they were no longer needed.
2. I was initially to file the notice of re-election by December 1, 2015, but I did not do so. I provided an undertaking to the Court to file it by May 27, 2016, but did not do so.
3. Between May 6, 2016 and June 3, 2016, I did not respond to numerous communications from Crown Counsel, J.W., in the [W] matter. In particular, following my postponement of a [...], 2016 pre-trial conference ("PTC") with only one hour notice, due to illness, I advised

that I would make myself available early the following week. However, I did not respond in a timely fashion to communications from J.W. when he attempted to schedule another PTC.

4. I also failed to respond to several communications from the Court in the [W] matter.
5. In the *R. v. [C]* matter, I failed to attend two PTCs and two court dates. As a result of my failure to attend Court on [...], 2016 and failure to file a designation of counsel, the Court issued a warrant for my client. I did not attend a PTC on [...], 2016, despite emails from the crown prosecutor notifying me. My client, who had been arrested on new charges, was in custody at the time and was also not able to reach me.
6. On June 10, 2016, I was referred to Practice Review by the Law Society. I did not respond to emails, voicemails and letters sent to me by Practice Review. On July 5, 2016, I was personally served with a letter from Practice Review which required me to respond by July 12, 2016. I did not respond.
7. On June 28, 2016, I received a call from LSA investigator, [JD]. I agreed to meet Mr. [D] at the LSA office on June 29, 2016, but failed to attend. Mr. [D] left further voicemail messages and sent numerous emails to me. I did not respond to Mr. [D].
8. Mr. [D] located and spoke to me at the courthouse on July 5, 2016. I advised him that I did not attend the June 29, 2016 meeting because I was in Court and had a conflict.
9. On July 13, 2016 Mr. [D] again located me at Court. He served me with an Investigation Order and a letter directing my response within 5 business days. I did not respond. Another LSA investigator, [BA], emailed me on July 28, 2016 requesting that I respond to the letter. I did not respond to Mr. [A]'s email or letter.
10. On June 2, 2011, I was authorized to operate a trust account on the condition that I purchase and install an approved accounting software program by June 30, 2011. I did not do so.

11. In addition, I was required to provide a yearly Accountant's Report or trust account data for my trust account, which I did not provide. I provided my 2011-2014 Self-Reports late on August 2014. I was advised by Trust Safety that there were deficiencies in my Self-Reports, however, I have not corrected them.
12. On December 10, 2014, I declared bankruptcy. I failed to provide proper notice to the Law Society of my bankruptcy as required by the Rules.
13. Upon learning of my bankruptcy, Trust Safety requested that I provide particulars to them, but I failed to do so.
14. Trust Safety contacted me by telephone and email in excess of twenty times about the foregoing failures. Generally, I did not respond or did not respond to the Law Society's satisfaction.
15. I failed to keep the Law Society apprised of my contact information, which includes the following facts:
  - a. On August 13, 2015, Trust Safety emailed me to advise that the contact information I provided to the Law Society was not up to date, and that I needed to contact Membership to immediately correct it;
  - b. On March 14, 2016, I was asked by Law Society investigators whether I had updated my contact information. I advised that I had not yet done so. I took a form from the investigators and advised that I would complete it and send it in to the membership department. I did not do so in a timely fashion;
  - c. On June 28, 2016, when I was asked by Mr. [D] what my new address was, I responded that I could not remember as I had just moved to a new office.

- d. On July 5, 2016, a Law Society investigator located me at the courthouse and at that time, when asked, I finally did provide my business and home address as I now had my new business address written down.
16. I was not always candid with the Law Society. In particular, I was not candid with Trust Safety and the investigators with respect to information regarding my accountant and/or bookkeepers. I was also not candid with the investigators when they were attempting to meet with me.
17. On September 7, 2016, the Law Society applied for an interim suspension of my practice. Pursuant to s.63(6) of the Act, instead of an interim suspension, conditions were imposed upon my practice.
18. One of the conditions was that, within one week, I was to provide a fulsome response to the Law Society's request for information regarding my bankruptcy. I did not meet this condition.
19. It was a further condition that I engage with Practice Review and provide certain information. While I complied with this condition and initially began working with Practice Review, on March 9, 2017, I postponed an Office Consultation scheduled with Practice Review. From March 9 - April 7, 2017, I failed to respond to telephone and email communications from Practice Review.
20. The Law Society investigators also attempted to contact me from approximately March 31, 2017 to April 10, 2017. I did not respond to them.
21. On April 20, 2017, the Law Society reconvened the panel of benchers who heard the initial interim suspension application. The panel determined that I would be interim suspended, effective immediately.

ADMISSION OF FACTS AND GUILT

22. I admit as facts the statements in this Statement of Admitted Facts and Admission of Guilt for the purposes of these proceedings.
23. I admit the Amended Citations 1-8, and I admit that such conduct is deserving of sanction.
24. For the purposes of section 60 of the *Legal Profession Act*, I admit my guilt to the above conduct.
25. I acknowledge that I have had the opportunity to consult legal counsel and provide this Statement of Admitted Facts and Admission of Guilt on a voluntary basis.

THIS STATEMENT OF ADMITTED FACTS AND ADMISSION OF GUILT IS MADE THIS 28<sup>th</sup> DAY OF MARCH, 2018.

"Witness"  
Witness

"Norman Kelly"  
NORMAN KELLY

**IN THE MATTER OF THE LEGAL PROFESSION ACT**  
**AND**  
**IN THE MATTER OF A HEARING REGARDING THE CONDUCT OF**  
**NORMAN KELLY,**  
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**STATEMENT OF ADMITTED FACTS AND ADMISSION OF GUILT**

**INTRODUCTION**

1. I was admitted as a member of the Law Society of Alberta on July 9, 1993.
2. My present status with the Law Society of Alberta is Suspended.
3. I practiced in Calgary, Alberta until my suspension on April 20, 2017.
4. At the time of my suspension, my practice comprised Criminal (90%), Other (10%).

**CITATIONS**

5. On May 15, 2018, a Conduct Committee Panel referred the following conduct to hearing:
  1. It is alleged that Mr. Kelly misappropriated or wrongfully converted money entrusted to him and that such conduct is deserving of sanction;
  2. It is alleged that Mr. Kelly failed to comply with the Law Society's trust accounting rules and that such conduct is deserving of sanction;
  3. It is alleged that Mr. Kelly accepted trust funds when not authorized to do so by the Law Society and that such conduct is deserving of sanction;
  4. It is alleged that Mr. Kelly failed to be candid with the Law Society and that such conduct is deserving of sanction;



5. It is alleged that Mr. Kelly misled or failed to be candid with the custodian of his practice and that such conduct is deserving of sanction; and
6. It is alleged that Mr. Kelly failed to respond promptly and completely to communications from the Law Society and that such conduct is deserving of sanction.

6. On September 19, 2018, the Pre-Hearing Conference Chair approved the withdrawal of Citation 1 by the Law Society.

## FACTS

### Breach of Accounting Rules – Acceptance of Trust Funds

7. On June 17, 2015, I provided an undertaking to the Law Society to not operate my trust account.
8. I did not use my trust accounts. However, in breach of the accounting rules of the Law Society, I accepted monies from a number of clients prior to issuing a statement of account. I deposited those monies into my general account.
9. I used funds in my general account for my benefit, including for living expenses. I failed to consider that these funds were, according to the Rules of the Law Society, deemed to be trust funds.

### Failing to be Candid with Law Society

10. During a Practice Management office consultation on December 15 2016, I represented to the Law Society that I did not accept trust funds from clients, but instead billed clients after the completion of work.
11. When I was interviewed by Law Society investigators on March 14, 2016, I stated that I did not accept trust funds from clients.
12. I advised Law Society investigators on September 14, 2016 that I received payment from clients by billing them after the work was completed.

13. When I was interviewed by Law Society investigators again on November 16, 2017, I stated numerous times that I did not ever accept trust funds.
14. I was incorrect in each of these statements to the Law Society.
15. I acknowledge and admit that it was my professional duty to know the rules of the Law Society. My failure to understand these rules led to my assertion that I did not accept trust funds. I was in error in this regard.

#### Misleading Custodian

16. On April 28, 2017, the Custodian of my practice, G.H., emailed me to request an explanation as to why one of my client files appeared to show that retainer funds were placed in my general account. On May 12, 2017, I responded to the Custodian that the explanation was that “I was paid for my work”.
17. My statement to the Custodian was not accurate as the client funds were placed in my general account prior to me issuing a statement of account on the file.

#### Failure to Respond to the Law Society

18. On July 21, 2017, [BA], a Law Society investigator emailed a Part 3 letter to me requesting that I provide specific client files and two Mac laptop computers. A deadline of August 2, 2017 was stated in the letter.
19. [BA] sent me a reminder email on August 2, 2017. I did not reply until August 10, 2017.
20. On August 16 and August 24, 2017, [BA] emailed me a request to provide consent to obtain copies of all deposits to my general account. The August 24, 2017 email gave a deadline of August 25, 2017 or Production Order would be requested.
21. I responded to [BA] on September 5, 2017 advising that I did not have a problem with the Law Society obtaining copies of cheques from my closed general account.

22. On October 20, 2017, [BA] emailed me a Part 3 letter requesting three client files and my availability for an interview. This letter required a response by October 26, 2017. I did not respond.
23. On October 27, 2017, [BA] emailed me a reminder that I missed the response date of October 26, 2017. I replied the same day stating that I was unable to locate the requested files but would look for the files on the weekend and advise on October 30, 2017. I did not provide dates for an interview.
24. On October 31, 2017, [BA] emailed me a reminder to provide dates that I was available for an interview.
25. The Law Society obtained a Production order on August 31, 2017.
26. On November 2, I replied to [BA] advising that I had located one file and asked him to provide available dates for an interview. [BA] provided me with dates for an interview the same day, but I did not respond.
27. On November 6, 2017, [BA] sent me another Part 3 letter requiring that I provide dates and times that I was available for an interview by November 9, 2017. I responded on November 9, 2017 with available dates and was interviewed on November 16, 2017.

#### Medical Conditions

28. [redacted]
29. I am currently receiving psychological and medical treatment for the above-noted conditions.

#### ADMISSION OF FACTS AND GUILT

30. I admit as facts the statements in this Statement of Admitted Facts and Admission of Guilt for the purposes of these proceedings.
31. I admit that I failed to comply with the Law Society's trust accounting rules and that such conduct is deserving of sanction.

32. I admit that I accepted trust funds when not authorized to do so by the Law Society and that such conduct is deserving of sanction.
33. I admit that failed to be candid with the Law Society and that such conduct is deserving of sanction.
34. I admit that I misled or failed to be candid with the custodian of my practice and that such conduct is deserving of sanction.
35. I admit that I failed to respond promptly and completely to communications from the Law Society and that such conduct is deserving of sanction.
36. For the purposes of section 60 of the *Legal Profession Act*, I admit my guilt to the above conduct.
37. I acknowledge that I have had the opportunity to consult legal counsel and provide this Statement of Admitted Facts and Admission of Guilt on a voluntary basis.

THIS STATEMENT OF ADMITTED FACTS AND ADMISSION OF GUILT IS MADE THIS 12 DAY OF NOVEMBER, 2018.

"Witness"

Witness

"Norman Kelly"

NORMAN KELLY