

**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 THOMAS C. LLOYD
A MEMBER OF THE LAW SOCIETY OF ALBERTA**

Single Bencher Hearing Committee

Sandra Corbett, QC – Chair

Appearances

Karen Hansen – Counsel for the Law Society of Alberta (LSA)

Thomas C. Lloyd – Self-Represented

Hearing Date

February 27, 2018

Hearing Location

LSA office, at 800, 10104 - 103 Avenue, Edmonton, Alberta

HEARING COMMITTEE REPORT

Introduction

1. Since 1991, Mr. Lloyd has practiced law as a sole practitioner in Edmonton. In early 2017, he was suspended from practice for non-payment of fees.
2. Mr. Lloyd did not file his trust accounting reports from 2014-2016, as required by Rules of the Law Society of Alberta. In addition, he failed to respond promptly or completely to communications from the Law Society about these outstanding reports. As a result, citations were issued, and Mr. Lloyd's conduct was referred to a hearing.

Jurisdiction and Preliminary Matters

3. On February 27, 2018, a single Bencher Hearing Committee (Hearing Committee) convened at the Edmonton office of the LSA. Jurisdiction of the Hearing Committee was established through Exhibits 1 to 4. Both LSA counsel and Mr. Lloyd's counsel agreed that the Hearing Committee had requisite jurisdiction to hear and decide this matter. The Hearing Committee determined that it did have such jurisdiction.

4. Exhibit 5 constituted a “Private Hearing Application Notice” dated February 7, 2018 outlining that Mr. Lloyd was served with a Private Hearing Application Notice, and further indicating that no interested party had applied to have the hearing held in private. Both counsel for the LSA and Mr. Lloyd agreed that the hearing should be held in public. Based on the foregoing, the Hearing Committee determined that the hearing would be held in public.
5. Counsel for both LSA and Mr. Lloyd were asked whether they had any objection to the composition of the Hearing Committee panel based on apprehension of bias, or for any other reason. No objections were made.

Statement of Facts and Admission of Guilt

6. The parties submitted a Statement of Facts and Admission of Guilt (Agreed Statement) dated November 27, 2017 (Exhibit 6). The Agreed Statement is appended to this Hearing Report. Exhibit 6 was found to be in an acceptable form as contemplated in section 60(2) of the *Legal Profession Act* (the *Act*) by a Conduct Committee Panel on December 13, 2017 (Exhibit 7). Accordingly, this hearing was convened by a single bench member pursuant to section 60(3) of the *Act*.
7. Pursuant to section 60(4) of the *Act*, if a statement of admission of guilt is accepted by the Conduct Committee, each admission of guilt in the statement is deemed to be a finding of the Hearing Committee that the Member’s conduct is conduct deserving of sanction.
8. The conduct deserving of sanction, which was admitted to in this case, and is described in detail in the Agreed Statement, is that:
 - a. Mr. Lloyd failed to following accounting Rule 119.30, and that such conduct is deserving of sanction; and
 - b. Mr. Lloyd failed to respond promptly and completely to communications from the Law Society of Alberta, and that such conduct is deserving of sanction.
9. The only question for determination by this Hearing Committee is one of appropriate sanction.

Submissions on Sanctions

10. The Hearing Committee was provided with the Mr. Lloyd’s discipline record (Exhibit 9), and an estimated Statement of Costs (Exhibit 8). Joint submissions on sanctions were provided to the Hearing Committee. LSA counsel specifically highlighted Mr. Lloyd’s cooperation with LSA counsel as a mitigating factor, but noted that an aggravating factor was prior discipline for the same conduct.

11. LSA counsel sought a reprimand, an Order that Mr. Lloyd pay a \$10,000.00 fine, and a further Order that Mr. Lloyd pay the costs of the hearing, as estimated in Exhibit 8 in the sum of \$2,467.50.
12. LSA counsel submitted authorities in support of the proposed sanctions including:
 - a. *Law Society of Alberta v. Thomas C. Lloyd*, 2013 ABLs 26 (CanLII); and
 - b. *Law Society of Alberta v. Allan Fay*, 2014 ABLs 40 (CanLII).LSA counsel submitted that a fine of \$10,000.00, costs of the hearing in addition to a reprimand was imposed on Mr. Lloyd following his prior disciplinary hearing cited above. LSA counsel noted that Mr. Lloyd, in the prior hearing, was found guilty of knowingly filing an inaccurate form. The *LSA v. Fay* case imposed an \$8,000.00 fine, a reprimand and payment of hearing costs on what LSA counsel submitted were similar facts.
13. The Hearing Committee asked why LSA counsel was seeking the same fine of \$10,000.00 in this hearing as was previously imposed, when no allegation of knowingly filing an inaccurate form was being made. LSA counsel submitted that the fine sought was premised on deterrence principles as the conduct here is similar to the conduct from which the 2013 disciplinary matter arose, and LSA counsel further submitted that the principle of deterrence did not support reduction of a fine, when similar conduct repeats itself.
14. Mr. Lloyd agreed with the submissions of LSA counsel, and confirmed agreement with the proposed sanctions of a reprimand, payment of a \$10,000.00 fine and payment of the costs of the Hearing in the sum of \$2,467.50.

Decision on Sanctions

15. The Hearing Committee thanked and commended counsel for LSA and Mr. Lloyd for working together to resolve the complaints against Mr. Lloyd, and to expedite the sanctioning process by cooperating with one another such that the LSA was able to address the appropriate sanctions by way of a Single Bench Hearing.
16. The Hearing Committee noted Mr. Lloyd has a prior disciplinary discipline record as set forth in Exhibit 9 for conduct similar to that in question in this hearing, and further, that Mr. Lloyd is an administratively suspended member of the LSA for non-payment of practice fees as set forth in Exhibit 4.
17. Section 72(1) of the *Act* provides three alternatives to the Hearing Committee:
 - a. to order disbarment;
 - b. to order a suspension; or
 - c. to order a reprimand.

18. Section 72(2)(a) further permits a Hearing Committee to order conditions on a Member's suspension or practice, or other penalties.
19. The Hearing Committee carefully considered the joint submissions on sanctions. The Hearing Committee recognized that it is required to give serious consideration to jointly tendered submissions, should not lightly disregard them and should accept them unless they are unfit or unreasonable, contrary to the public interest, or there are good and cogent reasons for rejecting the joint submissions.
20. The Hearing Committee determined that the joint submissions on sanctions were appropriate in this case, were both fit and reasonable, and was prepared to accept the same.
21. Accordingly, it is the decision of the Hearing Committee that the following sanctions be imposed:
 - a. that Mr. Lloyd be reprimanded;
 - b. that Mr. Lloyd pay a fine of \$10,000.00;
 - c. that Mr. Lloyd pay the costs of \$2,467.50; and
 - d. that the fine and hearing costs be paid prior to Mr. Lloyd applying for reinstatement to active status.
22. The Hearing Committee then delivered the following reprimand:

Mr. Lloyd, you have admitted guilt to two citations deserving of sanction. The first citation has to do with failing to respond to the Law Society of Alberta. Exhibit 6 demonstrates a repeated failure to respond in any fashion to communications from the Law Society. While the Hearing Committee appreciates you may not have had anything new to report, it is vital that you respond – even if your response is that you have nothing new to report. The Hearing Committee's concern is that repeated failures to respond can suggest ungovernability, and while I appreciate that you are not engaged in active practice, you remain a member of the Law Society of Alberta, and we need to ensure that our members are governable and responsive to our communications to protect public interest. The second citation has to do with your self-reports and form filings for the years 2014 to 2016, and your failure to file the same. Again, the public interest is protected by the Law Society ensuring that its members are completing requisite filings as required. While I appreciate that you have had financial issues that have prevented you from getting the accounting work done to file the forms, the public interest must be protected. You have expressed that you have a trust account open to assist a former client – that appears to have been to your personal detriment, and I would encourage you to take the necessary steps to deal with closing your trust account as soon as possible so you can move forward without disciplinary proceedings relating to these issues over your head, and so that the Law Society of Alberta can assure itself that the public's funds

are protected appropriately when in a trust account.

Concluding Matters

- 23. The Hearing Committee directs that that the transcript and Exhibits be redacted to protect confidentiality, where appropriate, and solicitor-client privilege prior to any publication or public access.
- 24. There will be no Notice to the Profession issued.
- 25. No referral is required to the Attorney General.

Dated at Edmonton, Alberta, March 12, 2018.

Sandra Corbett, QC

SCHEDULE A

IN THE MATTER OF THE LEGAL PROFESSION ACT
AND
IN THE MATTER OF A HEARING REGARDING THE CONDUCT OF
THOMAS C. LLOYD
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 19, 1991.
2. My present status with the Law Society of Alberta is suspended due to non-payment of fees.
3. I have practiced in Edmonton, Alberta from 1991 to present. I have practiced as a sole practitioner throughout my career, at times in an office sharing arrangement.

CITATIONS

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

FACTS

5. On December 15, 2016 the Trust Safety Department of the LSA ("Trust Safety") emailed me informing me that my filings for 2014 to 2016 were outstanding and requesting that I provide those filings by December 22, 2016. I did not respond to that email.
6. On December 28, 2016 Trust Safety emailed me and requested I provide the outstanding filings by January 5, 2017. I did not respond to that email.
7. On January 5, 2017 Trust Safety left a message on my cell phone after trying to call my office phone and finding it was not in service. I did not respond to that message.
8. On January 10, 2017 B.O., an investigator for the LSA ("the Investigator") emailed me advising that he had been appointed as investigator and asking me to contact him. He also left a message on my cell phone asking me to contact him.
9. On January 11, 2017, I called the Investigator and left a message indicating that I was on a jobsite all day but would try to call back later. I did not call back that day.
10. On January 13, 2017, the Investigator left a message on my cell phone asking me to call him. I did not respond to that message.

11. On January 17, 2017 the Investigator left a message on my cell phone asking me to call him.
12. On January 18, 2017 I phoned the Investigator and was informed about an investigation order that had been issued, about my outstanding trust filings issues, and that I was suspended due to non-payment of fees. I told the Investigator that I had not done the filings because I was basically inactive. I said I would send the Investigator my trust reconciliations by early the next week. I did not provide those trust reconciliations to the Investigator by early the next week or at all.
13. On January 20, 2017 Trust Safety emailed me again setting out my outstanding filings. I did not respond to that email.
14. On January 27, 2017, the Investigator emailed me to say he was still waiting to hear from me with respect to providing my most recent trust reconciliations and bank statements. I did not respond to that email.
15. On January 30, 2017 the Investigator left a message on my cell phone about the trust reconciliations which I had not provided. I did not respond to that message.
16. On January 30, 2017 the LSA mailed and emailed a letter to me with the Investigation Order and a demand that I provide my law firm financial records (trust and general) from October 1, 2013 to current, including but not limited to my monthly trust reconciliations, client trust ledger cards, invoices and trust bank statements as well as client files where I held trust funds or had trust transactions from October 1, 2013. The deadline for response to the letter was February 15, 2017. I did not respond to that letter.
17. On February 9, 2017 Trust Safety send me a letter advising that my trust account could not be used until it was reconciled to September 30, 2016, and asking me to sign an undertaking to that effect. I did not respond to that letter.
18. On March 8, 2017 I spoke with JD, another LSA Investigator and advised him that I was no longer actively practicing law and that I had one open file for a client with approximately \$15,000 in trust where the client has failed to meet the conditions for me to disburse the funds.
19. On March 8, 2017, JD send me an email summarizing our conversation and asking for me to provide the client name and contact information for the outstanding file. I did not provide that information to JD.
20. On March 21, 2017, Trust Safety emailed me asking for my outstanding filings by March 28, 2017. I did not respond to that email.
21. On March 27, 2017 the Manager of Conduct for the LSA sent me a copy of the Investigation report and asked for my response. I did not provide a response.
22. On April 18, 2017, the Manager of Conduct sent me another letter asking for my response to the Investigation Report. I did not provide a response.
23. On May 11, 2017, I submitted Form 2-20, Election to become a Non-Practising (Inactive) Member. However, I understand that my status with the LSA remains suspended as I cannot become an inactive member until my final Law Firm Self Report and final Accountant's Report are filed and my trust account is closed.

24. My 2014 to 2016 Self Reports and my 2014 to 2016 Accountants Reports remain outstanding.
25. I am no longer actively engaged in the practice of law. I am working in the construction industry, and as well am involved in responding to [personal issues].

ADMISSION OF FACTS AND GUILT

26. I admit as facts the statements in this Statement of Admitted Facts and Admission of Guilt for the purposes of these proceedings.
27. I admit that I failed to follow accounting rule 119.30 and that such conduct is deserving of sanction.
28. I admit that I failed to respond promptly and completely to communications from the Law Society and that such conduct is deserving of sanction.
29. For the purposes of section 60 of the *Legal Profession Act*, I admit my guilt to the above conduct.
30. 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 27TH DAY OF NOVEMBER, 2017.

“THOMAS C. LLOYD”

THOMAS C. LLOYD