



CANADA)
PROVINCE OF SASKATCHEWAN)
TO WIT)

**IN THE MATTER OF *THE LEGAL PROFESSION ACT, 1990*
AND IN THE MATTER OF WILLIAM KEVIN ROGERS,
A LAWYER OF SASKATOON, SASKATCHEWAN**

**STATEMENT OF FACT AND ADMISSIONS
OF WILLIAM KEVIN ROGERS**

Jurisdiction

1. William Kevin Rogers (hereinafter "the Member"), 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* (hereinafter the "Act") as well as the *Rules of the Law Society of Saskatchewan* (the "Rules").
2. After the Law Society of Saskatchewan began an investigation in relation to complaints of conduct unbecoming, the Member, at the request of the Law Society, signed an undertaking not to practice law on November 1, 2009. He has not practiced law since that date.
3. The Member is now seeking permission to resign in the face of discipline. He is aware that pursuant to the Rules of the Law Society of Saskatchewan, such a resignation is deemed to be equivalent to disbarment.
4. In support of his application, the Member admits the statements and facts contained herein.

Particulars of Conduct

5. The investigation into the practice of this Member arose as a result of two complaints in relation to estate matters. Both complaints related to Canada Savings Bonds that were either missing or unaccounted for. A review of the estate files occurred and anomalies were identified. After further investigation into the Member's practice, more serious problems were revealed. The following is a summary of the Member's conduct as discovered during the investigation.

Complaint of G.E. and Failure to Respond to the Law Society

6. One of the two complaints that originated the investigation into the Member was the complaint of G.E. Mr. E's complaint concerned the handling of his father's estate. The Member was hired in November 2006 to assist in settling the estate. Unfortunately, the estate had not been finalized more than 27 months later. The date of the complaint was February 11, 2009. Mr. E also complained that the Member had repeatedly failed to respond to numerous telephone and email messages.
7. The Law Society had similar difficulty in getting a prompt response from the Member. The Law Society sent letters on February 17, 2009, March 3, 2009 and March 17, 2009, before any response was received from the Member. The Member then advised that the only item that remained outstanding in the estate was to finalize the proper amount of interest in relation to \$6,000.00 in Canada Savings Bonds. The bonds were delivered to the Member by CIBC on April 3, 2007.
8. The Member admitted that Mr. E was quite justified in his displeasure over communication in this matter and advised he would be in touch with Mr. E within three weeks of the date of his letter (March 25, 2009). As of July 17, 2009, Mr. E had still not heard from the Member.
9. On April 7, 2009 the second complaint in relation to the Member's dealings with Canada Savings Bonds was received by the Law Society. This complaint pertained to the Estate of J.H. This prompted an in-person visit from Mr. Allen to the Member's Saskatoon office. The Member told Mr. Allen that he had the

bonds but had been delayed in dealing with them because of his "burnout" occasioned by a busy real estate practice.

10. On April 22, 2009, Mr. Allen wrote to the Member outlining his expectations relative to further information required to complete his audit with respect to the E estate and one other estate. Mr. Allen wrote follow-up letters on:
 - May 22, 2009 – requesting response by June 5, 2009;
 - June 10, 2009 – requesting response by June 24, 2009;
 - June 10, 2009 – requesting monthly updates;
 - July 31, 2009 – requesting response by August 10, 2009; and
 - August 12, 2009 – requesting response by August 30, 2009.
11. During this time, Mr. Allen did receive 2 letters from the Member dated June 23, 2009 and August 10, 2009. However, neither represented a substantive response.
12. On September 15, 2009, the Member was sent a letter from the Law Society asking him to address his failure to respond to Mr. Allen. No response was received. A second letter was sent October 8, 2009. Again no response was forthcoming from the Member. A third letter was sent October 15, 2009 advising of the Law Society's concern with his lack of response and that if a response was not received forthwith, this matter may be referred to the Discipline Committee. The last letter was copied to Terry Kimpinski, a partner in the Member's firm.
13. As a result of the complaints the Member became involved with the Professional Standards Committee Practice Advisor, Rod MacDonald. On November 2, 2009, Rod MacDonald met with the Member and upon reviewing the Member's accounts noticed that a cheque for \$6,000.00 had been drawn from the firm's general account on March 11, 2008. Mr. MacDonald noticed that on the account ledger, every other general cheque had a designation for what the cheque was for but not in this instance. When questioned, the Member claimed he did not remember the details of the \$6,000.00 payment.
14. It was later determined that the Member misplaced the bond certificates and, rather than having them reissued, paid the beneficiaries from his firm's general account. Subsequently the firm has made an application to have the bonds

replaced with the intention of reimbursing the firm for the money the Member had taken out of the firm's general account.

R.M. Estate

15. After the initial concerns about the Member were expressed to Mr. Kimpinski by the Law Society in November 2009, Mr. Kimpinski agreed to conduct an audit of the Member's files.
16. During the audit anomalies were identified in relation to the R.M. Estate. R.M. passed away on May 16, 2007 at the age of 50 in a motor vehicle accident. The Member was retained by the administrators of the estate to provide assistance with the estate including payment of outstanding debts. The process of contacting creditors and dealing with outstanding debts did not move quickly, nor did the Member's application for Letters of Administration.
17. On October 3, 2007 counsel on behalf of GMAC, issued a demand letter for \$32,702.34 for an outstanding contract on the vehicle that had been damaged in the fatal accident.
18. The Member filed the Application for Letters Administration on February 5, 2008. The application was rejected on February 14, 2008. The Member did nothing to correct the deficiencies in the application.
19. From April 1, 2008 to September 2009 the Member was contacted repeatedly in relation to progress of the Estate by the proposed administrator and creditors, specifically counsel for GMAC. The Member provided little or no substantive response to these enquiries and did little or no work on the file during this period.
20. Ultimately, the pressure from GMAC was sufficient to prompt the Member to issue a check from his firm's general account to counsel for GMAC in the amount of \$17,000.00 to stave off proceedings against the estate. This payment from the firm's general account was done without the permission of the firm or the knowledge of any other member of the firm and represents a misappropriation of firm funds.
21. On November 30, 2009, as part of a firm audit of the Member's files, the \$17,000.00 payment from the firm's general account came to the attention of

- Terry Kimpinski. At this point the Member agreed to go on a leave of absence and undertook not to practice law. The R.M. Estate file was referred to another firm.
22. The new firm then attempted to obtain a copy of the Letter's of Administration from the Court of Queen's Bench in Saskatoon. It was later determined by the Law Society that a copy of the Letters of Administration that had been on the file and provided to opposing counsel had been fabricated by the member by way of a "cut and paste" from other documents.
 23. By preparing and utilizing the fabricated letters of administration, the Member had misled counsel for GMAC, SGI, his client, successor counsel to his client and the members of his firm.

R.P. Inc.

24. The Member was retained to represent R.P Inc. in relation to a foreclosure proceeding against the G. family in approximately June of 2006.
25. During the time when the Member represented R.P. Inc., the Member misled his client as to the status of the foreclosure proceeding. The Member experienced difficulties in obtaining leave to commence foreclosure proceedings from the Court. Rather than pursue leave to commence through the proper channels, the Member lied to his clients and advised them that leave to commence had in fact been granted.
26. To further his misrepresentations to this client the Member also prepared a fabricated Statement of Claim by means of cutting and pasting portions from other documents. The fabricated claim, complete with a cut and paste copy of the deputy registrar's issuing stamp, indicated that it had been issued out of the Court of Queen's Bench in the Judicial Centre of Battleford as action number QBG 984 of 2007. No record of such a claim exists at the Battleford Court of Queen's Bench.
27. During this period the Member was misleading his client with regard to the existence of the action and the status of their file. The Member went so far as to advise the clients that he had been contacted by opposing counsel, Member A, in

relation to a Notice of Intent to Defend and ultimately a Statement of Defence in the matter. The Member fabricated the Notice of Intent to Defend, the Statement of Defence and the correspondence of Member A. In each case the documents were prepared by cutting and pasting information from other documents. The Member's intention in preparing these documents was to continue to deceive the client as to the status of the matter. Member A had no legitimate connection with the R.P. Inc. matter.

28. The charade continued for approximately 3 years. During this period the Member, in addition to preparing fake documents associated with the matter, was in constant communication with his client and in every instance the communications furthered the ruse. These communications included details pertaining to several chambers applications court appearances and other steps pertaining to the proceedings that the Member had never completed.

B.A. Inc.

29. In the spring of 2006 the Member was retained to collect a debt for B.A. Inc., in relation to G.F. Ltd.
30. A Statement of Claim was issued by the Member but was never properly served upon all defendants. Garnishee proceedings were instituted. After difficulty with the garnishee proceedings the Member began to mislead B.A. Inc. as to the status of the proceeding.
31. In much the same manner as was done on the R.P. Inc. file, the Member began misleading the client as to the status of the file including misrepresentations in relation to chambers applications and other steps in the proceeding that had never in fact been completed.

H.M.G. Inc.

32. The Member was retained in 2006 to handle a foreclosure action on behalf of his client H.M.G. Inc. The Member began the preliminary steps for the foreclosure action on August 16, 2006 when he first applied for an appointment to set an application for leave to commence the action. Various appearances were made on this matter but leave to commence the action was never granted by the Court.

33. Ultimately, the Member fabricated a Statement of Claim in relation to the matter, complete with a fabricated issuing stamp of the deputy registrar. This document was prepared by cutting and pasting information from previously issued documents into a Statement of Claim that he had prepared.
34. Later in the proceeding the Member also fabricated a Statement of Defence purporting to be signed by another lawyer, Member B. Member B was completely unrelated to the matter. The Member created the Statement of Defence and forged the signature of Member B.
35. The preparation of the fabricated Statement of Claim and forged Statement of Defence was intended to deceive the Member's client as to the status of the foreclosure proceeding. The Member later advised the client that he was preparing an application to strike the Statement of Defence which he himself had forged.
36. Throughout the process that lasted approximately 3 years, the Member actively deceived H.M.C. Inc. as to the progress on the file which, in reality, had not yet progressed past the application for leave to commence stage.

Discipline History

37. The Member has no prior discipline history.

DATED at the City of Saskatoon, in the Province of Saskatchewan, this ____ day of January, 2011.

ROE & COMPANY

WILLIAM ROE Q.C. Counsel on behalf of
William Kevin Rogers