



The Law Society of Saskatchewan

RUTH ELAINE PRADZYNSKI

HEARING DATE: April 22, 2016

DECISION DATE: June 2, 2016

Law Society of Saskatchewan v. Pradzynski, 2016 SKLSS 6

**IN THE MATTER OF *THE LEGAL PROFESSION ACT, 1990*
AND IN THE MATTER OF RUTH ELAINE PRADZYNSKI,
A LAWYER OF REGINA, SASKATCHEWAN**

**DECISION OF THE HEARING COMMITTEE FOR THE
LAW SOCIETY OF SASKATCHEWAN**

Hearing Committee

David K. Rusnak, Q.C., Chair

Craig Goebel

Dr. Greg Stevens

Counsel

Timothy Huber, Counsel for the Investigation Committee

David Thera, Q.C., Counsel for Ruth Elaine Pradzynski

BACKGROUND

1. This matter came before the Hearing Committee pursuant to Section 47(1) of the *Legal Profession Act, 1990* following a determination by the Conduct Investigation Committee:

That Ruth Elaine Pradzynski, of the City of Regina, in the Province of Saskatchewan, was guilty of conduct unbecoming a lawyer in that she:

1) Did knowingly mislead opposing counsel, Mr. P., in relation to a family law matter between her client, A.S., and Mr. P's client, M.R.

2. Ms. Pradzynski plead guilty to the citation of conduct unbecoming a lawyer. The hearing proceeded on the 22nd of April, 2016 as a sentencing hearing on an Agreed Statement of Facts with submissions from counsel for the Investigation Committee of the Law Society and from David Thera, Q.C., solicitor for the member.

FACTS

3. The facts are set out in the Agreed Statement of Facts filed as Exhibit “P2” in the proceedings and can be summarized as follows:

(a) Ruth Elaine Pradzynski, herein after referred to as the Member, was at all times a material of these proceedings, a practicing member of the Law Society of Saskatchewan, herein after referred to as Law Society and accordingly is subject to the provisions of *Legal Profession Act, 1990* herein after referred to as the Act.

(b) The Law Society’s involvement in this matter began on the 2nd of March 2015 when the Member’s counsel made a report to the Law Society on the Member’s behalf. The Member had acknowledged that she had knowingly made “incorrect representations” to opposing counsel on a family law file which was about to be discovered by that opposing counsel. This effectively means the Member self-reported.

SUBMISSIONS ON SENTENCE

4. Mr. Huber, counsel for the Investigation Committee and Mr. Thera, counsel for the Member, submitted a joint submission to the Hearing Committee in respect of a sentence consisting of a reprimand of the Member and an order to pay costs.

5. The Committee was provided with three decisions from the Law Society which included *Law Society of Saskatchewan v. Cory Bliss*, 2010 LSS 4, *Law Society of Saskatchewan v. Wolfe*, 2015 SKLSS 5, and *Law Society of Saskatchewan v. Michael Thomas Megaw*, 2004 SKLS 5. All decisions dealt with members who had isolated incidents of conduct worthy of sanction which resulted in a sentence of a reprimand and payment of the costs of the discipline proceedings.

6. In *Law Society of Saskatchewan v. Bliss* the decision of the *Law Society of Alberta v. Ter Hart* [2004] L.S.D.D. No. 25 was referred to; the Member was not guilty of conduct unbecoming, but the decision provides a guide of sorts for some of the factors relevant in deciding whether a lawyer’s conduct is worthy of sanction and for assessing the appropriate sanction:

While not attempting to provide an exhaustive list of the factors to consider in assessing whether the conduct rises to the level of professional misconduct, the following factors have a bearing on our decision:

- (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 his 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 take to correct the error or its consequences and were such steps taken?

PARTICULARS OF THE CONDUCT

7. The Member represented A.S. in relation to a marital dispute against M.R. Prior to the marital breakdown the Member represented both A.S. and M.R. in relation to a retail food service operation. This business operated prior to the couple's marriage in May of 2013.

8. The Member prepared the original incorporation document for the corporation in February of 2014. At the outset; both A.S. and M.R. were shareholders and directors of the corporation.

9. When matrimonial issues arose M.R. retained Mr. P as her family law lawyer. Mr. P issued a Petition on July 9, 2014. A variety of issues surrounding the corporation and other business interests held by A.S. and M.R. were relevant to the divorce proceedings and the matrimonial property division.

10. A response to inquiries of M.R.'s solicitor Mr. P in a letter of August 5, 2014, the Member advised that "In relation to our initial proposal, A.S. is withdrawing Paragraph 5 which offered M.R. the Corporation Y business. A.S. is now proposing to keep both of his businesses." and "A.S. is inquiring why M.R., in her property statement, is claiming that she is a shareholder of Corporation Y, when she was only appointed as a director of the Corporation. After their separation, A.S. voted her out as a director as well."

11. When the Member wrote the letter she was aware that M.R. was in fact, originally appointed as a director and shareholder of Corporation Y and that nothing had changed in the intervening period. The Member had possession of the minute book for Corporation Y on August 5, 2014 when she wrote the letter to Mr. P.

12. Within days of the Member writing the August 5, 2014 letter A.S. sought new legal counsel and ended his relationship with the Member.

13. On December 15, 2014, Mr. P, on behalf of his client M.R. requested that the Member provide a copy of the corporate file and minute book for the Corporation that was still in the Member's possession.

14. A follow up request was made on January 22, 2015. The Member finally responded on February 3, 2015 stating that she was in fact, was facing "an ethical challenge in relation to the file" and that she was consulting the Law Society.

15. Ultimately the Member provided the minute book to Mr. P on March 2, 2015; the minute book revealed that the Member had provided false information.

MITIGATING FACTORS

16. The Member was fully co-operative throughout; the Member had no prior incidents of conduct unbecoming; this was a single event and the Member felt deeply regretful for her actions. She realized that she made an error in terms of getting caught up with respect to her loyalty to her client and her obligation to the Law Society.

SENTENCE

17. The Committee's sentence has been determined in light of the following:

- a. The submissions made and the representations of the Member's counsel of her clear remorse and acknowledgment of her wrong doing;
- b. The fact that this was an isolated event in a career commencing with Articles in 1978;
- c. The fact that there was no personal benefit to the Member, but rather was a conflict of loyalty to the client, weighed against the obligation of the Members duty to maintain high professional standards and the preservation of the public confidence in the legal profession.

18. Also, while the misinformation was easily discoverable, to the Member's credit, she self-reported. It appears there was no material impact on the outcome of the proceedings involving the Member's former client and his estranged spouse, represented by Mr. P.

19. Therefore, the Committee finds that the conduct of the Member was unbecoming a lawyer and that she did knowingly mislead opposing counsel in relation to a family law matter and impose the following sentence, that:

1. The Member be formally reprimanded, and
2. The Member shall pay costs in the amount of \$2,050.00 within 30 days of the date of the written decision.

Dated this 2nd day of June, 2016.

“David Rusnak”

David K. Rusnak, Q.C., Chair

“Craig Goebel”

Craig Goebel

“Dr. Greg Stevens”

Dr. Greg Stevens

AGREED STATEMENT OF FACTS AND ADMISSIONS

In relation to the Formal Complaint dated January 8, 2016, as amended herein, alleging the following:

THAT RUTH ELAINE PRADZYNSKI, of the City of Regina, in the Province of Saskatchewan is guilty of conduct unbecoming a lawyer in that she:

- 1. did, knowingly mislead opposing counsel, Mr. P., in relation to a family law matter between her client, Mr. S., and Mr. P's client, Ms. R.**

JURISDICTION

20. Ruth Pradzynski (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 (hereinafter the "Act") as well as the *Rules of the Law Society of Saskatchewan* (the "Rules"). Attached at **Tab 1** is a Certificate of the Executive Director of the Law Society of Saskatchewan pursuant to section 83 of the Act confirming the Member's practicing status.

21. The Member is currently the subject of a Formal Complaint initiated by the Law Society dated January 8, 2016. Attached at **Tab 2** is a copy of the Formal Complaint along with proof of service. The Member intends to plead guilty to the single allegation contained in the Formal Complaint.

BACKGROUND OF COMPLAINT

22. The Law Society began its involvement in this matter on March 2, 2015, when the Member's legal counsel made a report to the Law Society on the Member's behalf. He stated that the Member had knowingly made an "incorrect representation" to opposing counsel on a family law file which was about to be discovered by that opposing counsel.

PARTICULARS OF CONDUCT

23. The Member represented A.S. in relation to a matrimonial dispute against M.R. Prior to the marital breakdown between A.S. and M.R., the Member represented both A.S. and M.R. in relation to a retail food service corporation ("Corporation Y"). Corporation Y was set up to receive assets of a business which A.S. had operated since April 2013, just prior to the couple's May 2013 marriage.

24. The Member prepared the original incorporation documents for Corporation Y in February of 2014. From the outset, both A.S. and M.R. were shareholders and directors of Corporation Y.

25. When marital issues arose M.R. retained Mr. P. as her family law lawyer. Mr. P. issued a petition on July 9, 2014. A variety of issues surrounding Corporation Y and various other business interests held by A.S. and or M.R. were relevant to the divorce proceedings and the matrimonial property division.

26. On August 5, 2014, the Member wrote a letter [Tab 3] to Mr. P. addressing a number of issues raised by Mr. P. in previous correspondence, including Corporation Y. The Member wrote the following:

“In relation to our initial proposal, Mr. S. is withdrawing Paragraph 5 which offered Ms. R [Corporation Y]. Mr. S. is now proposing to keep both of his businesses.

Mr. S. is inquiring why Ms. R., in her property statement, is claiming that she is a shareholder of [Corporation Y], when she was only appointed as a director of the corporation. After their separation, Mr. S. voted her out as a director as well”

27. When the Member wrote this letter she knew that Ms. R. was, in fact, originally appointed as a director and shareholder of Corporation Y and that nothing had changed in the intervening period. The Member had possession of the Minute Book for Corporation Y on August 5, 2004 when she wrote the letter to Mr. P.

28. Within days of the Member’s August 5, 2014 letter to Mr. P., A.S. sought new legal counsel and ended his relationship with the Member.

29. On December 15, 2014, Mr. P., on behalf of his client M.R., requested that the Member provide a copy of the corporate file and Minute Book for Corporation Y that was still in the Member’s possession. The Member did not respond to this request. A follow-up request was made on or about January 22, 2015. The Member finally responded to Mr. P. on February 3, 2015, stating that she was facing “an ethical challenge in relation to the file” and that she was consulting with the Law Society [Tab 4].

30. Ultimately, the Member provided the Minute Book to Mr. P. on March 2, 2015. The Minute Book revealed that the Member had provided false information to Mr. P. about M.R.’s status as a director and shareholder. With the Minute Book the Member sent a letter to Mr. P. apologizing for the delay and pointing out the ethical breach associated with providing inaccurate information to him. On that same day the Member’s legal counsel contacted the Law Society to provide the Member’s self-report in relation to her misconduct.

PRIOR HISTORY

31. The Member has no prior discipline history. In 2006 the Member was referred to the Professional Standards Committee. As part of that referral the Member underwent a practice management review and successfully participated in an intervention to address serious practice management issues.