

IN THE MATTER OF THE *LEGAL PROFESSION ACT*
AND IN THE MATTER OF A RESIGNATION APPLICATION OF
BONNIE GRACE MARWOOD,
A MEMBER OF THE LAW SOCIETY OF SASKATCHEWAN

NOTICE OF RESIGNATION PURSUANT TO RULE 495(1)(A)

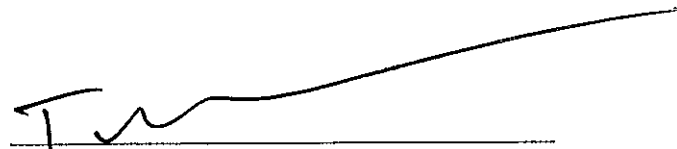
On September 21, 2012, the Conduct Investigation Committee released a decision in relation to the application of **Bonnie Grace Marwood** to resign in the face of discipline. Pursuant to Rule 1(1), such a resignation is deemed to be equivalent to a disbarment. Ms. Marwood practiced in Harris, Saskatchewan until she was disqualified for non-payment of fees effective January 1, 2009.

FACTS

See Statement of Admissions.

See Reasons for the Decision of the Conduct Investigation Committee.

Dated at the City of Regina in the Province of Saskatchewan this 25 day of September, 2012.



Thomas Schonhoffer, Q.C.
Executive Director of the Law Society of Saskatchewan



BONNIE GRACE MARWOOD

September 21, 2012

Law Society of Saskatchewan v. Marwood, 2012 SKLSS 5

**IN THE MATTER OF THE LEGAL PROFESSION ACT, 1990
AND A REQUEST FOR RESIGNATION IN THE FACE OF DISCIPLINE
EQUIVALENT TO DISBARMENT
BY BONNIE GRACE MARWOOD**

**REASONS FOR THE DECISION
OF THE CONDUCT INVESTIGATION COMMITTEE
FOR THE LAW SOCIETY OF SASKATCHEWAN**

A. INTRODUCTION

1. Bonnie Grace Marwood (Ms. Marwood) was the subject of two Formal Complaints containing many pending allegations based on a variety of circumstances, all as outlined in a Statement of Admissions signed by Ms. Marwood on April 25th, 2012 (which is incorporated by reference to this decision.)

2. Ms. Marwood now applies to this Committee pursuant to Rule 400.1(1) to be allowed to resign in the face of discipline equivalent to disbarment. Counsel for the Law Society of Saskatchewan (LSS) and Ms. Marwood have jointly supported this application. The Committee accepts the resignation. It communicated this to the parties on September 4th, 2012.

B. THE RULES CONTEXT

3. *The Rules* provide that this Committee may accept such resignation instead of continued proceedings with the consent of counsel for the LSS and with an agreed statement of facts. Both of these requirements have been met. This committee may impose conditions which include imposing a time period of up to 5 years during which the member will not re-apply, as well as other conditions. Both parties seem content to have only the time period for reapplication set by this Committee, leaving any further consideration of matters regarding any future application for admission to the hearing committee which would consider any such reapplication for admission. Such an application would be governed by the *Rules* and any jurisprudence applicable to it such as the applications for readmission in the *Michael Nolin* cases.

C. DECISION ON CONDITIONS

4. This Committee has reviewed two recent applications to resign in the face of discipline, though under the old *Rules*. In *William Kevin Rogers* the Benchers as a whole imposed a 3 year time period before reapplication. In *W. Arliss Dellow*, no mention was made of the time period. In *Rogers* the Benchers noted, among other things, that Mr. Rogers had been the subject of an Interim Suspension for a year and a half.

5. Ms. Marwood has effectively not been practicing law since January 1st, 2009 when she became subject to administrative suspension. It appears that even before that she was not practicing for some time. She appears presently to be committed to addressing certain issues that have caused problems in the past. She has moved to Alberta and may commence employment as an assistant in a law firm. She wishes any time period imposed on reapplication to be short. Counsel for the Law Society of Saskatchewan is not strongly opposed.

6. In the circumstances, we believe a 1 year time period before any reapplication is appropriate, as that will be effectively close to 5 years since she ceased practicing. We are also mindful that any reapplication will be subject to a potentially expansive review and analysis of her application based on the facts and circumstances existing and relevant at that time.

Dated the 21st day of September, 2012.

Conduct Investigation Committee.

“Evert Van Olst”

“Robert Kennedy, Q.C.”

AGREED STATEMENT OF FACTS AND ADMISSIONS

Jurisdiction

1. Bonnie Grace Marwood (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. The Member is currently the subject of two separate Formal Complaints detailing a variety of allegations in relation to several client matters and accounting rule breaches. The allegations against the Member are as follows:

In relation to the Formal Complaint dated February 1, 2010 [**Tab 1**]:

THAT BONNIE GRACE MARWOOD, of the Town of Harris, in the Province of Saskatchewan is guilty of conduct unbecoming a lawyer in that she:

1. **Did allow her trust account to become and remain overdrawn in relation to client R.;**
2. **Did, in a letter dated April 28, 2008, attempt to mislead the Law Society of Saskatchewan by advising John Allen that she had rectified a trust overdraft in relation client R., when she had not;**
3. **Did fail to maintain proper books and records in connection with her practice;**
4. **Did withdraw monies from her trust account without corresponding invoices being prepared or provided to her client in relation to the D.C. matter;**

5. **Did withdraw monies from her trust account on the D.C. matter without the use of a cheque;**
6. **Did fail to deposit monies received or held in trust by her for or on account of her client M.B., into a mixed or separate trust account;**
7. **Did fail to deposit monies received or held in trust by her for or on account of her client D.C., into a mixed or separate trust account;**
8. **Did misappropriate certain sums from funds held in trust on behalf of client C., particulars of which are:**
 - i. **\$1,000.00 on December 23, 2008; and**
 - ii. **\$3,000.00 on December 29, 2008.**
9. **Did, between January 1, 2009 and January 29, 2009, make, or attempt to make payments from her trust account while suspended from the practice of law by the Law Society of Saskatchewan;**
10. **Did provide legal services to her client M.V. while suspended from the practice of law by the Law Society of Saskatchewan;**
11. **Did provide legal services to her client T.G. while suspended from the practice of law by the Law Society of Saskatchewan;**
12. **Did provide legal services to her client S.B. while suspended from the practice of law by the Law Society of Saskatchewan;**
13. **Did provide legal services to her client D.C. while suspended from the practice of law by the Law Society of Saskatchewan;**

In relation to the Formal Complaint dated April 20, 2010 [Tab 2]:

THAT BONNIE GRACE MARWOOD, of the Town of Harris, in the Province of Saskatchewan is guilty of conduct unbecoming a lawyer in that she:

1. **Did enter into or continue a debtor/creditor relationship with her clients C.S. and L.S. when there was a significant risk that her interests and the interests of her clients differed;**
2. **Did knowingly enter into a business transaction with her client C.S. and L.S. without ensuring that her clients received independent legal advice in relation to the transaction or waived, in writing, their opportunity to obtain independent legal advice in relation to the transaction;**

3. Did, in the absence of any direction from her client, and in the absence of any bill, account, or proper accounting rendered or given to her client, withdraw funds from the trust account maintained in the name of her client M.B.

3. The Member was disqualified for non-payment of fees effective January 1, 2009. At that time, the Member also had a number of client complaints and outstanding trust accounting deficiencies. The Member was informed that she would need to rectify the trust accounting deficiencies before she would be reinstated.
4. The investigation into the Member's conduct continued after her administrative suspension. The investigation revealed a variety of issues that resulted in the two above noted Formal Complaints being laid.
5. The Member is now seeking permission to resign in the face of discipline. She is aware that pursuant to the Rules of the Law Society of Saskatchewan, such a resignation is deemed to be equivalent to disbarment.
6. In support of her application, the Member admits the statements and facts contained herein.

Particulars of Conduct

Background

7. The initial investigation into the practice of this Member arose as a result of trust accounting issues initially brought to the Member's attention on March 17, 2008. The Member failed to provide a substantive response to the Law Society. Letters concerning these issues were sent to the Member on the following dates:
 - a. Letter from John Allen dated May 6, 2008,
 - b. Letter from John Allen dated May 21, 2008;
 - c. Letter from John Allen dated June 6, 2008;
 - d. Letter from Donna Sigmeth dated July 3, 2008;
 - e. Letter from Donna Sigmeth dated July 14, 2008;
8. The Member's initial failure to respond resulted in a Notice of Intention to Interim Suspend being served upon the Member in August, 2008. The Member avoided

interim suspension by providing an Undertaking to the Law Society dated September 10, 2008 in which she undertook to address various trust accounting and practice management issues. The Member did not comply with all of her undertakings, specifically those related to her trust accounting obligations. A practice plan to address law office management issues was also never completed. On November 28, 2008, a final deadline of December 8, 2008, was set for compliance with the undertakings. The Member did not comply.

9. On January 6, 2009, it was confirmed that the Member had not paid her annual fees and had not complied with her outstanding undertakings. She was placed on administrative suspension. The Member was advised on December 10, 2008 that if she did not pay her fees in time, she would not be allowed to practice law after January 1, 2009.
10. The Member was given written notice of her suspension by way of a registered letter from Thomas Schonhoffer dated January 7, 2009. This letter was successfully delivered to the Member on January 9, 2009. On January 12, 2009, notice of the Member's suspension was provided to the Courts and the membership.

Formal Complaint dated February 1, 2010

Trust Accounting Issues

11. Trust accounting records were ultimately obtained by Law Society Auditor/Inspector, John Allen, after the Member's interim suspension, through the volunteer trustee acting in relation to the Member's practice and from the Member's accountant. Unfortunately, in many cases only fragmentary information was available due to the Member's failure to keep proper books and records in relation to her practice.
12. Several issues and irregularities were identified including the following:
 - a. The Member's trust account was overdrawn in relation to Client R. in the amount of \$829.08. This issue had been brought to the attention of the Member on several occasions including January 23, 2008, March 17, 2008 and April 26, 2008. The Member advised John Allen on April 28, 2008 that she had rectified the shortfall by placing \$829.08 of her personal funds into trust. No evidence was

ever found that this was actually done and the account remained overdrawn until and after the Member was placed on administrative suspension. The Member had misled John Allen in relation to her supposed rectification of the shortfall. **[Counts #1 and #2 of Formal Complaint dated February 1, 2010];**

- b. During John Allen's review of the Member's records he discovered that the Member had not been keeping proper books and records in relation to her practice. The Member did not maintain all of her records in proper form. Trust accounts were not reconciled within 20 days from the previous month's end or at all. Supporting records in relation to the Member's accounting were not retained or produced. Deposit slips, when available, did not provide adequate detail as required by the Rules of the Law Society of Saskatchewan (the "*Rules*"). **[Count #3 of Formal Complaint dated February 1, 2010];**
- c. John Allen also discovered that the Member withdrew monies from trust without complying with the *Rules*. Specifically, monies were withdrawn without invoices being prepared, without invoices being provided to the client and without the use of a trust cheque. Examples of this type of activity occurred on the D.C. matter where the Member withdrew \$200.00 from that individual's trust balance on August 5, 15 and 26, 2008 without invoices and without the use of a trust cheque. **[Counts #4 and #5 of Formal Complaint dated February 1, 2010];**
- d. Trust monies received by the Member as retainers for services to be provided were not always deposited into the Member's trust account. In relation to each of the D.C. and Mr. B. matters the Member accepted \$2,000.00 retainers and never deposited them into her trust account. In both cases the Member deposited the funds into her personal account. In relation to the Mr. B. matter, the Member admits that she placed the \$2,000.00 retainer into her personal bank account and did no work on the client's legal matter to earn what she had taken. **[Counts #6 and #7 of Formal Complaint dated February 1, 2010];**
- e. In relation to the C. matter, the Member misappropriated \$4,000.00 that she held in relation to a seasonal holdback. She improperly withdrew \$1,000.00 and \$3,000.00 from her trust account on December 23 and 29, 2008, respectively for

her own benefit. On May 21, 2009, she delivered a bank draft in the amount of \$4,000.00 from her personal funds to the voluntary trustee to repay the improperly withdrawn funds. [**Count #8 of Formal Complaint dated February 1, 2010**];

Unauthorized Practice While Suspended

13. After the Member was suspended and notice provided to her and the profession, the Member continued to practice law. The following instances of unauthorized practice while suspended were identified:
 - a. The Member was operating her trust account after being suspended. The Delisle Credit Union provided confirmation that the Member was writing trust cheques from her account up to and including January 28, 2009. The Law Society arranged for specific pending cheques to be negotiated to prevent client harm. The Member's trust account with the Delisle Credit Union was frozen thereafter. [**Count #9 of Formal Complaint dated February 1, 2010**];
 - b. The Member was also found to have been representing several other clients after her suspension. On or about January 14, 2009, she met with M.V. and signed a separation agreement. The Member backdated the agreement to January 1, 2009. On January 29, 2009, the Member made an appointment to meet with her client T.G. in relation to documents associated with a separation agreement that had been signed in November 2008. The Member asked T.G. to provide her with an additional \$1,000.00 at this January 29, 2009 meeting. T.G. declined to pay as she was aware of the Member's suspension. The Member did not tell T.G. that she was suspended until confronted, then minimized the situation. On January 29, 2009, the Member met with S.B. to have a separation agreement signed. The Member provided legal advice to S.B. on this date. The Member asked S.B. for \$2,700.00. Opposing counsel later confirmed that the Member had delivered signed documents in relation to the S.B. file on January 29, 2009. It was determined that the Member had signed a Certificate of Lawyer and a Certificate of Independent Legal Advice with respect to a Consent of Non-Ownning Spouse indicating she was a "practicing solicitor for the Province of Saskatchewan", both

while suspended. The Member was found to have done work on the D.C. file as well. This included appearing in the Court of Queen's Bench on or about January 14, 2009 and corresponding with opposing counsel on January 19, 2009. [**Counts #10, #11, #12 and #13 of Formal Complaint dated February 1, 2010**];

Formal Complaint dated April 20, 2010

14. Other matters came to the attention of the Law Society during the investigation into the Member's conduct. A second Formal Complaint was issued on April 20, 2010.
15. Allegations **#1 and #2 of the Formal Complaint dated April 20, 2010** relate to the Member's involvement with the couple C.S. and L.S. The couple had retained the Member to work on two matters in 2007 and 2008. In mid-2008, the Member contacted the couple and invited them to a restaurant to have a meeting. During this meeting the Member asked C.S. and L.S. to loan her \$15,000.00. The Member agreed to pay back the loan in 7 weeks and informally "pledged" two Harley Davidson motorcycles as collateral. To document the transaction the Member provided C.S. and L.S. with a handwritten I.O.U. dated September 5, 2008. The Member did not recommend, and the clients did not receive, independent legal advice. The Member did not repay the loan in accordance with the 7 week term or at all. The Member states that she ultimately intended to treat the money she received from the C.S. and L.S. as though the money had been deposited with her as a retainer for advance payment of legal services. Those legal services were never provided and the money was never returned.
16. Allegation **#3 of the Formal Complaint dated April 20, 2010** pertains the Ms. B. divorce matter (no connection to Mr. B. noted above). Ms. B. complained to the Law Society on January 13, 2010, indicating that she had retained the Member to finalize her divorce but never received any advice, nor were any documents prepared. Ms. B. paid the Member a retainer of \$1,500.00 by cheque dated May 13, 2008. She did not, at any time, receive an invoice or accounting documentation with respect to any services being provided by the Member.

17. After the Member's suspension, the audit by John Allen revealed that there was only \$1,000.00 in the Member's trust account in relation to the Ms. B. file. The Member paid herself \$500.00 without ever rendering an account to the client. The Member admits to never having done any work on the Ms. B file to earn the \$500.00 that she had taken from her trust account.

Discipline History

18. The Member has no prior discipline history.

Medical Factors

19. Throughout the relevant period of time, the Member was suffering from a series of psychological and medical issues that impacted her judgment. Her judgment was further affected by the fact that she was, for an extended period of time, taking large amounts of prescription medication in connection with her medical issues. The Member's medical issues are set out in the medical reports attached at Tab 3.