

**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 PETER SHIPANOFF
A MEMBER OF THE LAW SOCIETY OF ALBERTA**

Single Bencher Hearing Committee

Walter Pavlic, QC – Chair

Appearances

Candice Ross – Counsel for the Law Society of Alberta (LSA)
Simon Renouf, QC – Counsel for Peter Shipanoff

Hearing Date

March 15, 2018

Hearing Location

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

HEARING COMMITTEE REPORT

Overview

1. Mr. Shipanoff was admitted to the Law Society of Alberta (LSA) on May 19, 2000. He practiced primarily criminal law with the KSN firm. He left KSN in June 2014 and litigation with his former Partners ensued.
2. Subsequently, allegations were made that Mr. Shipanoff failed to properly account and record funds paid by two clients, RH and DF.
3. With respect to RH, a \$2,500.00 cash retainer was received. That cash payment was not recorded in the Firm trust ledger. A second payment by RH in the amount of \$2,871.00 was also not recorded in the Firm trust ledger.
4. With respect to DF, a cash payment of \$400.00 was obtained. This cash payment was not recorded in the Firm trust ledger. Upon discovery of that error, Mr. Shipanoff paid \$400.00 to the Firm's trust account to satisfy the unreported deposit.

5. As a result of Mr. Shipanoff's actions, he admitted that his failure to properly deposit and record funds in the Firm trust account was contrary to Rules 119.1 and 119.28 of the *Rules of the Law Society of Alberta* and that such conduct was deserving of sanction. Mr. Shipanoff also acknowledged that he failed to properly supervise his staff and that such conduct was deserving of sanction.

Jurisdiction, Preliminary Matters and Exhibits

6. On March 15, 2018, a Single Bencher Hearing Committee (Committee) convened at the office of the LSA to conduct a hearing regarding Statement of Facts and Admission of Guilt dated January 9, 2018.
7. Mr. Shipanoff and counsel for the LSA were asked whether there were any objections to the constitution of the Committee. There were no objections to the identity of the Bencher hearing the submissions, on the grounds of bias or otherwise and the hearing proceeded.
8. The hearing was held in public.
9. The jurisdiction of the Committee was established by Exhibits 1 through 7, consisting of the Letter of Appointment of the Committee, the Notice to Solicitor pursuant to section 60 of the *Act*, the Notice to Attend to the Member and the Certificate of Status of Mr. Shipanoff with the LSA.

Statement of Facts and Admission of Guilt

10. The Statement of Facts and Admission of Guilt is attached as Exhibit A (the "Agreed Statement"). This Agreed Statement has been found to be in an acceptable form by a Conduct Committee Panel and therefore this hearing was convened by a single bencher pursuant to subsection 60(3) of the *Legal Profession Act (Act)*.
11. Pursuant to subsection 60(4) of the *Act*, after 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. After hearing submissions by counsel for the LSA and counsel for Mr. Shipanoff and confirming Mr. Shipanoff's understanding that the Committee was not bound by the Joint Submission on Sanction, the Committee noted the Agreed Statement of Facts and the Admission of Guilt constituted a finding of conduct deserving of sanction on the two citations pursuant to section 49 of the *Act*.
12. The only question for determination by this Committee is the appropriate sanction.

Discussion on Sanction

13. The parties submitted a joint submission on sanction, seeking a reprimand and a payment of hearing costs in the amount of \$7,500.00.
14. The LSA and Mr. Shipanoff noted that Mr. Shipanoff, in mitigation, had freely admitted his error after the reporting the matter. The approach taken by both Mr. Shipanoff and the LSA in dealing with this matter through a single Bencher hearing avoided an unnecessary contested hearing, witness inconvenience, and process costs. This is commendable.
15. As noted by LSA counsel, a joint submission should be given serious consideration and regard unless it is found to be unfit, unreasonable or contrary to the public interest (*Rault v. Law Society of Saskatchewan*¹).
16. In addition, the Supreme Court of Canada in *R. v Anthony-Cook*² has established that a joint submission should not be lightly disregarded and should be accepted unless the joint submission on sanctions would bring the administration of justice into disrepute or is otherwise contrary to the public interest.
17. Based on the facts of this case, the mitigation identified by the LSA and Mr. Shipanoff, and considering the range of sanctions in similar cases, the Committee accepts the joint submission on sanction as being within the reasonable range of sanctions, such that it would not bring the administration of justice into disrepute nor be contrary to the public interest.

Concluding Matters

18. A reprimand was issued orally at the hearing as follows:

First of all, this is a very serious matter, Mr. Shipanoff, as you well appreciate. The fact that the amounts at issue are not relatively large is really quite immaterial. It's both necessary and critical that a lawyer strictly comply with the Law Society Rules, and in particular, with the Rules governing trust accounts and supervision of staff. It's unacceptable that these transactions were not recorded in the firm trust ledger, and you must be sure to take all steps to ensure that staff is both trained and supervised when dealing with funds to make sure that they're properly recorded in the books of the firm.

I am certain that this process before the Law Society of Alberta, which I understand commenced some four years ago now, has not been a

¹ 2009 SKCA 81 (CanLII)

² 2016 SCC 43 (Can LII)

pleasant one for you, and I trust that you will learn from this experience to ensure that it will never occur again.

19. Mr. Shipanoff will make payment of costs of \$7,500.00, to be paid on or before June 15, 2018.
20. 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.
21. There shall be no Notice to the Profession issued.
22. There will be no Notice to the Attorney General.

Dated at Edmonton, Alberta, May 16, 2018.

Walter Pavlic, QC

IN THE MATTER OF THE *LEGAL PROFESSION ACT*
AND
IN THE MATTER OF A HEARING REGARDING THE CONDUCT OF
PETER SHIPANOFF,
A MEMBER OF THE LAW SOCIETY OF ALBERTA
LAW SOCIETY HEARING FILE HE20170203

STATEMENT OF AGREED FACTS AND
ADMISSION OF CONDUCT DESERVING OF SANCTION

BACKGROUND

1. I was admitted as a member of the Law Society of Alberta on May 19, 2000.
2. My present status with the Law Society of Alberta is Active/Practicing.
3. I have practiced in Edmonton, Alberta from May 19, 2000 to present.
4. My practice comprises Criminal (85%), Civil Litigation (10%), Administrative/Boards/Tribunals (5%).
5. In March 2008, I merged my law practice with that of D.K. as a partnership under the firm name of KS and later, KSN (the "Firm").
6. The Firm had two offices – one in Edmonton and one in St. Albert. I worked at both offices.
7. I left the Firm on June 9, 2014 as a result of a dispute with my partners. Litigation resulted from the dispute.

CITATIONS

8. On August 15, 2017 the Conduct Committee Panel referred the following conduct to hearing:
 1. It is alleged that Peter Shipanoff failed to ensure that funds of his client R.H. were deposited in the firm's trust account and recorded in the firm accounting records as required by Rules 119.1 and 119.28, and that such conduct is deserving of sanction;
 2. It is alleged that Peter Shipanoff failed to properly report to his client R.H. and that such conduct is deserving of sanction;

3. It is alleged that Peter Shipanoff failed to ensure that funds of his client D.F. were promptly deposited into the firm's trust account and recorded in the firm's accounting records as required by Rules 119.2 and Rule 119.28, and that such conduct is deserving of sanction; and
 4. It is alleged that Mr. Shipanoff failed to properly supervise his staff and that such conduct is deserving of sanction.
9. On January 8, 2018, Sarah King D'Souza, QC, Pre-Hearing Conference Chair of this matter, granted the withdrawal of Citation 2 pursuant to her authority under Rule 90.1(8)(e) of the *Rules*.

AGREED FACTS

Client R.H.

10. R.H. has been a client of mine since June 2009.
11. I was again retained by R.H. in the fall of 2011 with respect to criminal matters. R.H. provided me with funds in the amounts of \$250.00 on September 29, 2011 and \$2,000.00 on October 3, 2011.
12. On October 27, 2011, I issued an account to R.H. in the amount of \$2,108.35 and transferred such amount from trust. I also advised R.H. that outstanding trial fees of \$5,371.00, calculated as fees of \$7,350.00, plus disbursements of \$271.00, less the previously paid retainer of \$2,250.00.
13. On December 17, 2011, R.H. paid \$2,500.00 in cash to me. I provided him with a hand-prepared receipt. This cash payment was not recorded in the Firm trust ledger for R.H.
14. On December 29, 2011, I sent a letter to R.H. seeking payment of the amount of \$5,391.95 to complete the retainer fee. It did not acknowledge or credit the \$2,500.00 which R.H. paid on December 17, 2011.
15. On March 4, 2012, R.H. paid the balance of the outstanding trial fees to me in the amount of \$2,871.00. I provided him with a book receipt for the payment. This cash payment was not recorded in the Firm trust ledger for R.H.
16. I appeared in court on March [...], 2012 and March [...], 2012 on behalf of R.H.
17. I sent a letter dated March 22, 2012 to R.H. confirming conclusion of one of the matters, but I did not provide R.H. with a final invoice with respect to his matters.

The Firm's account receivables ledger indicated that R.H.'s file had an outstanding balance of \$1,200.00 which was written off by the Firm in August 2014. This was after the time that I left the Firm. I have no knowledge of what accounting was done by the Firm after I left.

Client D.F.

18. I opened a file for a client, D.F., on June 16, 2012 regarding criminal charges and a June [...], 2012 court appearance.

19. On June 16, 2012, D.F. provided me with a cash retainer in the amount of \$400.00, and I issued him a receipt for same from the receipt book of the St. Albert office. This cash payment was not recorded in the Firm trust ledger for D.F.
20. On or about July 3, 2012, R.F. paid a further \$1,000.00 via MasterCard on behalf of D.F., which payment was confirmed by correspondence dated July 3, 2012.
21. I issued an invoice dated July 18, 2012 in the amount of \$1,050.00 to D.F., which indicated a transfer of funds from trust in the amount of \$1,000.00 and a balance of \$50.00.
22. In October 2012, upon inspection of the St. Albert office receipt book, it was determined that the June 16, 2012 cash receipt of \$400.00 from D.F. had not been deposited to the Firm's trust account.
23. Upon notification of the shortfall, on October 31, 2012, I paid \$400.00 of my own funds to the Firm trust account to satisfy the unrecorded deposit.
24. I appeared in court on behalf of D.F. for a sentencing hearing on December [...], 2012.
25. I reported the outcome of the sentencing hearing to D.F. on December 6, 2012 and included my final invoice for services rendered. The remaining balance of \$350.00 in trust was applied to this invoice leaving a balance of \$700.00 owing by D.F.

Practice Regarding Cash Receipts

26. It was my practice to provide clients with a receipt immediately upon receiving cash payments.
27. If I received cash in the St. Albert office, my usual procedure was to take it to the Edmonton office on the same day.
28. After receiving cash, I would provide it to the Firm support staff together with a copy of the receipt and any relevant instructions.
29. At times, if no support staff were present, I would leave cash in the office of the Business Manager, A.K., or in the Firm safe.
30. I did not supervise the Firm support staff to ensure that the cash was properly recorded in the Firm's accounting records or that it was properly deposited to the Firm's trust account.
31. At all material times, the Responsible Lawyer of the Firm was D.K.

ADMISSION OF FACTS

32. I, Peter Shipanoff, admit as facts the statements contained in this Agreed Statement of Facts for the purposes of these proceedings.

ADMISSIONS OF CONDUCT DESERVING OF SANCTION

Citation 1: It is alleged that Peter Shipanoff failed to ensure that funds of his client R.H. were deposited in the firm’s trust account and recorded in the firm accounting records as required by Rules 119.1 and 119.28, and that such conduct is deserving of sanction; and

33. For the purposes of s. 60 of the *Legal Profession Act*, I, Peter Shipanoff, admit that I failed to ensure that funds of my client R.H. were deposited in the Firm’s trust account and recorded in the Firm accounting records as required by Rules 119.1 and 119.28, and that such conduct is deserving of sanction.

Citation 3: It is alleged that Peter Shipanoff failed to ensure that funds of his client D.F. were promptly deposited into the firm’s trust account and recorded in the firm’s accounting records as required by Rule 119.2 and Rule 119.28, and that such conduct is deserving of sanction;

34. For the purposes of s. 60 of the *Legal Profession Act*, I, Peter Shipanoff, admit that I failed to ensure that the funds of my client, D.F., were promptly deposited into the firm’s trust account and recorded in the firm’s accounting records as required by Rules 119.2 and Rule 119.28, and that such conduct is deserving of sanction.

Citation 4: It is alleged that Mr. Shipanoff failed to properly supervise his staff and that such conduct is deserving of sanction.

35. For the purposes of s. 60 of the *Legal Profession Act*, I, Peter Shipanoff, admit that I failed to properly supervise my staff and that such conduct is deserving of sanction.

36. I acknowledge that I have had the opportunity to consult legal counsel and provide this Statement of Admitted Facts and Admission of Conduct Deserving of Sanction on a voluntary basis.

THIS STATEMENT OF ADMITTED FACTS AND ADMISSION OF GUILT IS MADE THIS 9TH DAY OF JANUARY, 2017.

“PETER SHIPANOFF”

PETER SHIPANOFF