

**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 ROGER JENSEN  
A MEMBER OF THE LAW SOCIETY OF ALBERTA**

**Single Bencher Hearing Committee**

Cal Johnson, QC – Chair

**Appearances**

Karen Hansen – Counsel for the Law Society of Alberta (LSA)  
Roger Jensen – Self-represented

**Hearing Date**

March 13, 2018

**Hearing Location**

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

**HEARING COMMITTEE REPORT**

**Overview**

1. On March 13, 2018, a Single Bencher Hearing Committee (Committee) convened at the office of the LSA to conduct a hearing on the appropriate sanction for the conduct of Roger W. Jensen.
2. Mr. Jensen had admitted guilt to two citations, in relation to his failure to file required trust reports and responding promptly and completely to the LSA's communications in relation to those filing requirements. Additional details in relation to his conduct is set out in a Statement of Admitted Facts and Admission of Guilt, dated December 12, 2017, and entered into by the LSA with Mr. Jensen (Agreed Statement). The Agreed Statement is appended to this Report as 'Schedule A.'
3. On January 16, 2018, a panel of the Conduct Committee of the LSA found the Agreed Statement acceptable. Accordingly, this hearing proceeded before a single Bencher pursuant to Section 60(3) of the *Legal Profession Act* (the *Act*).
4. Pursuant to subsection 60(4) of the *Act*, it is deemed to be a finding of the Committee that the Member's conduct is deserving of sanction in relation to the following citations:

- 1) That Roger W. Jensen failed to follow accounting rule 119.30 and that such conduct is deserving of sanction; and
- 2) That Roger W. Jensen failed to respond promptly or completely to communications from the Law Society and that such conduct is deserving of sanction.

### **Preliminary Matters**

5. There were no objections to the constitution of the Committee or its jurisdiction, and a private hearing was not requested, so a public hearing into the appropriate sanction proceeded.

### **Agreed Statement /Background**

6. Pursuant to subsection 60(4) of the *Act*, each admission of guilt in the Agreed Statement is deemed to be a finding by this Committee that Mr. Jensen's conduct is deserving of sanction under section 49 of the *Act*.
7. The sole question for determination by this Committee is as to the appropriate sanction for the admitted conduct.

### **Submissions on Sanction**

8. Counsel for the LSA and Mr. Jensen jointly sought a reprimand, a \$500 fine and hearing costs in the estimated amount of \$2,089.84.
9. Counsel for the LSA acknowledged the very serious nature of the citations but as mitigating factors noted (i) the Agreed Statement and the avoidance of costs, time and inconvenience which would have been associated with a contested hearing, (ii) the disciplinary record of Mr. Jensen, which was entered as Exhibit 9 at the Hearing and which indicted no prior disciplinary record for the Member, and (iii) most importantly, that Mr. Jensen had been working consistently and cooperatively with the Practice Management Department of the LSA to wind up his practice, have his reportings brought up to date, disburse any remaining funds in his trust account and close that trust account.
10. LSA Counsel in Practice Management attended the Hearing and confirmed the above matters and estimated that the process of completing the wind up of Mr. Jensen's practice should be complete by the end of June, 2018. Mr. Jensen confirmed that to be his reasonable estimate as well.
11. Counsel for the LSA also referenced sanctions assessed in previous LSA hearings in *LSA v. Worobec*, 2017 ABLs 25, and *LSA v. Welz*, 2016 ABLs 47, as prior decisions in sanction hearings dealing with comparable facts and citations.

12. Mr. Jensen was offered the opportunity to provide submissions and indicated that he was supportive of the LSA submissions on sanction.

### **Decision on Sanction**

13. Counsel for the LSA and Mr. Jensen confirmed their understanding that the Committee is not bound by a Joint Submission on Sanction. However, a Committee is required to give serious consideration to a Joint Submission, should not lightly disregard it and should accept it unless it is unfit or unreasonable, contrary to the public interest, or there are good and cogent reasons for rejecting it. In this case the Committee found no basis on which to reject the Joint Submission, particularly in light of Mr. Jensen's plan and progress to retiring from the practice of law.
14. The Committee noted the particular concerns with governability otherwise raised by the factual matters set out in the Agreed Statement but that these were substantially mitigated by Mr. Jensen's decision to retire and the progress he had made with Practice Management in achieving that end. In light of that decision, the Committee determined that the Joint Submission was not inconsistent with prior sanctions.
15. The approach taken by both Mr. Jensen and the LSA in dealing with this matter through a Single Bencher hearing also avoided an unnecessary contested hearing, witness inconvenience, and process costs.
16. Accordingly, the Committee ordered that Mr. Jensen be sanctioned as follows:
  - a. reprimand as set out below, and which was delivered in person to Mr. Jensen at the hearing;
  - b. a fine in the amount of \$500;
  - c. payment of the costs of the hearing in accordance with the estimate provided as Exhibit 7.

### **Concluding Matters**

17. Mr. Jensen requested time to pay the fine and costs until the end of June, 2018, which was agreed to by the LSA.
18. The Committee directed that there be no notice to the Attorney General and no notice to the profession in respect of this hearing.
19. The exhibits and other hearing materials, transcripts, and this Report will 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)).

## Reprimand

Mr. Jensen, as your regulator, the LSA has 2 principal duties we must be constantly aware of: the need to protect the interests of the public and the need to protect and maintain the reputation of the legal profession. Your very serious conduct in this matter engages both of those considerations. As lawyers we have the great privilege of being a self regulating profession. But that privilege can be lost if our members are not governable.

Your conduct as related in the Agreed Statement raises some serious governability issues. I note that those concerns were mitigated in part by your admission to the conduct, the fact that you have no prior disciplinary record and most importantly that you are working cooperatively with the Practice Management Department of the LSA to windup your practice.

A Joint Submission on sanction is to be given deference. You have admitted guilt to 2 citations which evidence very serious conduct matters. However, your cooperation in proceeding with the process today helped to avoid unnecessary hearing costs, and avoid time and inconvenience to various parties and witnesses, as well as process costs. I conclude that, in light of all of these circumstances and considerations, it is in the public interest to accept the Joint Submission.

Mr. Jensen your conduct in this matter failed to meet the high standards required for trust reporting and accounting. This matter dragged on from November, 2014 until recently, mostly due to your unwillingness to address your obligations in a timely fashion.

For these reasons you are reprimanded today.

I am pleased that you are cooperating with Practice Management to windup your practice and retire. I wish you all the best in that retirement and in your future endeavours.

Dated at the Calgary, Alberta, March 21, 2018.

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Cal Johnson, QC

## **SCHEDULE A**

IN THE MATTER OF THE LEGAL PROFESSION ACT

AND

IN THE MATTER OF A HEARING REGARDING THE CONDUCT OF

ROGER W. JENSEN

A MEMBER OF THE LAW SOCIETY OF ALBERTA

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

#### **INTRODUCTION**

1. I was admitted as a member of the Law Society of Alberta on July 30, 1981.
2. My present status with the Law Society of Alberta is active and practising.
3. I have practiced in Medicine Hat, Alberta from 1981 to present. I have practiced as a sole practitioner throughout my career.

#### **CITATIONS**

4. On August 15, 2017, the Conduct Committee Panel referred the following conduct to hearing:
  1. It is alleged that Roger W. Jensen failed to follow accounting rule 119.30 and that such conduct is deserving of sanction; and
  2. It is alleged that Roger W. Jensen failed to respond promptly or completely to communications from the Law Society and that such conduct is deserving of sanction.

#### **FACTS**

5. My 2011 to 2013 Self Reports were submitted to the Trust Safety Department of the LSA ("Trust Safety") late on April 3, 2014, and my 2011 Accountant's Report was submitted late on August 21, 2014.
6. On November 19, 2014, Trust Safety wrote to inform me that, based on my late filings for 2011 to 2013, conditions were being placed on me to submit monthly trust reconciliations, trust journals, general reconciliations and general journals for a six-month period commencing October 31, 2014. That letter also informed me that my 2014 Self Report which was outstanding was due by December 2, 2014, and asked me to accept the recommended conditions by signing and returning a copy of the letter by November 26,

- 2014, failing which I would be unable to operate a trust account. I did not respond to that letter.
7. Trust Safety sent me a follow up email on November 27, 2014, to which I also did not respond.
  8. I spoke to a representative of Trust Safety on December 8, 2014 and then signed and returned a copy of the letter accepting the conditions. However, I did not submit any of the information required by the conditions.
  9. Trust Safety sent me follow up emails in December 2014 and February, March and May of 2015. In March of 2015 I emailed Trust Safety to say that I was away for ten days and most of the requested information would be made available upon my return. Despite that message, I did not submit any documents or communicate further with Trust Safety.
  10. Trust Safety wrote to me on January 26, 2017 to request that I provide my 2014 to 2016 Self Reports, 2015 and 2016 accounting uploads, and my January 2017 trust bank reconciliations by February 28, 2017. I did not respond to that letter.
  11. On March 7, 2017, via email, an LSA investigator forwarded a copy of an Investigation Order and a Part 3 request requiring me to provide a date to meet and discuss the matter and to produce my 2014 to 2016 Self Reports and my 2015 and 2016 Trust Safety Accounting Upload. I did not respond to that request.
  12. On March 13, 2017, the Investigator sent a follow up email to me. I did not respond to that email, nor to a subsequent email sent March 14, 2017.
  13. On March 16, 2017, I spoke to the Investigator by phone and advised that I had been trying to complete the required information for Trust Safety for some time, but my bookkeeper, who is my wife, and I had been having difficulties with our ESILaw system. I admitted to the Investigator that I had been “burying my head in the sand” and avoiding dealing with my accounting issues.
  14. On March 27, 2017, the LSA sent me a section 53 demand letter asking for my response to the Investigation Report completed by the Investigator. I did not respond to that letter, nor to follow up letters sent by the LSA on April 18, 2017 and May 10, 2017.
  15. My 2014 to 2016 Self Reports and my 2015 and 2016 Accounting Uploads remain outstanding. However, I have been working with an ESILaw consultant who is assisting me in bringing my records up to date. I hope to have my records brought up to date by year end.
  16. It is my intention to wind up my practice and retire as soon as I can bring my accounting records current. I am working with Practice Management to work towards the goal of retiring by the end of 2017.

#### ADMISSION OF FACTS AND GUILT

17. I admit as facts the statements in this Statement of Admitted Facts and Admission of Guilt for the purposes of these proceedings.
18. I admit that I failed to follow accounting rule 119.30 and that such conduct is deserving of sanction.

19. I admit that I failed to respond promptly or completely to communications from the Law Society and that such conduct is deserving of sanction.
20. For the purposes of section 60 of the *Legal Profession Act*, I admit my guilt to the above conduct.
21. 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 12TH DAY OF DECEMBER, 2017.

“ROGER W. JENSEN”

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ROGER W. JENSEN