



The Law Society of Saskatchewan

MICHAEL NOLIN

HEARING DATE: February 10, 2014

DECISION DATE: April 14, 2014

Law Society of Saskatchewan v. Nolin, 2014 SKLSS 8

IN THE MATTER OF *THE LEGAL PROFESSION ACT, 1990*

**AND IN THE MATTER OF MICHAEL NOLIN,
A LAWYER OF SASKATOON, SASKATCHEWAN**

**DECISION OF THE ADMISSIONS AND EDUCATION COMMITTEE
FOR THE LAW SOCIETY OF SASKATCHEWAN**

Counsel: Timothy Huber for the Law Society of Saskatchewan
Michael Nolin for himself

A. INTRODUCTION

1. On October 3, 2008, the Benchers, sitting as a Discipline Committee of the whole, ordered that Michael Nolin be disbarred. The written reasons are dated April 1, 2009. In those written reasons, Mr. Nolin was ordered disbarred without eligibility to apply for readmission until one year from the date of the decision. Mr. Nolin brought an application for reinstatement and by a decision dated April 26, 2010, a hearing panel of the Admissions and Education Committee dismissed the reinstatement application.

2. Mr. Nolin brought another application for reinstatement and the matter was heard by a different hearing panel of the Admissions and Education Committee. By a decision dated September 14, 2011, the hearing panel of the Admissions and Education Committee allowed Mr. Nolin's application for reinstatement subject to a number of conditions that had jointly been presented by Mr. Nolin and the Law Society. The conditions are as follows:

1. Mr. Nolin shall only engage in the practice of law pursuant to the conditions contained herein. Should Mr. Nolin fail to meet any of the aforesaid conditions, at any time, his license to practice law shall immediately be suspended and such suspension continue until compliance has been achieved or conditions varied to remedy any default by the Chair of the Admissions and Education Committee of the Law Society of Saskatchewan (the Chair).

2. In order to return to practice, Mr. Nolin shall be subject to the following terms and conditions:

a) Mr. Nolin shall only practice law as an employee or associate of another practicing member of the Law Society of Saskatchewan approved by the Chair.

b) Mr. Nolin must practice under the supervision of another practicing member of the Law Society of Saskatchewan approved by the Chair and under a set plan of supervision and both the supervisor and the plan of supervision must be approved by the Chair.

c) In the event Mr. Nolin wishes to change approved practice arrangement or supervising lawyer (sic) he must obtain the approval of the Chair for the change. All of the preceding terms and conditions continue to apply to Mr. Nolin at the new location.

d) Mr. Nolin will not accept or receive any money, other negotiable property or consideration connected with the practice of law on behalf of clients.

e) Mr. Nolin will not directly access the books, records or accounts of his employer or firm. Any disclosure of information required by Mr. Nolin in the practice of law from the books, records or accounts of the firm will be made by a partner of the firm or such person as the partners may designate. Books, records or accounts as used herein does not include law firm client material.

f) Mr. Nolin is to continue attending with Mr. Coates or another registered psychologist, psychiatrist or registered counselor as follows:

i) The Law Society is to receive confirmation from Mr. Nolin's care provider that Mr. Nolin is attending regularly scheduled counseling sessions.

ii) Mr. Nolin shall continue to attend regularly scheduled counseling sessions with a registered psychologist, psychiatrist or registered counselor, until such time, as these regular sessions are, in the opinion of his care provider, no longer necessary.

iii) Mr. Nolin shall authorize his care provider to report to the Law Society if Mr. Nolin discontinues attending regularly scheduled counseling sessions, or misses two consecutive appointments.

iv) Mr. Nolin's care provider or his designate shall provide to the Executive Director of the Law Society annual reports and Mr. Nolin shall sign an Authorization and Direction enabling the Executive Director, or his designate, to communicate with Mr. Nolin's care provider or designate, as required.

v) In the event Mr. Nolin changes his care provider to another registered psychologist, psychiatrist or registered counselor, Mr. Nolin shall forthwith advise the Law Society of the change, and provide the necessary authorizations to allow the Law Society to verify compliance with the preceding paragraphs.

g) Mr. Nolin is to continue attending with Dr. Strydom on the following basis:

i) Mr. Nolin shall continue to take any and all prescription medication prescribed by his physician, Dr. H. Strydom for the treatment of depression and/or other mood disorders, and he shall continue to take said medication until his general physician, Dr. H. Strydom opines that the medication is no longer necessary.

ii) Mr. Nolin shall attend any and all scheduled medical appointments.

iii) In the event Mr. Nolin discontinues taking the prescribed medication or fails to attend two consecutive medical appointments, Mr. Nolin authorizes his general physician, Dr. H. Strydom to report his conduct to the Law Society.

iv) In the event Mr. Nolin changes general physicians, from Dr. H. Strydom to another medical doctor, Mr. Nolin shall forthwith advise the Law Society of the change, and provide the necessary authorization to allow the Law Society to verify compliance with the preceding paragraphs.

3. These conditions shall remain in effect for a minimum of two years, after which time, Mr. Nolin may apply to the Chair to vary or remove any or all of these terms and conditions of practice.

3. Pursuant to condition No. 3, Mr. Nolin has now applied to remove all of the practice conditions except conditions 2(f) and (g).

4. On February 10, 2014, Mr. Nolin's application to remove the conditions was heard by conference call. In addition to hearing submissions from counsel for the Law Society and Mr. Nolin, Mr. Nolin filed the following supporting documents:

- a. Letter dated October 17, 2013 from Dennis Coates, registered psychologist and registered social worker (Exhibit M-2);
 - b. Letter dated November 26, 2013 from Morris Bodnar, Q.C. (Exhibit M-3)
5. Counsel for the Law Society consented to the filing of those documents.

B. PREVIOUS DECISION

6. In allowing Mr. Nolin's application with conditions, the Admissions and Education Committee addressed the relevant legal principles underlying reinstatement applications and applied those principles to the evidence presented at that hearing. At pages 8 and 9 of the Committee's decision dated September 14, 2011:

20. As stated in the Previous Decision, the Committee commends the Applicant for his significant improvement in his behaviour and in addressing his mental health issues. He has gone a considerable way in addressing his issues and addressing, either by factual foundation or by logical argument, the elements to be satisfied relevant to his reinstatement application.

21. The Committee in summary acknowledges the positive aspects of his application that build on the comments of the Previous Decision found at paragraph 58. We are therefore prepared to find that the criteria to be met are satisfied at this time, with the conditions agreed to by the parties.

C. APPLICATION TO REMOVE CONDITIONS

7. Since October, 2011, Michael Nolin has practiced law as an associate with Morris Bodnar, Q.C. in Saskatoon. Mr. Bodnar has served as Michael Nolin's practice supervisor as required in the decision dated September 14, 2011. Mr. Nolin has adhered to conditions 2(a) through (e) inclusive for two and one-half years.

8. In his letter dated November 26, 2013 (Exhibit M-3), Mr. Bodnar states the following:

. . . In my opinion, Michael has good insight into his behaviour, his triggers and how to manage himself in a healthy manner. He understands the importance of self-care in preserving good mental health. He has successfully turned himself around.

During this period Michael continued to produce superior legal work. I am of the opinion Michael is ready to return to the practice of law unfettered by practice conditions/restrictions.

9. In his letter seeking deletion of the practice conditions (Exhibit M-1), Mr. Nolin states:

I see myself as being ready to return to the practice of law unfettered by practice conditions/restrictions. I have exceeded my own expectations in return to a full legal practice under challenging circumstances. I have learned a lot through my two years with Mr. Bodnar, Q.C. and look forward to learning more as he slowly winds down his practice.

10. Mr. Nolin seeks to have removed conditions 1 and 2(a) through (e) inclusive. He agrees with the continued application of conditions 2(f) and (g) which obligate him to attend upon his psychologist or counsellor and his general physician. This said, Mr. Nolin also filed a letter of support from Dennis Coates, a registered psychologist. Mr. Coates indicates that he has been professionally involved with Mr. Nolin and his family since 2012. Mr. Coates describes the progress he has seen with Michael Nolin.

11. Neither the *Legal Profession Act* nor the Rules of the Law Society deal with applications to remove or vary conditions made by a Discipline Committee. Counsel for the Law Society filed three cases from Ontario which are of assistance. Those cases are: *Law Society of Upper Canada v Cote*, [2002] L.S.D.D. No. 94; *Law Society of Upper Canada v Rumack*, [2009] L.S.D.D. No. 63 and *Law Society of Upper Canada v Marcovitch*, [2007] L.S.D.D. No. 5.

12. Further, counsel for the Law Society accurately summarized the principles from those cases as follows:

- a. A variation or removal of conditions requires a material change in circumstances from those that existed when the conditions were imposed;
- b. The impact on the member of having the conditions continue is a relevant consideration;
- c. The overarching consideration is whether the conditions are still required and considered appropriate to protect the public
- d. The onus is on the applicant.

13. Michael Nolin has practiced under the scrutiny and supervision of Morris Bodnar for two and one-half years. In Mr. Bodnar's letter, he indicates an intention to retire "in the near future". In his submissions, Mr. Nolin provided further detail, indicating that Mr. Bodnar is scaling his practice down such that by July 1, 2014, Mr. Bodnar would no longer have obligations to Michael Nolin as a practice supervisor. Mr. Nolin advises that by July 1, 2014 he would like to practice on his own although he expects he will remain in the same premises where he has the benefit of other senior sole practitioners.

14. Counsel for the Law Society does not oppose Mr. Nolin's application. Counsel recognized that Mr. Nolin had made considerable progress and demonstrated continued stability both in terms of his practice and his mental health.

15. After considering the submissions, material filed and the legal principles, I am satisfied that the practice conditions set out in the decision of the Admissions and Education Committee dated September 14, 2011 may be removed. In particular, conditions 1 and 2(a) through (e) inclusive shall be removed. In the event Mr. Nolin seeks to practice law as a sole practitioner, he will be subject to the Law Society's Practice Review Program which will benefit

him and serve the public interest. Mr. Nolin expressed enthusiasm for that program and the assistance it will provide him in the event his career takes the path of a sole practitioner.

16. As indicated, Mr. Nolin has not sought deletion of the conditions requiring his continued involvement with a psychologist and his general physician. In fact, Mr. Nolin wishes to see those conditions remain subject to an amendment identifying Mr. Nolin's current physician who is Dr. Hendrina Joubert. Mr. Nolin is to be commended for his position as it reflects his desire to succeed with the assistance of his mental health professionals and the ongoing scrutiny of the Law Society.

17. In summary, Michael Nolin's continued practice of law shall be subject to the following terms and conditions:

1) Mr. Nolin is to continue attending with Mr. Coates or another registered psychologist, psychiatrist or registered counselor as follows:

a) The Law Society is to receive confirmation from Mr. Nolin's care provider that Mr. Nolin is attending regularly scheduled counseling sessions.

b) Mr. Nolin shall continue to attend regularly scheduled counseling sessions with a registered psychologist, psychiatrist or registered counselor, until such time, as these regular sessions are, in the opinion of his care provider, no longer necessary.

c) Mr. Nolin shall authorize his care provider to report to the Law Society if Mr. Nolin discontinues attending regularly scheduled counseling sessions, or misses two consecutive appointments.

d) Mr. Nolin's care provider or his designate shall provide to the Executive Director of the Law Society annual reports and Mr. Nolin shall sign an Authorization and Direction enabling the Executive Director, or his designate, to communicate with Mr. Nolin's care provider or designate, as required.

e) In the event Mr. Nolin changes his care provider to another registered psychologist, psychiatrist or registered counselor, Mr. Nolin shall forthwith advise the Law Society of the change, and provide the necessary authorizations to allow the Law Society to verify compliance with the preceding paragraphs.

2. Mr. Nolin shall continue attending upon his general physician, Dr. Hendrina Joubert, on the following basis:

