The Law Society of Saskatchewan

KARL MARTENS
HEARING DATE: July 11, 2016
DECISION DATE: September 16, 2016
***Law Society of Saskatchewan v. Martens*, 2016 SKLSS 12**

IN THE MATTER OF *THE LEGAL PROFESSION ACT, 1990*
AND IN THE MATTER OF KARL MARTENS,
A LAWYER OF SASKATOON, SASKATCHEWAN

DECISION OF THE HEARING COMMITTEE FOR THE LAW SOCIETY OF SASKATCHEWAN

Members of the Hearing Committee: Brenda Hildebrandt, Q.C., Chair
Craig Zawada, Q.C.
Nikki Rudachyk

Counsel: Nicholas Stooshinoff, Q.C. on behalf of the Member
Drew Plaxton, on behalf of the Conduct Investigation Committee

INTRODUCTION

1. The Hearing Committee of the Law Society of Saskatchewan (the "Hearing Committee"), comprised of Brenda Hildebrandt, Q.C. as Chair, Craig Zawada, Q.C., and Nikki Rudachyk, convened on Monday, July 11, 2016, and again on Wednesday, July 27, 2016, to hear this matter. Counsel for the Conduct Investigation Committee was Drew Plaxton, and Nicholas Stooshinoff, Q.C. represented Karl Martens (the "Member"). All parties participated by conference call.

2. Neither Mr. Plaxton nor Mr. Stooshinoff had any objections to the constitution of the Hearing Committee, the conference call format for the Hearing, or any other matter relating to the proceedings giving rise to the Hearing.

3. At the Hearing, the Member pled guilty to the allegations of conduct unbecoming a lawyer, as outlined in the Formal Complaint dated November 20, 2015, which were that he:

i. did make a false document(s) knowing it (they) to be false with the intent that others would be induced to act on it (them) on the belief that it is (they are)

genuine and/or he did further, knowing the document(s) was falsified, cause or attempt to cause, directly or indirectly, persons (including members of his firm, his client(s) and/or Information Services Corporation) to deal with or act on it (they) as if it (they) were genuine; and

ii. did knowingly mislead members of his firm, his client(s) and/or Information Services Corporation in relation to matters concerning a certain entity "P.C.".

4. An Agreed Statement of Facts was filed in relation to this matter, to which three schedules are appended. A copy of these materials, which were marked as Exhibit LSS-3 at the Hearing, is appended to this Decision.

5. After receiving the Agreed Statement of Facts and Hearing the submissions of Mr. Plaxton and Mr. Stooshinoff, the Hearing Committee accepted the Member's guilty plea, made a finding of conduct unbecoming a lawyer in relation to both allegations, and heard the representations by the parties regarding penalty.

BACKGROUND

6. The Law society began an investigation into the matters giving rise to this Hearing after the Member self-reported what he described as his own "unprofessional conduct" on June 22, 2015.

7. Although the facts are outlined in the attached Agreed Statement of Facts, several matters are noteworthy in the context of the decision of the Hearing Committee, so are briefly summarized in the following.

8. Early in 2015 the firm with which the Member practised as an associate was contacted by an Ontario law firm and requested to continue a federal not-for-profit corporation, "P.C.", in Saskatchewan. The Member was asked to undertake this, which involved ensuring that Articles of Continuance and related documents be filed with the Corporate Registry maintained by Information Services Corporation ("ISC") here in Saskatchewan.

9. While the Member prepared the appropriate documentation, he failed to submit it for filing, although he apparently thought he had done so in April of 2015.

10. When the Ontario law firm contacted a senior lawyer of the Member's firm by email on May 22, 2015, indicating that the Member had not reported on the Continuance, the Member checked the file and discovered that he had failed to file the documents. However, he represented to the senior lawyer that the documents had been filed on April 9, 2015. Based on this information from the Member, which it did not know was inaccurate, the Member's firm contacted ISC.

11. In furtherance of his plan to mislead, the Member created two false documents, the first being a letter dated April 9, 2015 to ISC on firm letterhead, indicating that the Articles of Continuance and other documents were being remitted by fax for filing. The second was a false

facsimile transmission confirmation sheet, which indicated that the materials in question had been remitted to the Corporate Registry at 12:16 on April 9, 2015.

[See Schedule 3 to Exhibit LSS-1]

12. These false documents were submitted to ISC, which advised that the documentation would be accepted for "retroactive filing" provided that an affidavit regarding their previous remittance was also provided. This affidavit would need to be sworn by the Member.

13. After a period of time, the Member, facing the prospect of swearing a false affidavit, admitted that the materials had not been filed in April and that the letter and facsimile confirmation sheet were false. Along with admitting his deception to his firm, the Member wrote letters of apology to the Ontario firm as well as the Director of Corporations. As indicated above, he also reported his conduct to the Law Society of Saskatchewan.

14. The Member, who was admitted to the Law Society of Saskatchewan in 2011, has no prior discipline history and cooperated with the Law Society investigation.

SUBMISSIONS ON PENALTY

15. Upon acceptance by the Hearing Committee of the Member's guilty plea, counsel for the Conduct Investigation Committee and counsel for the Member, during the conference call of July 11, 2016, made a joint submission on penalty. This was that the Member should receive a global reprimand and be required to pay costs in the amount of $2,500.00 within 6 months of the date of this decision.

16. In asking the Hearing Committee to consider the joint submission, counsel for the Conduct Investigation Committee referenced several cases, four of which involved a penalty of a reprimand and order of costs. The first was *Law Society of Saskatchewan v Megaw,* 2004 LSS 5. In that case, the member had failed to attend in Chambers on November 12, 2003. Yet he represented to his client on November 13, 2003 that he had. Further, he indicated that the order cancelling the arrears of maintenance, which his client's spouse obtained on November 12, 2003, had been due to her having not filed notice of registering in the parenting class. When the client reviewed the fiat and discovered the truth on November 14, 2003, the member confirmed that he had misled his client and offered to tender his resignation as a partner in his firm and notified the Law Society.

17. The second case, *Law Society of Saskatchewan v Bliss,* 2010 LSS 4, involved a misrepresentation by a crown prosecutor on July 6, 2009 that he had not heard certain evidence from a witness prior to that individual, a police constable, having testified in court. In January 2010, in another prosecution, the credibility of the same witness was questioned as a result of the prosecutor's failure to candidly admit that he had been given the relevant information prior to the July 2009 trial. Faced with this impact on the credibility of the constable, the prosecutor reported his conduct to both his employer and the Law Society. The Law Society Hearing committee imposed a penalty of a reprimand and order for costs. In so doing, it took into account that the employer had suspended the prosecutor for two weeks without pay and then required him to participate in a mentorship program.

18. *Law Society of Saskatchewan v Wolfe,* 2015 SKLSS 5, was the third decision cited in which a reprimand and costs were ordered. In that case the member had misled two clients regarding the status of their respective Statements of Claim, representing that they had been issued and served when such was not the case. The conduct occurred over the period of March 2011 to December 2013. In *Wolfe*, the Hearing Committee expressed its concern that the joint submission, requesting a penalty of a reprimand and order of costs, might not sufficiently address the public interest and the need to protect the public against the potential of further, similar conduct. In response, Mr. Wolfe's counsel filed information demonstrating that the member had effectively been working under supervision by his firm in the 1/1/2 years following the report to the law society. This had included, among other things, a review of all open files, random audits, and regular meetings with the firm for the first six months following Mr. Wolfe's return to practice with the firm in March of 2014. In light of this degree of oversight, the Hearing Committee concluded it would not depart from the joint recommendation.

19. The fourth decision cited by counsel in which a reprimand and costs were ordered is *Law Society of Saskatchewan v Pradzynski,* 2016 SKLSS 6. There the member, in the course of a marital dispute, had written a letter to opposing counsel on August 5, 2014 which misrepresented the role of her own client's wife in a family owned corporation. The member, who was in possession of the corporate minute book, was aware at the time the letter was written of the wife's position and shareholder status. Following repeated requests from the wife's counsel, the member, on March 2, 2015, disclosed the minute book and reported the matter to the Law Society through her own counsel. Of particular significance to the Hearing Committee in accepting the joint submission on penalty in the *Pradzynski* case was that this was an isolated event in a career with had commenced with articles in 1978.

20. Two other cases were drawn to the attention of the Hearing Committee, each of which involved the imposition of a suspension. In *Law Society of Saskatchewan v Ferraton,* 2014 SKLSS 2, the member, along with entering a business transaction with her client and acquiring an ownership interest in land without ensuring that the client received independent legal advice, also fabricated an Interest Authorization document in order to discharge a caveat from land she owned by cutting and pasting the interest holder's signatures from another document and misled Information Services Corporation by submitting such for registration. The Hearing Committee in *Ferraton* ordered that the member be suspended from practice for one moth and pay the costs of the proceedings.

21. While noting that Ms. Ferraton was remorseful and had learned her lesson, thus diminishing the need for specific deterrence, the Hearing Committee in that case commented as follows with respect to the factor of general deterrence:

> The Hearing Committee endorses the following statements found in the brief filed by counsel for the Investigation Committee:
>
> > Integrity of documents is a cornerstone of the legal system. Anything that detracts from the presumption that any document emanating from a lawyer is real and authentic shakes the foundations of the legal system and the legal profession. The

> fabrication of documents by a lawyer by any means, and regardless of the motivation behind the conduct, is so damaging that is must be harshly denounced. A clear message must be sent to other members of the profession that such conduct is simply unacceptable, even if it is done in the interests of convenience for the client or some other good intention.
>
> This message takes on an added importance in the context of the technological advances that have made the altering of documents relatively easy to perform and difficult to detect.

22. In the case of *Law Society of Saskatchewan v Adsit,* 2016 SKLSS 7, the penalty was a suspension for a total of two months and an order to pay costs. In *Adsit*, the member pled guilty to conduct unbecoming a lawyer in that she attempted to imitate the signature of a fellow lawyer as a witness and Commissioner of Oaths on an affidavit she had prepared and signed in her own family law matter, then filed the improperly commissioned Affidavit thereby failing to discharge her responsibilities to the Court with honour and integrity, after which she knowingly attempted to deceive the Law Society in her responses to inquiries concerning the signature on the jurat. It is noteworthy that, as part of the joint submission on penalty in the *Adsit* case, both counsel noted that 1 month of suspension related to the preparation and filing of the Affidavit while the second month pertained to the attempt to deceive the Law Society staff.

23. While the submission on penalty was joint in the instant case, counsel for the Conduct Investigation Committee did note that the conduct of the Member could well warrant a suspension in keeping with the decisions in *Ferraton* and *Adsit* and it was only Mr. Martens' particular circumstances which mitigated against a request for such a penalty. These circumstances included the Member having been absent from practice since September 25, 2015, initially on medical leave and seeking treatment, and then having resigned from the firm with which he was associated in May of 2016. He urged the Hearing Committee to signal to the Law Society membership that falsification of documents as occurred here would generally result in a suspension.

24. On behalf of the Member, Mr. Stooshinoff likewise emphasized that the Member has been away from practice for a considerable period of time. He, however, suggested that the conduct in the instant case was more akin to that in *Megaw* and *Bliss*, thus justifying only a reprimand and order of costs.

25. In both the *Bliss* and *Pradzynski* decisions, noted above, is reference to the decision in *Law Society of Alberta v Ter Hart* [2004] L.S.D.D. No. 25, which discusses various factors relevant in assessing the appropriate sanction. The Hearing committee there noted the following list of considerations, which it noted was not exhaustive:

(a) Was there a specific rule or duty which was breached?
(b) What conflicting duties was the Member under and how evenly were they balanced?
(c) Was the Member favouring personal interests over his duties to his clients?

(d) Were the circumstances and duties such that it is appropriate to conclude that the Member must have known at the time, or be taken to have known, at the time that the course of action chosen was wrong?
(e) Was it an isolated act?
(f) Was it planned?
(g) What opportunity did the Member have to reflect on the act or the course of action?
(h) What opportunity did the Member have to consult with others?
(i) What results flowed from the act or course of action taken?
(j) What subsequent steps could have been taken to correct the error or its consequences and were such steps taken?

26. In considering these elements, counsel for the Conduct Investigation Committee emphasized section 1.01(1) of the *Code of Professional Conduct* which states:

> A lawyer has a duty to carry on the practice of law and discharge all responsibilities to clients, tribunals, the public and other members of the profession honourably and with integrity.

27. Paragraphs [1], [2] and [3] of the Commentary to section 1.01 are also of assistance:

> [1] Integrity is the fundamental quality of any person who seeks to practice as a member of the legal profession. If a client has any doubt about his or her lawyer's trustworthiness, the essential element in the true lawyer-client relationship will be missing. If integrity is lacking, the lawyer's usefulness to the client and reputation within the profession will be destroyed, regardless of how competent the lawyer may be.
>
> [2] The principle of integrity is a key element of each rule of the *Code*.
>
> [3] Public confidence in the administration of justice ad in the legal profession may be eroded by a lawyer's irresponsible conduct. Accordingly, a lawyer's conduct should reflect favourably on the legal profession, inspire the confidence, respect and trust of clients and of the community, and avoid even the appearance of impropriety.

28. Both counsel noted the belief that the Member's conduct in this case was an isolated incident and that the client did not suffer loss. However, counsel for the Conduct Investigation Committee did note that there was certainly planning involved in the Member's creation of the false documents.

29. As noted above, while counsel for the Conduct Investigation Committee indicated that the penalty objective of general deterrence would be better served by a suspension, the particular circumstances of the Member's absence from practice render such both impractical and unnecessary. Further, the objective of specific deterrence to the Member is met by the penalties requested in the joint submission.

30. Regarding the calculation of costs, the parties agreed on the statement filed as Exhibit LSS-4 in this proceeding, indicating the total amount of $2,500.00 to be paid by the Member. Both counsel requested that the Member be given six months to pay the costs. They further requested that he be granted leave to apply to the Chair of the Discipline Executive Committee for an extension of this period.

CONSIDERATION OF JOINT SUBMISSION

31. It is well established that joint submissions concerning penalty should not be disregarded by Hearing Committees of the Law Society if the proposed penalty is within the range of outcomes in similar cases and is responsive both to the type of conduct established and the particular circumstances of the member. [See *Rault* v *Law Society of Saskatchewan,* 2009 SKCA 81; as cited and followed in *Law Society of Saskatchewan v Wilson,* 2011SKLSS 8.]

32. In considering this matter, the Hearing Committee is mindful of the obligation of the Law Society to protect the public interest. Sections 3.1 and 3.2 of *The Legal Profession Act,* S.S. 1990-91, c. L-10.1 mandate this:

> 3.1 In the exercise of its powers and the discharge of its responsibilities, it is the duty of the society, at all times:
>
> > (a) to act in the public interest;
> > (b) to regulate the profession and to govern the members in accordance with this Act and the rules; and
> > (c) to protect the public by assuring the integrity, knowledge, skill, proficiency and competence of members.
>
> 3.2 In any exercise of the society's powers or discharge of its responsibilities or in any proceeding pursuant to this Act, the protection of the public and ethical and competent practice take priority over the interests of the member.

Thus, of particular concern to this Hearing Committee is whether the penalty proposed by the joint submission adequately protects the public.

33. In addition, regarding general deterrence as an objective of penalty, we concur with the comments of counsel for the Conduct Investigation Committee that falsification of documents as occurred here would generally result in a suspension. We likewise approve of the statements in *Ferraton,* quoted above at paragraph 21, and note there was neither convenience for the client nor any other good intention present. Rather, the actions of the Member were designed to cover his error.

34. One of the factors discussed in *Ter Hart*, noted above at paragraph 25(h), is whether the Member had opportunity to consult with others. Here, given the supportive role the senior members of the firm played in first attempting to deal with the matter with Information Services Corporation, then correcting the error once they were informed of how the Member had misled them, and enabling an extended medical leave, it is difficult to comprehend how the Member

believed he could not consult with them initially. As such, another concern of this Hearing Committee is whether sufficient measures have been put in place to support prevention of a recurrence.

35. In light of such concerns, as did the Hearing Committee in *Wolfe*, we invited both counsel to provide additional input. By letter dated July 18, 2016, marked as Exhibit HC-1, we requested that the teleconference Hearing be reconvened and outlined our particular concerns regarding what measures would be in place to help ensure public protection in the event the Member elects to return to the practice of law.

36. Upon resumption of the teleconference Hearing on July 27, 2016, counsel on behalf of the Conduct Investigation Committee emphasized that the Conduct Investigation Committee in this case had been composed of experienced counsel who had gained insight into the facts surrounding the matter and taken into account all factors in assessing whether they would support the joint submission. Counsel further noted the *Rault* decision and also cautioned against a potential collateral effect of a hearing panel rejecting a joint submission, such being a lack of certainty in the investigation process and in negotiating with a Member or counsel for a Member.

37. Counsel for the Member echoed the comments of counsel for the Conduct Investigation Committee that the joint submission had been carefully constructed. However, he also provided further information to address the Hearing Committee's concerns, including information regarding the Member's identification of stressors. He then filed, as Exhibit D-3, the "Conditions of Practice" agreement the Member entered with his firm on June 23, 2015, confirming that two members of the firm were supervising his practice from that date until his leave, and ultimate resignation from the firm in May of 2016.

38. His counsel also noted that the Member has changed his status from an active Member of the Law Society of Saskatchewan to an inactive member. He reiterated that the Member has no present intention to return to private practice and stated that he has no intention of seeking to practice as a sole practitioner, in light of the particular stressors that can attend that business model. In this regard, the Member is prepared to provide the Law Society with a written undertaking that he will not resume practice as a sole practitioner unless, following an application to the Chair of the Discipline Executive, he has been granted approval to do so. As such, counsel for the Member urged that the Hearing Committee either accept the joint submission or accept it with the additional element of the proffered undertaking.

39. Counsel for the Conduct Investigation Committee indicated that he was not opposed to the Member providing such an undertaking.

40. In *Rault*, at paragraph 15, the Saskatchewan Court of Appeal quoted from the decision in *Law Society of Upper Canada v Orzech,* [1996] L.S.D.D. No. 56 (Q.L.), noting that:

> . . . when the joint submissions are not inappropriate and when they are responsive both to the type of conduct established and **the particular circumstances of the [Member]** . . .only in rare circumstances and with

> considerable caution should the Committee disregard such joint submissions concerning penalty. (emphasis added)

41. Further, at paragraph 28 of the *Rault* decision, in describing what reasons a Discipline Committee must provide for rejection of a joint submission on penalty, the Court of Appeal noted four considerations. These are whether the penalty proposed is:

i) inappropriate;
ii) not within the range of sentences;
iii) unfit or unreasonable; and/or
iv) contrary to the public interest.

42. In order to assess these four elements and how they address the particular circumstances of the Member, sufficient information must be provided to the Hearing Committee. While certainly there is respect for all counsel involved in the investigation and negotiation processes, and the confidential nature of such processes, it is the Law Society which is couched with the responsibility of acting in the public interest in the exercise of its powers and the discharge of its responsibilities. As such, a Hearing Committee cannot rely blindly upon the recommendations of counsel.

43. In this regard, this Hearing Committee concurs with the reasoning provided in the Alberta Court of Appeal decision of *R v Tkachuk*, 2001 ABCA 243 (CanLII), at paragraphs 33 and 34, addressing a guilty plea in a criminal law matter:

> As to the obligations of counsel wishing to resolve a case by way of guilty plea and a joint submission on sentence, this Court has said that:
>
> i) The facts of the case ought to be fully disclosed so that the sentencing judge is aware of all the circumstances, including the aggravating and mitigating factors.
> ii) Where the proposed sentence is not obviously within the accepted range of sentence for that offence, counsel, and particularly Crown counsel, should explain to the court the reasons for departing from a sentence within that range. In *R. v. G.W.C., supra,* Berger, J.A., illustrated this point by noting that the joint submission may be the result of an evidentiary gap in the Crown's case, or the absence of an essential witness.
>
> The requirement to inform the sentencing judge of all of the circumstances guiding the joint submission was not intended to be taken as a direction that counsel must reveal their negotiating positions or the substance of their discussions leading to the agreement. These are private negotiations which need not, and normally should not, be disclosed to the court. *R. v. Roberts,* 2001 ABQB 520 (CanLII), [2001] A.J. No. 772

44. With the additional information, as well as the proffered undertaking, provided upon resumption of the Hearing in this case, the Hearing Committee is satisfied that measures have been in place for protection of the public from June 23, 2015 on. The Member's insight into his condition and stressors, and the remedial action he has taken in response thereto, including a lengthy absence from practice, are strong mitigating factors which address the concerns regarding the element of specific deterrence as an objective of penalty. Further, regarding general deterrence, as originally urged by counsel for the Conduct Investigation Committee, this Hearing Committee notes that falsification of documents such as occurred here would generally result in the imposition of a suspension. Indeed, but for the particular circumstances, such would have been ordered in this case.

DECISION

45. Having considered the submissions on penalty as outlined above, taking into account the nature of the conduct and the mitigating factors, the undertaking proffered by the Member, and the measures addressing the public interest, the Hearing Committee will accept the joint submission along with the undertaking.

46. The Hearing Committee therefore orders that:

a. the Member shall receive a formal reprimand with respect to both findings of conduct unbecoming pursuant to the allegations outlined in the Formal Complaint dated November 20, 2015;

b. the Member shall forthwith provide a written undertaking to the Law Society of Saskatchewan that, in the event he returns to the practice of law, he will not practice as a sole practitioner unless, following application to the Chair of the Discipline Executive Committee, he has been granted approval to do so;

c. the Member shall pay the costs of these proceedings to the Law Society of Saskatchewan in the amount of $2,500.00 by March 20, 2017; and

d. the Member is granted leave to apply to the Chair of the Discipline Executive Committee, with supporting materials, prior to March 20, 2017, for an extension of the period to pay the costs.

"Brenda Hildebrandt, Q.C."	September 15, 2016
"Craig Zawada, Q.C."	September 16, 2016
"Nikki Rudachyk"	September 15, 2016

AGREED STATEMENT OF FACTS AND ADMISSIONS

In relation to the Amended Formal Complaint dated November 20, 2015, alleging the following:

1. **did make a false document(s) knowing it (they) to be false with the intent that others would be induced to act on it (them) on the belief that it is (they are) genuine and/or he did further, knowing the document(s) was falsified, cause or attempt to cause, directly or indirectly, persons (including members of his firm, his client(s) and/or Information Services Corporation) to deal with or act on it (they) as if it (they) were genuine; and**

2. **did knowingly mislead members of his firm, his client(s) and/or Information Services Corporation in relation to matters concerning a certain entity "P.C.".**

PRELIMINARY MATTERS

47. Karl Martens (hereinafter sometimes "Martens" or "the Member") is and was at all times material an active Member of the Law Society of Saskatchewan.

48. The Law Society of Saskatchewan received a report from a Conduct Investigation Committee consisting of Gregory Walen, Q.C. and Evert Van Olst, Q.C. dealing with matters drawn to the attention of the Law Society in correspondence dated 22 June 2015 to the Law Society in relation to what the Member referred to as "unprofessional conduct". Upon the recommendation of the Conduct Investigation Committee, a Hearing Committee comprised of Brenda Hildebrandt, Q.C, along with Craig Zawada, Q.C. and Nikki Rudachyk was appointed to determine whether or not the Member is guilty of conduct unbecoming a lawyer (Schedule 1). A formal complaint was laid alleging the Member is guilty of conduct unbecoming a Member in relation to the Member's dealings with members of his firm, his client(s) and/or Information Services Corporation (Schedule 2).

49. The Member and the Conduct Investigation Committee agree the matters set forth in the formal complaint are properly before the Hearing Committee and the Hearing Committee has jurisdiction to deal with same. Neither the Conduct Investigation Committee nor the Member takes objection with the composition of the Hearing Committee.

BACKGROUND

50. The Member was admitted to the Law Society of Saskatchewan in 2011. At all times material to the matters within, the Member has practiced with the firm of Robertson Stromberg (hereinafter sometimes "the firm") in Saskatoon, Saskatchewan. The Member was employed as an associate with the firm. The Member was on medical leave from the firm since approximately the 25th of September, 2015, but resigned his position during the month of May, 2016. The Member is presently seeking alternate employment. The Member has no prior discipline record with the Society.

51. The complaints before the Hearing Committee concern the Member's conduct in relation to handling a corporate file. Early in the year 2015 the firm was contacted by an Ontario law firm and requested the firm continue a federal not-for-profit corporation, "PC", in Saskatchewan. The Member was asked to attend to this task. In order to achieve the continuance it was necessary Articles of Continuance and related documents be filed with the Corporate Registry maintained by Information Services Corporation of Saskatchewan ("ISC"). Filing can be done by facsimile transmission. The Member had the appropriate documentation prepared but failed to

submit the same for filing. The Member thought he had filed the documents by facsimile transmission during the month of April 2015. This however was not the case.

52. By an email dated 22 May 2015, the Ontario law firm contacted a senior member of the firm to complain that the Member had failed to report concerning the continuance. This matter was taken up with the Member. The Member checked his file and discovered he had failed to file the documents in question.

53. Rather than admitting to his error and completing the filing the Member set about a course of action in an effort to mislead members of his firm and have them believe he had filed the required documentation during the month of April 2015.

54. The Member misled Mr. Chris Donald, a senior member of his firm and others in his firm by stating to them that the documents had been filed with the ISC on or about the 9th day of April 2015. Mr. Donald and members of his firm were unaware of the fact this information was misleading and passed the same on to the ISC. In furtherance of his plan the Member created one or more false documents with the intent of misleading members of his firm, and have them believe that the documents had been filed on the 9th of April 2015 and the ISC had somehow lost the same. One of the false documents was a letter dated the 9th of April 2015 on Robertson Stromberg letterhead directed to the Corporate Registry (ISC) indicating the Member was forwarding for registration by facsimile transmission the necessary documents to see the client corporation was continued into the Province of Saskatchewan. This correspondence was signed by the Member. Further the Member created a false facsimile transmission confirmation sheet indicating the correspondence in question and accompanying documents had been forwarded to the Corporate Registry at 12:16 on the 9th of April 2015 (a copy of correspondence and accompanying facsimile transmission confirmation sheet attached as Schedule 3 – client's name redacted).

55. The false documents were submitted for filing. The Member and his firm were advised that the ISC would accept the documentation for "retroactive filing" provided however they had been advised by the Director of Corporations that before he could exercise his discretion to allow the authorization of the continuance of the client in Saskatchewan under the circumstances he would require something akin to an affidavit of service of the original application for continuance on the 9th of April 2015. This information was passed on to the Member. When confronted with the prospect of swearing a false affidavit the Member did, after a period of time, admit his deception and that the materials had not been filed. Further he admitted the document(s) was false.

56. After admitting his deception the Member, on the 22nd of June 2015, wrote letters of apology to the Ontario firm as well as the Director of Corporations. Further the Member reported this incident of what he phrased as "unprofessional conduct" to the Law Society by even date.

57. The Member admits he created the false document(s) knowing it (they) were false with the intent that others including members of his firm, his client(s) and/or Information Services Corporation would be induced to act on it (them) on the belief they were genuine. The Member further admits that knowing the document(s) in question was (were) falsified, caused or

attempted to cause other persons including members of his firm, his client(s) and/or Information Services Corporation to deal with or act on it (them) as if it (they) were genuine.

58. The Member further admits he knowingly misled members of his firm, his clients and/or Information Services Corporation in relation to matters concerning the client "PC" by misstating to them verbally and through falsified documents that he had filed by facsimile transmission the documents necessary to achieve a continuance together with covering correspondence on 9 April 2015.

59. The Member admits he is guilty of conduct unbecoming a lawyer as set out in the two counts in the formal complaint made in the matter within dated the 20th day of November 2015.

60. The Conduct Investigation Committee and Member reserve the right to present such further or other evidence at the Hearing of the matter within as may be advised and not inconsistent with the facts herein agreed to.