

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

Single Bencher Hearing Committee:

Donald R. Cranston QC, Bencher

Appearances:

Counsel for the Law Society – Danielle Vaillancourt

George Roszler

Hearing Date:

January 9, 2017

Hearing Location:

Law Society of Alberta at 500, 919 – 11th Avenue S.W., Calgary, Alberta

HEARING COMMITTEE REPORT

Jurisdiction, Preliminary Matters and Exhibits

1. On January 9, 2017, a Single Bencher Hearing Committee (Committee) convened at the office of the Law Society of Alberta (LSA) to conduct a hearing regarding two citations:
 - a. It is alleged that George Roszler failed to treat another lawyer, B.C., with courtesy and that such conduct is deserving of sanction;

- b. It is alleged that George Roszler failed to be accurate, candid and comprehensive in his submissions to the Court and that such conduct is deserving of sanction.
- 2. Mr. Roszler and counsel for the LSA were asked whether there were any objections to the constitution and jurisdiction of the Committee. There were no objections to the single Bencher 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 59 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.

Statement of Facts and Admission of Guilt

- 5. Counsel for the LSA and Mr. Roszler have agreed to a Statement of Admitted Facts and Admission of Guilt (the "Agreed Statement"). On December 14, 2016, a panel of the Conduct Committee determined that the Agreed Statement was in an acceptable form, as contemplated in section 60(2) of the *Legal Profession Act*. The Agreed Statement is attached to this decision as Appendix "A". As a result, this hearing was convened before a single bencher pursuant to section 60(3) of the *Legal Profession Act*.
- 6. Pursuant to section 60(4) of the *Legal Profession Act*, when 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.
- 7. The only question for determination by this Committee is one of appropriate sanction.

Sanction

- 8. Counsel for the LSA and Mr. Roszler made a joint submission on sanction. It was agreed by them that an appropriate sanction in this case was a reprimand and payment of costs by Mr. Roszler. The amount of costs has been agreed at \$1,734. There was no request made for any extended time for payment, and I accordingly direct that the costs be paid within 60 days of the date of this written decision.
- 9. Mr. Roszler has no record before the Law Society and there were no material investigation costs associated with this complaint. In the submission of counsel for the LSA, the joint submission on sanction is appropriate in all of the circumstances.

10. I am required to give careful consideration to a joint submission, and deviate from that joint submission only in circumstances where I consider there are extraordinary circumstances justifying that I do so. In that event, I would be obliged to let the parties know that I do not accept the joint submission, and to give an opportunity to both parties to make further submissions on sanctioning.
11. In this case, I have carefully considered the joint submission and have concluded that it is acceptable in the circumstances. While it is true that Mr. Roszler was somewhat resistant in coming to his admission contained in the Agreed Statement, he did make the agreement at the end of day. In doing so he avoided the need for inconvenience of witnesses, an unnecessary contested hearing, and further costs to both himself and the LSA.

Concluding Matters

12. Hearing exhibits shall be made available to the public, with the exception that they shall be redacted to prevent the disclosure of confidential or privileged information.
13. There shall be no notice to the profession issued in this case, and there will be no notice to the Attorney General.

Reprimand

14. With respect to the reprimand, I delivered an oral reprimand to Mr. Roszler at the Hearing. The reprimand is set out below.

Mr. Roszler, you have admitted that you did two things. The first was that you failed to treat another lawyer with courtesy and that such conduct was deserving of sanction. The second was that you failed to be accurate, candid and comprehensive in your submissions to the Court, and that such conduct was deserving of sanction.

It is the responsibility we all have as lawyers to treat other counsel with courtesy. I do not know in this case to what extent the clients were in a bitter dispute, but it is clear there was some bitterness, whether only between counsel, or as between the clients as well.

What is important for lawyers is that we must not allow personal animosity between counsel to develop and impact clients or the public's interest. Mr. Roszler, you failed in that obligation.

Mr. Roszler, you were not candid to the Court. The Court and the public must be able to rely on the honesty and candour of counsel. Any failures of counsel go to the root of our obligation as professionals. This is a serious obligation, and Mr. Roszler, you failed in your duty.

Mr. Roszler, you are reprimanded for your conduct.

These are two matters that I hope very much that you have taken deeply to heart, and have learned from them. You have been willing to admit that you were in error and you have told this Committee that the LSA will not hear of similar conduct from you in the future.

Dated at the City of Calgary in the Province of Alberta, this 18th day of May, 2017.

Donald Cranston, QC

APPENDIX "A"

IN THE MATTER OF *THE LEGAL PROFESSION ACT*

AND

IN THE MATTER OF A HEARING REGARDING THE CONDUCT OF GEORGE D. ROSZLER,
A MEMBER OF THE LAW SOCIETY OF ALBERTA

STATEMENT OF ADMITTED FACTS AND ADMISSION OF GUILT

I. INTRODUCTION

1. I was admitted as a member of the Law Society of Alberta on August 22, 1985.
2. My present status with the Law Society of Alberta is active.
3. From 1985 to 2003, I practiced law with the law firm of Nikitiuk & Blain in Calgary, Alberta.
4. Since January 2004, I formed a new law firm, Roszler & Associates and have practiced in association in a general law practice, in Calgary, Alberta since that time.
5. The herein Statement of Admitted Facts and Admission of Guilt will address two citations arising out of one complaint.

II. CITATIONS

6. On May 25, 2016, the Conduct Committee Panel referred the following conduct to hearing:
 1. **It is alleged that George Roszler failed to treat another lawyer, BC, with courtesy and that such conduct is deserving of sanction;**
 2. **It is alleged that George Roszler failed to be accurate, candid and comprehensive in his submissions to the Court and that such conduct is deserving of sanction.**

Facts

Citation #1

7. BC, the Complainant lawyer, and I were opposing counsel on a family law file. I represent the claimant and BC's former law firm represents the defendant. When the file commenced, BC was a lawyer at xx. In February 2014 he left that firm and became a sole practitioner. XX was renamed on 10 December, 2014, to xx ("xx").
8. On December 12, 2014, I served BC via fax to his office with a Notice to Disclose Application returnable on January 20, 2015. On December 18, 2014, BC responded by faxed letter advising me that he no longer represented that client as the file remained at xx (now xx), his previous law firm, and that I should direct my correspondence and the Notice to Disclose to that firm.
9. On Friday January 16, 2015, approximately one month later, I responded to BC by faxed letter clearly stating my position that BC remained the lawyer of record. In the subsequent exchange of correspondence, my position remained that BC was the lawyer of record and that he was responsible for informing his client of the need for Disclosure and the need to attend court.
10. In his correspondence from January 16, 2015, BC advised me of the following:
 - his previous law firm was the lawyer of record and the fax number on record remained the same
 - he had court ordered Questioning on the day of the Application and was unable to attend; he did not ask for an adjournment nor did he indicate that he wished to attend before the application could be heard.
 - he did not have the file; and
 - he had not had any contact with the client since he left his previous firm about a year earlier.
11. On January 16, 2015 BC sent the Notice to Disclose application to xx. AJ, appeared as counsel for xx on January 16, 2015. AJ filed a notice of change of representation on January 27, 2015. The disclosure application was adjourned to February 23, 2016 at the request of AJ in order to provide disclosure and to obtain instructions from the client. The Court issued an order for personal costs in the amount of \$300 against BC, in his absence.
12. On February 10, 2015, I faxed BC a letter with a copy of the order for personal costs in which I indicated that I would be starting collection proceedings against him within 2 weeks if he didn't pay me the \$300.
12. After approximately 2 years BC has not paid the costs nor do I intend to take collection proceedings against him.

13. I acknowledge that I did not give the Complainant notice of my application to seek personal costs against him although I advised him in writing on 2 separate occasions that I intended to ask the Court for "any" costs.
14. I also acknowledge that I was first provided with a response from the Complainant on December 18, 2015. However, I did not provide a response until January 16, 2015, two business days (4 calendar days) prior to the application.

Conduct - Admissions

15. I admit that I failed to treat another lawyer, BC, with courtesy and that such conduct is deserving of sanction.

Citation #2

16. On January 20, 2016, I sought an order for personal costs against BC, in his absence.
17. During my submissions to the court, the presiding Queen's Bench Justice inquired if BC had filed a statement of Defence and if he was solicitor of record. I assured Justice McLeod that he was.(January 20, 2016 proceeding transcripts, p. 3 (lines 22 to 36). My dealings on this matter had always been with BC. BC signed the Corollary Relief Consent Order which I filed before Justice Erb on December 21, 2011. I failed to advise the court however that the address and contact information for service of documents that appears on the Statement of Defence filed on July 29, 2011 and the Notice to Disclose from January 19, 2012 filed on behalf of the defendant is the following:

xx
xx
Calgary, Alberta xxx xxxx
Phone: xxx-xxx-xxxx
Fax: xxx-xxx-xxxx

The same phone and fax numbers appear on the xx website.

18. I acknowledge that I also failed to advise the court the following:
 - BC sent me a response to my Notice to Disclose application December 18, 2014 letter;
 - I took no steps to serve or contact xx although a solicitor from that firm did attend the Court application (at BC's request).
 - I did not respond to BC until January 16, 2015, two business days (4 calendar days) prior to the application;
 - BC had advised me that he had court ordered questioning on January 20, 2015, so he could not attend. BC did not request an adjournment;
 - BC had advised me that he had not been in contact with his client for about a year; and

- I did not provide BC with notice of my intent to seek personal costs against him although I had advised him in writing on 2 occasions that I would be seeking "any" costs at the application.
19. I also acknowledge that on January 20, 2014 I sought an order for personal costs prior to suggesting an adjournment to the application which the Court did not grant. The Court did not have all of the information as set out above.
20. I acknowledge that I implied that xx was a separate firm as opposed to xx because that is what I believed notwithstanding BC had advised otherwise in one of his January 16, 2016 letters.

Conduct - Admissions

21. I admit that I failed to be fully accurate, candid and comprehensive in my submissions to the Court and that such conduct is deserving of sanction.

IV. 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 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.
24. For the purposes of Section 60 of the *Legal Profession Act*, I admit my guilt to Citations 1 and 2, as directed on May 25, 2016.

THIS AGREED STATEMENT OF FACTS AND ADMISSION OF GUILT IS MADE THIS 24 DAY OF NOVEMBER, 2016.

"George D. Roszler"

GEORGE D. ROSZLER