

**LAW SOCIETY OF ALBERTA**  
**IN THE MATTER OF THE *LEGAL PROFESSION ACT*;**  
**AND**  
**IN THE MATTER OF A RESIGNATION APPLICATION**  
**BY JUNE KOSKA**  
**A MEMBER OF THE LAW SOCIETY OF ALBERTA**

**Resignation Committee:**

Kathleen Ryan, Q.C., Chair (Bencher)  
Don Cranston, Q.C., Bencher  
Robert Dunster, Lay Bencher

**Appearances:**

Counsel for the Law Society – Lois MacLean  
June Koska – Self Represented

**Hearing Date:**

December 6, 2016

**Hearing Location:**

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

**RESIGNATION COMMITTEE REPORT**

**Nature of Application and Outcome Summary**

1. June Koska applied for resignation from membership of the Law Society of Alberta (LSA) pursuant to section 32 of the *Legal Profession Act* ("LPA") of Alberta. June Koska's application to resign was accepted on a condition that was satisfied at the conclusion of the hearing.

**Jurisdiction, Preliminary Matters and Exhibits**

2. On December 6, 2016, a Resignation Committee (Committee) convened at the office of the LSA in Edmonton to conduct a hearing with regard to June Koska. Ms. Koska and counsel for the LSA were asked whether there were any objections to the constitution of the Committee. There being no objections, the hearing proceeded.
3. Exhibits 1, 2, 4, and 5 established the jurisdiction of the Committee, namely the Letter of Appointment of the Committee, the Notice to Solicitor pursuant to section 59 of the LPA, the current citations facing Ms. Koska, the Private Hearing Application Notice, the Notice to Attend to the Member and the Certificate of Status of the Member with the LSA.

4. The Certificate of Exercise of Discretion pursuant to Rule 96(2)(b) of the *Rules of the Law Society of Alberta* ("Rules") was entered as Exhibit 3. The LSA determined that there were no persons to be served with a private hearing application. The LSA received no request for a private hearing. Accordingly, the hearing was held in public.

## **Background and Citations**

5. June Koska acted for P.S. in a divorce and maintenance matter from 2009 - 2014. Arising out of that representation, June Koska faced the following Citation alleged to be deserving of sanction:
- (a) "failing to respond to communications from P.S., opposing counsel and MEP [Maintenance Enforcement Program] in a timely manner or at all,
  - (b) failing to move the matter forward in a timely and efficient manner,
  - (c) failing to provide Statements of Account in a timely manner or at all, and
  - (d) failing to inform P. S. that [she] had been suspended." (Collectively, the "PS Citation")
6. In addition, Ms. Koska faced a Citation for failing to respond to the LSA (the "Failure to Respond Citation").
7. At the time of this application, Ms. Koska was a suspended member of the LSA. The citations facing Ms. Koska were not the first instances of conduct concerns. A Hearing Committee previously suspended Ms. Koska for a period of 6 months commencing April 7, 2014. Ms. Koska was found guilty of conduct deserving of sanction. The conduct arose in January 2012 and September 2013 and involved misuse of trust funds. The complainants in that matter were members of a vulnerable population. The Hearing Committee identified concerns regarding Ms. Koska's governability and responsiveness to the Law Society. Ms. Koska was found not to respond in a timely manner. Ms. Koska was obliged to pay the costs of the hearing which, at the time of this Resignation Application, were still outstanding in the amount of roughly \$29,000. In accordance with the terms of that decision, Ms. Koska was automatically suspended for non-payment of those costs.
8. In addition, Ms. Koska had not taken steps to pay her ongoing membership fees and that, by itself, would have attracted an administrative suspension had the other discipline proceedings and suspension not been concurrent.
9. Prior to this application, Ms. Koska had never applied to resign as a member of the LSA. Ms. Koska advised that, in the aftermath of her suspension in 2014, she began to wind up her practice and, from her perspective, she was effectively "retired". However, the LPA does not allow its members to retire without formal application. Ms. Koska should have known this as a member of the LSA. As a result of these failures, Ms. Koska continued to remain suspended. She took no steps to formally become either an inactive or an active member of the Society.

## **Statement of Facts**

10. This resignation application was unusual in that the Law Society and Ms. Koska could not agree to an Admitted Statement of Facts in advance of the hearing. Ms. Koska tendered her own version of admitted facts before the hearing; however, that version was not accepted by the Committee.

## **Requirements for Resignation under the LPA**

11. In order to comply with the LPA, a member may only resign from the Society on certain prescribed terms. Section 32 of the LPA provides as follows:
  - 32(1) No member may resign from the Society unless the member's resignation is submitted to and approved by the Benchers or a committee of the Benchers.
  - (2) If the resignation is approved, the member's name shall be struck off the roll.
12. At the time of this hearing, Ms. Koska was facing conduct proceedings in respect of both the P.S. citation and the failure to respond citation. The conduct hearing had already commenced and Ms. Koska sought an adjournment of that proceeding to enable an application under section 32 of the Act.
13. Rule 92 of the *Rules of the LSA* provides that a member seeking resignation in the face of conduct proceedings must supply certain materials to the LSA as a condition of the application. This includes personal particulars, information about trust funds and accounts, status of files, and other relevant information to enable a determination on the status of the member's practice. These are reasonable requirements designed for the protection of the public interest, including the clients of the lawyer who seeks to resign.
14. Pursuant to Rule 92(4), Ms. Koska was also required to agree to a Statement of Facts in a form acceptable to the Benchers, setting out the particulars of the facts which give rise to the conduct proceeding or disciplinary proceedings and the fact that Ms. Koska has resigned. Ms. Koska was required to agree to the publication of the Statement of Facts and to make the application to resign before the Benchers in public. The form of the Statement of Facts originally submitted by Ms. Koska was unacceptable. In order to understand why it was unacceptable, it is necessary to review the background of the complaint which gave rise to the conduct proceedings.

## **The Conduct Matter facing Ms. Koska at the time of the Application**

### **A. The P.S. Citation**

15. Ms. Koska was facing two citations which had already gone to hearing at the time of this application. P.S. was a divorce and maintenance client of Ms. Koska. Ms. Koska acted for P.S. from 2009 to 2014.
16. In April of 2013, Ms. Koska appeared on behalf of P.S. before the Honourable Mr. Justice Lee in the Court of Queen's Bench of Alberta Chambers. The matter was scheduled for Special Chambers, Ms. Koska sought an adjournment on behalf of her client and alleged in chambers that the opposing counsel had consented to an adjournment. This consent was disputed. Opposing counsel detailed a series of efforts to deal with Ms. Koska, which included multiple occasions where Ms. Koska was unable to be reached by telephone or by email. Ultimately, an adjournment was granted, with \$500 in costs against P.S., to avoid prejudice to P.S. Notwithstanding the adjournment, the Court made it clear that Ms. Koska's conduct concerned the court. Justice Lee stated the following:

"The reason I am giving you the adjournment is because **your client is not well represented today**, and I do not want to simply make an order in a vacuum, which would be very prejudicial to him. It is not for the reasons you have indicated, Ms. Koska." [Page 10, line 36, Emphasis added]

17. In April of 2014, Ms. Koska was suspended for misconduct. On November 24, 2014, P.S. filed his complaint to the Law Society respecting Ms. Koska. P.S. stated:

“June was hired to do my divorce in 2009. She received a \$2,500 retainer and then went missing until 2013 March. I was contacted by her that I was to appear in Court in April. It has been 5 years”.

18. P.S. stated that he repeatedly requested a Statement of Account and did not receive one. By November 2014, Ms. Koska had already been suspended for several months and P.S. stated that there was no advice to him that Ms. Koska had been cited nor suspended. P.S. indicated that he had left emails and phone calls to obtain his files and property and Ms. Koska had not replied.
19. The nature of this complaint, in isolation, may well be conduct deserving of sanction. However, without more, it is unlikely to be the type of conduct that would lead to disbarment of a lawyer. Ms. Koska disputes the allegations. Rather than dealing with the citations, however, Ms. Koska engaged in an unfortunate pattern of neglect and absenteeism in her dealings with the LSA. These concerns are detailed in the Affidavit of J.D., Exhibit 14 in these proceedings.

### **B. The Failure to Respond Citation**

20. Ms. Koska responded to the complaint of P.S. on February 17, 2005. For the most part, the claims of P.S. were denied. In particular, Ms. Koska stated, or strongly implied, that accounts were sent to P.S. She states that she advised P.S. “many times that I was going out of practice and that he should retain another lawyer”. She denies that there was any failure to reply to emails.
21. On April 21, 2015, J.O., a complaint resolution officer with the LSA, emailed Ms. Koska a letter, asking her to arrange for pickup of the P.S. file. From the LSA’s perspective, this request marked a turning point in Ms. Koska’s cooperation with her regulator.
22. From that point on, Ms. Koska did not respond in any significant or meaningful manner to LSA communication for a prolonged period. As a result of this, citations were issued against Ms. Koska. A Pre-Hearing Conference was scheduled for April 12, 2016. Ms. Koska did not attend. A further Pre-Hearing Conference was scheduled for May 11, 2016. At that time, the Vice-Chair of conduct confirmed that reasonable steps had been taken to ensure that Ms. Koska had notice of the Pre-Hearing Conference. Ms. Koska did not attend. A hearing was directed, contingent on Ms. Koska’s availability, for one half day on July 19, 2016.
23. The Affidavit of J.D. sets out extensive efforts to deliver the Pre-Hearing Notice letter to Ms. Koska. Multiple efforts were made to not only communicate by email, but also by telephone and in person at the address provided by Ms. Koska as her office address. None of these contacts were successful. Ms. Koska offers up various explanations for these failures. These include the following:
- (a) she stopped checking her work email;
  - (b) her voicemail was full;
  - (c) she was out of town at various times during 2015 and 2016;
  - (d) Ms. Koska’s LSA correspondence was delivered under her door and then was inadvertently swept under a piece of furniture.

Even if any of these explanations were true, this does not constitute professional and responsible behaviour for a member of the LSA.

24. In Ms. Koska's proposed statement of facts, she states she "never received any correspondence from either LSA nor [sic] P.S. pertaining to the complaint after February 17, 2015...never reviewed her business mail, email [redacted] after about Spring 2015."
25. In Ms. Koska's proposed statement of facts, Ms. Koska states that P.S. sent a complaint in to the LSA containing allegations "without any evidence". This statement is not correct. P.S.'s allegations are in fact supported by his evidence. The transcript of the proceedings before the Honourable Justice Lee also evidences failures in her representation of P.S.
26. The refusal to agree to allegations which are clearly evident on the face of the proceedings in respect of both the P.S. complaint and, in particular, in respect of the failure to respond to the LSA appears to underscore Ms. Koska's lack of governability. The Committee notes these were concerns raised by the 2014 Hearing Committee. These failures were evident not only in the evidence adduced by Ms. Koska, but in Ms. Koska's approach to the proceedings which ultimately resulted in this hearing. Indeed, Ms. Koska missed two Pre-Hearing Conferences. The October dates were peremptory on Ms. Koska.
27. Prior to October 3, 2016, Ms. Koska was to have made arrangements to turn files over to the LSA. As at the time of the Resignation Application, that had still not occurred. At the hearing on October 13, Ms. Koska did not enter the building. Ms. Koska's explanation for this non-attendance appears to be that she ate a breakfast sandwich prior to the hearing and it made her ill. She said she was not well enough to proceed. Bearing in mind that the October date was peremptory, and notwithstanding Ms. Koska's unwillingness or inability to proceed to hearing, another hearing date was set for November 21, 2016.
28. Ms. Koska states that the reason she had not produced files to the LSA prior to the date of the Resignation Hearing was that there was a billing dispute with her storage company. Again, whether this is true or not, it is a serious indicator of a lack of professional responsibility on Ms. Koska's part. Ms. Koska appears to either be unaware of these failures in professionalism or seriously lacks insight into her own conduct.
29. At paragraph 6 of Ms. Koska's proposed Statement of Facts, Ms. Koska states "she was retired in 2014" demonstrating a fundamental misunderstanding of the LPA, whether intentional or as a result of ignorance or wilful blindness. She made no efforts to communicate her "retirement" or apply for resignation. The public is entitled to expect more from Ms. Koska or any lawyer proposing to exit the profession in compliance with the LPA. She was a lawyer with an active client base, who had responsibilities to her clients, to her regulator, and to the public.
30. Ms. Koska also denies guilt on the failure to respond citation. Ms. Koska states that she "believed that there was no further issues regarding the complaint as she did not receive any further correspondence or contact from the LSA." This is palpably wrong, or her use of the words "correspondence" and "contact" is misleading and excessively narrow. There were extensive email communications. Ms. Koska's statement that she did not receive further correspondence because there was no specific letter mail is entirely unconvincing. Ms. Koska states she did not have a cell phone in 2014, 2015, and 2016. She recognizes that her answering machine became full, often with a short memory space. She says she did not have call display. Ms. Koska states that she only found mail delivered by the LSA under her bookcase at some point in the summer of 2016. These excuses strain credulity.
31. Further, whether these statements from Ms. Koska are true or not true, it defies belief that a responsible practitioner, suspended or not, "retired" or not, would take this approach with her

regulator in the midst of extant conduct proceedings. If this panel were asked to make a finding to accept Ms. Koska's proposed facts as true, it would be exceedingly difficult to so find. However, in the light of the findings below, that specific finding is not necessary.

32. The question before the Committee at hearing is whether it is in the public interest that Ms. Koska resign without the need for the outstanding discipline matters to be concluded. In this case, it is distinctly in the public interest that Ms. Koska resign from the LSA.

### **Resignation in the Public Interest**

33. The LPA recognizes two different types of resignation applications. A resignation under section 61 of the LPA is a deemed disbarment. A resignation under section 32 of the LPA is not a deemed disbarment.
34. This Committee must determine whether it is in the best interests of the public and members of the Law Society to permit Ms. Koska to resign prior to the resolution of the conduct matters. In considering whether or not to accept an application for resignation, pursuant to the Adjudication Guideline on resignations, the Resignation Committee may consider the nature of the lawyer's alleged conduct and whether it would likely result in disbarment if the matter were to proceed to a hearing and the citations proved. The Committee is also to consider whether there are disputed facts or other factors in the Hearing Guide that would be taken into account by a Hearing Committee which would mitigate against disbarment.
35. In this case, the nature of the original complaint, while serious, is unlikely to have been a matter in isolation that would give rise to disbarment. However, in the aftermath of the complaint, and given the other suspension involving Ms. Koska, and given her evidenced intention to retire, and given her multiple failures in communication with the LSA, it is certainly in the public interest that Ms. Koska resign. Ms. Koska was obliged, in any event, to pay an additional \$29,000 in hearing costs from the 2014 conduct matters. There is no indication that these payments are likely to be paid. Accordingly, it is highly unlikely that Ms. Koska would ever have returned to practice law in any event.
36. As a result of Ms. Koska's persistent refusal to admit shortcomings, the Resignation Committee was in a dilemma. On the one hand, the evidence giving rise to the initial conduct proceeding was not, even if made out at hearing, the type of conduct that would typically lead to disbarment. On the other hand, Ms. Koska is a lawyer who has no intention of practicing law, has several obstacles arising out of the prior conduct proceedings, and wishes to resign as a member of the LSA. The panel unanimously agrees that it is in the public interest that Ms. Koska never practice law again.
37. It is worth bearing in mind that the most serious consequence to a lawyer in the aftermath of conduct proceedings is disbarment. The effect of a disbarment is that the lawyer cannot practice law. This outcome is achieved through these proceedings without the further expense of a lengthy continued hearing and without the need to inconvenience witnesses.
38. As a result of this, Ms. Koska and the Law Society worked together during this hearing to prepare an Admitted Statement of Facts. The Admitted Statement of Facts is Appendix "A" to this report. The Admitted Statement of Facts is clearly more sparse than one would normally see in these types of proceedings. The brevity of this Admitted Statement of Facts must be viewed with caution. This is not the norm in these proceedings. Nor should anyone consider that Ms. Koska's seeming obfuscation and delay is a tactic that results in an advantage.

39. These proceedings allow for Ms. Koska's exit from the profession in a manner that assures the public that she will not practice again. It is unfortunate that Ms. Koska, an individual who practiced for some 28 years until her suspension in 2014, is concluding her career this way.
40. Ms. Koska has confirmed that all of her trust accounts are closed. She has no signing authority. She has not handled trust funds, save as described in her Statutory Declaration, since filing her final law firm self-report. She has closed her files and has not been engaged in the practice of law.

## **Concluding Matters**

41. Although Ms. Koska's application for resignation has been accepted under section 32 (rather than section 61) of the LPA, the Committee considers it proper that a Notice to the Profession be issued. The profession should address the consequences of Ms. Koska's conduct, and in particular, her repeated failures to respond to her regulator. The Notice to the Profession shall be in a form to be determined by the Executive Director.
42. The Exhibits in this matter shall be made available to the public for inspection or copying along with the decision herein, subject to the usual redactions that protect privilege and confidential information.
43. The undertaking set out at Exhibit 9 and the abbreviated Admitted Statement of Facts are in a form acceptable to this Committee for the reasons set out above.
44. The estimated costs of these proceedings were tendered via exhibit. The total costs were \$21,116.83. Costs were ordered against Ms. Koska in that amount. Nothing in this Resignation Committee decision impacts the prior costs award arising from the 2014 conduct proceedings.
45. The Law Society counsel sought no referral to the Attorney General and this Committee finds no such referral is required.
46. One issue remained related to Ms. Koska's files. Despite multiple demands, Ms. Koska had failed to deliver her files to the LSA. Ms. Koska entered into a Consent Order during the hearing, for use only in the event that she fails to deliver files on the basis agreed. The Consent Order executed by Ms. Koska was Exhibit 23.
47. The roll will show that Ms. Koska's resignation was effective December 6, 2016. The Notice to Profession will be attached to the roll.

Dated at the City of Edmonton, in the Province of Alberta, this 17<sup>th</sup> day of May, 2017.

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**Kathleen Ryan, Q.C., Chair**

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**Don Cranston, Q.C.**

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**Robert Dunster**

## **APPENDIX “A”**

In the Matter of the *Legal Profession Act*

And In the Matter of A Hearing Regarding  
The Conduct of K. June Koska  
A Member of the Law Society of Alberta

Law Society Hearing file: HE20150240

### **ADMITTED STATEMENT OF FACTS**

Ms. K. June Koska is a suspended member of the Law Society of Alberta. She was admitted in February 1986 and was suspended on March 31, 2014. Ms. Koska was a member of the Law Society at all times relevant to this proceeding.

1. Ms. Koska faces two citations, as follows:

1. *It is alleged that in representing P.S. in a divorce and maintenance matter in 2009 – 2014, you failed to serve your client by:*
  - a. *failing to respond to communications from P.S., opposing counsel and MEP in a timely manner or at all,*
  - b. *failing to move the matter forward in a timely and efficient manner,*
  - c. *failing to provide Statements of Account in a timely manner or at all; and*
  - d. *failing to inform P.S. that you had been suspended,*

*and such conduct is deserving of sanction.*
2. *It is alleged that in 2015 you failed to respond to communications from the Law Society and that such conduct is deserving of sanction.*

#### **Admissions**

1. I have not practiced since April 2014.
2. I acknowledge that there are two citations outstanding, as set out above, and that a Hearing has been commenced with respect to those Citations.
3. [P.S.] is a former client who delivered a complaint to the Law Society containing allegations as set out in the Citations.
4. I deny that there is merit in the allegations made by [P.S.].

5. In addition, the Law Society has alleged that I failed to respond to communications in 2015.
6. I did not respond to the Law Society from March 1<sup>st</sup> 2015 until July 2016.
7. Although I had my reasons for the failure, I did fail to respond to communications from the Law Society of Alberta.
8. It is not my intention to practice again, and I propose to resign under s. 32 of the *Legal Profession Act*.

This Agreement is dated the 6[th] day of December, 2016.

“Witness”

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Witness

“K. June Koska”

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K. June Koska