

**LAW SOCIETY OF ALBERTA**  
**IN THE MATTER OF THE *LEGAL PROFESSION ACT***  
**AND**  
**IN THE MATTER OF AN APPEAL REGARDING**  
**EDMUND SCHUSTER**  
**A MEMBER OF THE LAW SOCIETY OF ALBERTA**

**Appeal to the Benchers Panel**

Adam Letourneau, QC – Chair  
Sandra Corbett, QC  
Dennis Edney, QC  
Sarah King D’Souza, QC  
Hugh Sommerville, QC  
Kent Teskey, QC  
Louise Wasylenko

**Appearances**

Sharon Heine – Counsel for the Respondent, the Law Society of Alberta (LSA)  
Ivan J. Derer, QC – Counsel for the Appellant, Edmund Schuster

**Written submissions on timing of costs (via email)**

March 15, 2018 - LSA  
March 20, 2018 – Mr. Schuster

**APPEAL PANEL DECISION - COSTS**

**Background**

1. On May 10 and September 6, 2017, an Appeal to the Benchers (Appeal Panel) conducted a public hearing regarding the appeal of Edmund Schuster. Mr. Schuster had appealed a Hearing Committee’s decision to find him guilty of conduct deserving sanction on one citation (out of six) and to issue a reprimand.
2. The Appeal Panel’s decision was issued December 18, 2017, dismissing Mr. Schuster’s appeal. In that decision, the Appeal Panel directed that Mr. Schuster pay the costs of the appeal. No date was provided for payment.

### Submissions on Costs

3. The LSA provided a Statement of Costs for the Appeal, attached as Appendix A to this decision. Ms. Heine submitted that the parties have not reached an agreement on the date by which the costs were due. She noted that Mr. Schuster was seeking deferral of the costs until his appeal to the Court of Appeal is determined or, in the alternative, a period of one year to pay the costs.
4. The LSA's position was that, absent an order to the contrary, costs are payable forthwith and that a stay of the Benchers' costs order requires an application to the Court of Queen's Bench pursuant to s. 80(7) of the *Legal Profession Act* (the *Act*).
5. Mr. Derer, counsel for Mr. Schuster, confirmed that a deferral of costs was being sought, until Mr. Schuster's appeal to the Court of Appeal is determined or, in the alternative, a period of one year.
6. He indicated that discussions were unfolding with respect to this issue in January, until notification was circulated that the LSA was changing counsel. He noted that this caused a hiatus in activity as Ms. Heine familiarized herself with this matter.
7. Mr. Derer's impression, based on January discussions with the LSA's previous counsel, was that some practical proposal could be made with respect to a deferral period on the costs involved between six months and the twelve months sought by Mr. Schuster. He submitted that the LSA now seeks costs payable "forthwith", following a six-week delay in progress on this matter, given the change of counsel, and with an appeal process ongoing.
8. Mr. Derer also submitted that the appeal to the Court of Appeal should be ready for a hearing by mid-year, and thus, rushing Mr. Schuster's obligation on the costs with an appeal hearing that ought to proceed within six months, seems unduly harsh.
9. Mr. Derer noted that, while the Appeal Panel saw fit to dismiss Mr. Schuster's appeal, on a global basis, Mr. Schuster has prevailed, to date, in having five of the initial six citations resoundingly dismissed. He also noted that this challenge, over many months, has not been without significant expense and disruption to Mr. Schuster's life, practice and reputation.
10. Mr. Derer submitted that the costs of the appeal be deferred by the Appeal Panel until such time as Mr. Schuster's appeal to the Court of Appeal is determined or, in the alternative, a period of one year.

## REASONS AND DECISION

11. The Appeal Panel does not consider this decision to be a stay of its decision that Mr. Schuster is responsible for the payment of costs of the appeal. Instead, it is a decision relating solely to the *timing* of payment of those costs.
12. The timing for payment was not specified in the Appeal Panel's December 18, 2017 decision, and, as the parties were not able to come to an agreement on the time to pay, the Appeal Panel is of the view that it may make the decision on the deadline by which the costs are payable.
13. The Appeal Panel also notes that the Statement of Costs provided by the LSA contemplates that the Chair of the Appeal Panel would approve the Statement of Costs, including the date by which costs are due, suggesting that the decision on timing of payment of costs was still to be made.
14. The Appeal Panel has determined that Mr. Schuster must pay the costs of the appeal, as set out in the Statement of Costs, no later than two weeks after the date of the Alberta Court of Appeal's determination of Mr. Schuster's appeal.
15. The LSA is directed to prepare a Statement of Costs reflecting this decision on timing, for the signature of the Chair of the Appeal Panel and subsequent issuance to Mr. Schuster.

Dated at Calgary, Alberta, April 10, 2018.

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Adam Letourneau, QC

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Sandra Corbett, QC

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Dennis Edney, QC

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Sarah King D'Souza, QC

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Hugh Sommerville, QC

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Louise Wasylenko



IN THE MATTER OF THE *LEGAL PROFESSION ACT*

AND

IN THE MATTER OF AN APPEAL TO THE BENCHERS  
BY **EDMUND SCHUSTER**,  
A MEMBER OF THE LAW SOCIETY OF ALBERTA

**STATEMENT OF COSTS**

**May 10, 2017 & September 6, 2017**

Law Society Counsel - preparation (84.3 hours @ \$125/hr + GST) \$11,064.38

Court Reporter \$939.23

*Per diem* hearing expenses

- \$250.00 for each day up to and including  
4 hours of hearing + GST x 2 days \$525.00

**TOTAL COSTS** **\$12,528.61**

The Appeal Committee directed Edmund Schuster to pay costs of the appeal in the amount of \$12,528.61. Costs are due \_\_\_\_\_.

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Adam Letourneau, QC, Chair  
Appeal Committee

Dated at the City of Lethbridge in the Province of Alberta  
this \_\_\_\_\_ day of \_\_\_\_\_ 2018.

Please be aware that unless the Conduct Committee otherwise directs before the expiration of the period prescribed by the Appeal Committee, failure to pay the costs and/or fine as ordered will result in automatic suspension pursuant to section 79 of the *Legal Profession Act*.