



CANADA)
PROVINCE OF SASKATCHEWAN)
TO WIT)

**IN THE MATTER OF *THE LEGAL PROFESSION ACT, 1990* AND IN
THE MATTER OF DARREN ARMITAGE, A LAWYER OF
SASKATOON, SASKATCHEWAN**

**AGREED STATEMENT OF FACTS AND
ADMISSIONS**

In relation to the Amended Formal Complaint dated November 4, 2009, attached at Tab 1, as follows:

THAT Darren Armitage, of the City of Saskatoon, in the Province of Saskatchewan:

1. Is guilty of conduct unbecoming a lawyer in that he did file a registration at a public registry knowing it to be false;

Reference Chapters I and XIX of the Code of Professional Conduct.

2. Is guilty of conduct unbecoming a lawyer in that he, in the course of responding to a complaint, he failed to respond to the Law Society in a diligent fashion and he made representations which were not accurate.

Reference Chapter I and Chapter XV of the Code of Professional Conduct.

Jurisdiction

1. Darren Armitage (hereinafter "the Member") is, and was at all times material to this proceeding, a practicing member of the Law Society of Saskatchewan (hereinafter the "Law Society"), and accordingly is subject to the provisions of *The Legal Profession Act, 1990* (herein after the "Act") as well as the *Rules of the Law Society of Saskatchewan* (the "Rules"). Attached at **Tab 2** is a Certificate of the Executive Director of the Law Society of Saskatchewan pursuant to section 83 of the Act confirming the Member's status.

2. The Member is currently the subject of an Amended Formal Complaint dated November 4, 2009. The Formal Complaint is comprised of two counts as noted above. The Formal Complaint was duly served upon the Member. Proof of service of the Formal Complaint upon the Member is included at Tab 1.
3. The Member acknowledges the jurisdiction of the Hearing Committee appointed in relation to this matter to determine whether the complaints against him are well founded. The Member further acknowledges service of the Formal Complaint and the Notice of Hearing and takes no issue with the constitution of the Hearing Committee.
4. The Member has agreed to enter a guilty plea in relation to counts one and two as set out in the Amended Formal Complaint.

Particulars of Conduct

5. These proceedings arose as a result of a Law Society investigation in relation to a complaint received from A.S. (hereinafter the "Complainants") including reference to Mr. S.'s spouse, dated February 7, 2007. A copy of the original complaint along with attachments forwarded to the Law Society by the Complainants is attached at **Tab 3**. The original complaint dealt with the Member's performance in relation to a litigation file dealing with his client's interests and entitlements to various chattels owned by a third party. The complaint was forwarded to the Member for a response. Attached at **Tab 4** is a letter from Donna Sigmeth to the Member dated February 14, 2007 seeking a response to the complaint.

Failing to Respond to the Law Society in a Diligent Fashion

6. The Member responded to the complaint in a letter dated February 20, 2007. A copy of the letter from the Member dated February 20, 2007 is attached at **Tab 5**. The Response letter forms the foundation for the allegation that the Member made representations to the Law Society that were inaccurate.
7. In the letter the Member stated that he was at a disadvantage when responding to the complaint as he said that the entire file had been given to the Complainants. The Member

went on to state the following:

The relationship between myself and the S.s was characterized by long periods, during which I had no instructions, followed by brief periods of intense activity.

...

I cannot provide confirmatory details, but the fact remains that I was constantly writing to the S.s and advising them that I needed instructions and a retainer and that their interests were being prejudiced by the passage of time.

8. In his February 20, 2007 letter, the Member advises that he did not have possession of the file to use in crafting his response.
9. After further investigation into this matter it was determined that the information provided to the Law Society by the Member was not accurate. The Member had an extensive file in his possession including most of the electronic communications between himself and the client, drafts of documents and financial records. The Complainants had only picked up a portion of their file. Prior to responding to the Law Society, the Member asked his legal assistant to search for the file and was informed she could not find the file. The Member did not subsequently search for the closed file to determine what if any contents remained in the file and further failed to turn his mind to what electronic or financial records he still had in his possession.
10. In his letter, the Member further advised that the matter became drawn out because his clients, the Complainants, would not provide instructions and because they would not pay his retainer. Upon review of the file by Law Society personnel it was determined that the Complainants had provided instructions to the Member in relation to the file. It was also determined that for the majority of the time between 2001 and 2006, the Complainants maintained a positive trust balance and between September, 2002 and March 2003 the trust balance was in excess of \$2,000 for the purposes of ongoing fees and disbursements. The fees billed and receipted in relation to the file during this period amounted to approximately \$15,000.

11. The relationship between the Member and the Complainants began to break down as the litigation became more complicated. The increased complexity made it more difficult for the Member to provide advice and for the Complainants to give clear instructions. The Member was also concerned with the potential for significantly increased costs associated with the complexity of the matter beyond that which the Complainants were accustomed to maintaining in his trust account.
12. The Member acknowledges his correspondence to the Law Society overstated the difficulties he had with his former clients to the extent the correspondence suggested he had no instructions and no retainer.
13. At the same time the Member states the initial instructions to pursue an oppressed shareholders remedy and to take steps to prevent the dissipation of corporate assets became more complicated through the need to amend the claim to allege conspiracy and to add parties. Additional issues arose requiring instructions, for example whether the Complainants' lender had acted properly in taking security from the corporation and then realizing on the security during the time the injunction was in place.
14. The provision of inaccurate information to the Law Society was occasioned by a lack of attention by the Member to the Law Society inquiry and a nonchalant attitude towards the complaints process. The Member did not take the time to review his file or his records when crafting his response to the Law Society and instead provided a careless and inaccurate response based on his recollection alone.

Filing a False PPR Registration

12. The foundation for the allegation that the Member filed a false registration in the Personal Property Registry is found in several documents as follows:
 - a. Email dated February 5, 2007 from the Member to the Complainant, attached at **Tab 6**;
 - b. Response letter of the Member dated February 20, 2007 (see Tab 5); and
13. Throughout the course of the matter, the Member received instructions to protect his

client's interest in various machinery, equipment and other property held by a third party. Initially, efforts were made by the Member to obtain an injunction in relation to the property. Before the injunction was obtained the Member chose to use alternate means to attempt to protect his client. On April 23, 2001 the Member registered an interest in the Personal Property Registry on behalf of the Complainants. A copy of the registration is attached at **Tab 7**. This interest was not supported by any legal right.

14. The Member stated he was of the belief that the registration was unsupportable from the beginning and chose to accomplish through the “back door” what he should have accomplished from the outset through an injunction.
15. The Member chose to abuse the Personal Property Registry process by filing an unsupportable registration as a means to achieve a tactical advantage for his clients.
16. The Member later explained that he was aware of the fact that the interest that he filed was baseless. In an email sent to the Complainants on February 5, 2007, the Member states the following:

You don't actually have a security interest.. .. I just registered a false one because I knew it would cause him trouble and probably never rebound on us

Summary of Conduct

17. In summary, the foundation for the charges of conduct unbecoming set out in Counts #1 and #2 is as follows:

Provision of False Information to the Law Society

- a. The Member provided a response to the inquiry of Donna Sigmeth dated February 14, 2007 which contained false information;
- b. The Member's provision of inaccurate information to the Law Society was occasioned by the Member's indifference in responding to the Law Society without first taking measures to ensure that the information was accurate;

Filing a False PPR Registration

- c. During the Member's representation of the Complainants, the Member knowingly registered an unsupportable and illegitimate registration in the Personal Property Registry to achieve a tactical advantage for his client.

Edited for publication.