



CANADA )  
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PROVINCE OF SASKATCHEWAN )  
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TO WIT: )

**IN THE MATTER OF *THE LEGAL PROFESSION ACT, 1990*  
AND IN THE MATTER OF  
William Zion Brown, of La Ronge, Saskatchewan, A LAWYER**

**The Law Society of Saskatchewan  
Discipline Decision 08-06  
William Zion Brown, of La Ronge, Saskatchewan**

**DECIDED: December 4, 2008**

Alan G. McIntyre on behalf of The Law Society of Saskatchewan  
Garrett Wilson, Q.C. on behalf of William Zion Brown

## **Jurisdiction**

The Law Society of Saskatchewan was established in 1907, and governs the legal profession in the Province of Saskatchewan under *The Legal Profession Act, 1990*. Its Board of Directors, called Benchers, consists of 17 persons elected from various constituencies in the Province, 4 non-lawyer members of the public appointed by the Lieutenant Governor in Council and the Dean of the College of Law.

The disciplinary process is usually undertaken on the basis of complaints received from clients, members of the public or other lawyer. The Law Society of Saskatchewan does initiate its own investigations where information comes to its attention which indicates inappropriate or unprofessional behaviour.

Conduct unbecoming is defined as “*any act or conduct, whether or not disgraceful or dishonourable, that (1) is inimical to the best interests of the public or the members; or (2) tends to harm the standing of the legal profession generally.*”

The penalty options available to the Benchers in sentencing a member who has been found guilty of conduct unbecoming range from a reprimand, fine, the imposition of practice conditions, suspension, resignation in the face of discipline to disbarment. The Law Society does not have the jurisdiction to award damages against a member, but may require the member to return property or funds to its owner or to pay The Law Society’s costs of the discipline process.

## **Procedural History**

Pursuant to section 47(1) of *The Legal Profession Act, 1990*, Richard Danyliuk, Q.C., Vice-Chair of the Discipline Committee of the Law Society of Saskatchewan, having received the report of an Investigation Committee comprised of George Thurlow, Q.C. and Michael Fisher, Q.C., appointed a Hearing Committee to determine whether or not William Zion Brown was guilty of conduct unbecoming a lawyer.

On September 23, 2008, at the request of Mr. Brown and counsel for the Law Society, the Hearing Committee convened at Humboldt, Saskatchewan, via telephone conference call. In attendance was Mr. Brown, Alan G. McIntyre representing the Law Society of Saskatchewan Investigation Committee, and Mr. Brown's counsel, Garrett Wilson, Q.C. Counsel for the parties acknowledged and agreed to the constitution and jurisdiction of the Hearing Committee and agreed to proceed by way of telephone conference. Counsel for the Investigation Committee tendered the Formal Complaint, dated March 29, 2007, the Notice of Hearing, and an Amended Formal Complaint, together with proof of service. With the consent of counsel on behalf of Mr. Brown, the Amended Formal Complaint and the Notice of Hearing were made Exhibits P1 and P2 respectively.

Mr. Brown entered guilty pleas to each of the allegations as set out in the Amended Formal Complaint. The guilty pleas were to the following:

1. Is guilty of conduct unbecoming a lawyer in that he did breach his undertaking to his clients that he would only disburse mortgage funds held by him upon the satisfaction of certain conditions, which conditions were not satisfied in respect of the following matters:
  - (a) M; and
  - (b) P
  
2. Is guilty of conduct unbecoming a lawyer in that he failed to provide an adequate level of service to his clients by failing to provide a final solicitor's report as required in respect of the following matters:
  - (b) VdV; and
  - (c) H
  
5. Is guilty of conduct unbecoming a lawyer in that he misled his clients by advising that there were no encroachments on a particular property when there were in fact encroachments in respect of the following matters:

- (b) T
6. Is guilty of conduct unbecoming a lawyer in that he breached an undertaking made by letter dated October 9, 2001 to I.G. that he would provide a report within 60 days by not providing said report of title to I.G.M.C. within 60 days.

The Hearing Committee accepted the allegations as well founded. The Hearing Committee declined to make a sentencing recommendation and, pursuant to section 51 of *The Legal Profession Act*, the matter was referred to the Benchers of the Law Society of Saskatchewan at their Convocation held on December 5, 2008.

On December 4, 2008, the Discipline Committee consisting of the Benchers convened a hearing at Convocation in the City of Regina, in the Province of Saskatchewan. The Law Society Investigation Committee was represented by Alan G. McIntyre and Mr. Brown was represented by Garrett Wilson, Q.C. The report of the Hearing Committee from Mr. Will, the Agreed Statement of Facts, and Agreed Statement of Costs were entered as exhibits at the hearing. Convictions were entered by the Discipline Committee on all four charges.

A quorum of Benchers was established at the Hearing. There was no objection to the jurisdiction or composition of the Discipline Committee. There were no preliminary motions or other objections. The Discipline Committee received submissions as to sentencing.

The Agreed Statement of Facts is part of the record. As to each count, the material facts are summarized below:

**Charge #1 - Is guilty of conduct unbecoming a lawyer in that he did breach his undertaking to his clients that he would only disburse mortgage funds held by him upon the satisfaction of certain conditions, which conditions were not satisfied in respect of the following matters:**

- (a) M; and  
(b) P

In relation to client M, Mr. Brown provided an interim report to a banking institution certifying that all registered restrictions or building zoning bylaws and regulations in provincial statutes would have been complied with and that there were no easements, encroachments or encumbrances or other qualifications, including taxes, and no matters existing which were detrimental to the security nor to the marketability of title. He provided duplicate original copies of the mortgage survey of the property or notice of title insured mortgage form. There was no surveyor's certificate or title insurance in place when the interim report was filed.

In relation to client P, Mr. Brown filed a solicitor's interim report requisition for funds when he had neither a surveyor's certificate nor title insurance when the revised mortgage approval form in relation to survey requirements required a plan of survey or surveyor's certificate. Approximately five years later, when preparing a Final Report for the banking institution, Mr. Brown searched the title to property and found that it had been registered to a new owner and therefore concluded that the banking institution would no longer require his final report.

**Charge #2 - Is guilty of conduct unbecoming a lawyer in that he failed to provide an adequate level of service to his clients by failing to provide a final solicitor's report as required in respect of the following matters:**

(b) **VdV; and**

(c) **H**

In relation to Client VdV, Mr. Brown's instructions from the banking institution included the requirement that he provide a Final Solicitor's Report. Mr. Brown never did so.

With respect to Client H, Mr. Brown prepared a final report for the banking institution, as required by that institution, but did not submit it, notwithstanding his instructions from the banking institution.

Approximately three years later, Mr. Brown searched title to the property and found it to be registered to a new owner. He concluded that the banking institution would no longer require his final report.

**Charge #5 - Is guilty of conduct unbecoming a lawyer in that he misled his clients by advising that there were no encroachments on a particular property when there were in fact encroachments in respect of the following matters:**

**(b) T**

With respect to Client T, in filing a Solicitor's Interim Report to a banking institution, Mr. Brown indicated, in part, that there were no easements, encroachments, encumbrances, or other qualifications (including taxes) except as noted. The only noted exception was a utility easement. When the solicitor's certificate was obtained, it was determined that a garage was too close to the property line and constituted an encroachment, contrary to Mr. Brown's representation in his interim report.

**Charge #6 - Is guilty of conduct unbecoming a lawyer in that he breached an undertaking made by letter dated October 9, 2001 to I.G. that he would provide a report within 60 days by not providing said report of title to I.G.M.C. within 60 days.**

Mr. Brown provided an undertaking to I.G. that he would provide a report within 60 days of October 9, 2001, but did not provide a report in that time frame. Approximately four years later, Mr. Brown searched title to the property and found that it was registered to a new owner and that the mortgage that he had prepared had been discharged. Mr. Brown concluded that I.G. would no longer require or want his final report.

## **Sentencing Principles and Considerations**

The prevalent theme to all charges before the Benchers is dilatory practice. With respect to all charges, it appears that Mr. Brown did not appreciate the various banking institutions involved were his clients and that he owed each of his clients an obligation to fulfill his undertakings, to follow their instructions and to otherwise protect their interests.

These matters came to the attention of the Law Society in the course of a practice review. There was no evidence or allegation that any of Mr. Brown's clients sustained any damages or were negatively impacted. There was no evidence of sharp practice or improper motive on the part of Mr. Brown.

His failure to fulfill the undertakings given to his clients stems from a dilatory approach to this aspect of his practice, and a problem he has since avoided by declining similar work.

The dilatory failure to fulfil his undertakings becomes conduct unbecoming because it involves a breach of, or failure to, fulfill an undertaking and other commitments to a client. The public is entitled to rely on lawyers to keep their undertakings, as this is an essential tool of commerce that is founded on a lawyer's commitment. The public must have confidence that lawyers will perform their part of any transactions that are necessarily dependant on the value added by the lawyer.

Where the lawyer's misconduct compromises the public's confidence in the legal profession, the sentencing objective must restore the public confidence and, where necessary, protect the public from further harm.

In considering the appropriate penalty within the range of outcomes established by the jurisprudence, the Discipline Committee has considered the factors and approach to

sentencing articulated in the Alberta Hearing Guide and the decision of the Law Society of British Columbia in *Law Society v. Olivie*<sup>1</sup>.

### **Conclusion**

There is no doubt Mr. Brown failed in these duties, but in circumstances where there is little risk of recurrence. The misconduct stems from dilatory practice. There was no element of recklessness or deliberateness. Mr. Brown has accepted responsibility by entering a guilty plea. He cooperated with the Law Society, made changes to his practice and has shown remorse.

The misconduct in this case is appropriately denounced by a penalty at the low end of the similar cases referred to us by counsel.

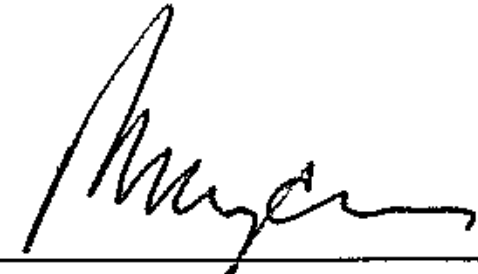
### **Penalty**

It is ordered that:

1. Mr. Brown be reprimanded; and
2. Mr. Brown shall pay costs in the amount of \$7,947.53 to the Law Society of Saskatchewan by December, 2009.

DATED at the City of Regina in the Province of Saskatchewan this 20<sup>th</sup> day of April, 2012.

Per: \_\_\_\_\_

  
Paul H.A. Korpan, Q.C.  
Chair, Discipline Committee

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<sup>1</sup> [2002] L.S.D.D. No 24, 2001 LSBC 32