



The Law Society of Saskatchewan

WILLIAM KEVIN ROGERS

April 14, 2011

Law Society of Saskatchewan v. Rogers, 2011 SKLSS 9

**IN THE MATTER OF THE LEGAL PROFESSION ACT, 1990
AND IN THE MATTER OF WILLIAM KEVIN ROGERS,
A LAWYER OF SASKATOON, SASKATCHEWAN**

DISCIPLINE SENTENCING DECISION

1. William Kevin Rogers appeared before the Benchers at Convocation on the 14th day of April, 2011 at Saskatoon, Saskatchewan seeking permission of the Benchers under Rule 400(3) to resign in the face of discipline.
2. Mr. Rogers was represented by Mr. William H. Roe, Q.C. The Investigation Committee was represented by Mr. Tim Huber. There was no objection to the jurisdiction or compensation of the panel of Benchers hearing the application. There were no preliminary applications or other issues raised by counsel. A quorum of the Benchers was confirmed by the Chair.
3. The exhibits entered by agreement included a letter from Mr. Rogers dated April 14, 2011, the correspondence from the Conduct Investigation Committee, the Agreed Statement of Facts and Admissions dated the 26th of January, 2011 and the report from Mr. Rogers' counsellor dated March 11, 2011.
4. By way of joint submission, both counsel urged the Benchers to permit Mr. Rogers to resign on that basis.
5. The relevant rule is Rule 400 which provides:

Review by Conduct Investigation Committee

400. (1) The Conduct Investigation Committee:

- (a) shall promptly review any complaint submitted to it by complaints counsel, by the Chairperson of the Professional Standards Committee, by the Complainants' Review Committee or by the Ethics Committee; and
- (b) may investigate any conduct of a member that may constitute conduct unbecoming, and may make or authorize whatever inquiries and investigations it considers desirable.
- (c) may investigate any other matter that comes to its attention during the course of an investigation, that could potentially constitute conduct unbecoming.

- (d) shall complete an inquiry or investigation under this rule as soon as practicable.
- (2) Upon completion of the review or investigation, the Conduct Investigation Committee shall provide a report:
 - (a) directing that no further action be taken, if it is of the opinion that the complaint does not constitute conduct unbecoming;
 - (b) inviting the member to meet with an Informal Conduct Review Committee under Rule 401;
 - (c) referring the complaint to the Ethics Committee or the Professional Standards Committee;
 - (d) directing the Chair of Discipline to appoint a Hearing Committee under 47(1) of the *Act*, to hear and determine a formal complaint.
- (3) The Conduct Investigation Committee shall advise the member and the complainant, in writing, of the action taken under subrule (2).
 - (a) **if during the course of an investigation by a Conduct Investigation Committee, a member requests permission to resign, the Conduct Investigation Committee may, prior to completing its investigation, recommend that the Benchers accept the member's resignation as a resignation in the face of discipline or as a simple resignation;**
 - (b) prior to making a recommendation pursuant to (a) above, the Conduct Investigation Committee may require the member to enter into an Agreed Statement of Facts to be provided to the Benchers and further, may recommend that the Benchers impose conditions;
 - (c) conditions imposed by the Benchers may include a time period of up to 5 years during which the member will not re-apply and further, upon any application for re-admission, the Agreed Statement of Facts will be considered;
 - (d) if the Benchers accept a resignation pursuant to this sub clause, notice shall be published in the same manner and to the same persons as required by Rule 495;
 - (e) **the Benchers may accept an application for resignation as a simple resignation or as a resignation in the face of discipline or reject the application pending the completion of the discipline process;**
 - (f) nothing in this rule affects the ability of the Hearing Committee to permit a member to resign as a penalty pursuant to section 53(3)(a)(vii) of *The Legal Profession Act, 1990*. [Emphasis added]

PROCEDURAL HISTORY

6. At all material times Mr. Rogers was a practicing member of the Law Society of Saskatchewan and was subject to the provisions of *The Legal Profession Act, 1990* (the "Act") and the *Rules of the Law Society of Saskatchewan* (the "Rules").

7. The Law Society investigated the practice of Mr. Rogers as a result of two complaints in relation to estate matters where he represented the executor. Both complaints related to Canada Savings Bonds that were missing or could not be accounted for. Other anomalies were identified during a review of the estate files. Further investigation revealed more serious problems. At the request of the Law Society Mr. Rogers signed an undertaking on the 1st of November, 2009 to not practice law. He has not practiced law since that date.

FACTS

8. In support of his application for permission to resign Mr. Rogers admitted to the relevant facts, portions of which are excerpted are reproduced:

Complaint of G.E. and Failure to Respond to the Law Society

6. One of the two complaints that originated the investigation into [Mr. Rogers] was the complaint of G.E. Mr. E's complaint concerned the handling of his father's estate. [Mr. Rogers] was hired in November 2006 to assist in settling the estate. Unfortunately, the estate had not been finalized more than 27 months later. The date of the complaint was February 11, 2009. Mr. E also complained that [Mr. Rogers] had repeatedly failed to respond to numerous telephone and email messages.
7. The Law Society had similar difficulty in getting a prompt response from [Mr. Rogers]. The Law Society sent letters on February 17, 2009, March 3, 2009 and March 17, 2009, before any response was received from [Mr. Rogers]. [Mr. Rogers] then advised that the only item that remained outstanding in the estate was to finalize the proper amount of interest in relation to \$6,000.00 in Canada Savings Bonds. The bonds were delivered to [Mr. Rogers] by CIBC on April 3, 2007.
8. [Mr. Rogers] admitted that Mr. E was quite justified in his displeasure over communication in this matter and advised he would be in touch with Mr. E within three weeks of the date of his letter (March 25, 2009). As of July 17, 2009, Mr. E had still not heard from [Mr. Rogers].
9. On April 7, 2009 the second complaint in relation to [Mr. Rogers'] dealings with Canada Savings Bonds was received by the Law Society. The complaint pertained to the Estate of J.H. This prompted an in-person visit from Mr. Allen to [Mr. Rogers'] Saskatoon office. [Mr. Rogers] told Mr. Allen that he had the bonds but had been delayed in dealing with them because of his "burnout" occasioned by a busy real estate practice.
10. On April 22, 2009, Mr. Allen wrote [Mr. Rogers] outlining his expectations relative to further information required to complete his audit with respect to the E estate and one other estate. Mr. Allen wrote follow up letters on:
 - May 22, 2009 - requesting response by June 5, 2009;
 - June 10, 2009 - requesting response by June 24, 2009;
 - June 10, 2009 - requesting monthly updates;
 - July 31, 2009 - requesting response by August 10, 2009; and
 - August 12, 2009 - requesting response by August 30, 2009.
11. During this time, Mr. Allen did receive 2 letters from [Mr. Rogers] dated June 23, 2009 and August 10, 2009. However, neither represented a substantive response.
12. On September 15, 2009, [Mr. Rogers] was sent a letter from the Law Society asking him to address his failure to respond to Mr. Allen. No response was received. A second letter was sent October 8, 2009. Again no response was forthcoming from [Mr. Rogers]. A third letter was sent October 15, 2009 advising of the Law Society's concern with his lack of response and that if a response was not received forthwith, this matter may be referred to the Discipline

Committee. The last letter was copied to Terry Kimpinski, a partner in [Mr. Rogers'] firm.

13. As a result of the complaints [Mr. Rogers] became involved with the Professional Standards Committee Practice Advisor, Rod MacDonald. On November 2, 2009, Rod MacDonald met with [Mr. Rogers] and upon reviewing [Mr. Rogers'] accounts noticed that a cheque for \$6,000.00 had been drawn from the firm's general account on March 11, 2008. Mr. MacDonald noticed that on the account ledger, every other general cheque had a designation for what the cheque was for but not in this instance. When questioned, [Mr. Rogers] claimed he did not remember the details of the \$6,000.00 payment.
14. It was later determined that [Mr. Rogers] misplaced the bond certificates and, rather than having them reissued, paid the beneficiaries from his firm's general account. Subsequently the firm has made an application to have the bonds replaced with the intention of reimbursing the firm for the money [Mr. Rogers] had taken out of the firm's general account.

R.M. Estate

15. After the initial concerns about [Mr. Rogers] were expressed to Mr. Kimpinski by the Law Society in November 2009, Mr. Kimpinski agreed to conduct an audit of [Mr. Rogers'] files.
16. During the audit anomalies were identified in relation to the R.M. Estate R.M. passed away on May 16, 2007 at the age of 50 in a motor vehicle accident. [Mr. Rogers] was retained by the administrators of the estate to provide assistance with the estate including the payment of outstanding debts. The process of contacting creditors and dealing with outstanding debts did not move quickly, nor did [Mr. Rogers'] application for Letters of Administration.
17. On October 3, 2007 counsel on behalf of GMAC, issued a demand letter for \$32,702.34 for an outstanding contract on the vehicle that had been damaged in the fatal accident.
18. [Mr. Rogers] filed the Application for Letters Administration on February 5, 2008. The application was received on February 14, 2008. [Mr. Rogers] did nothing to correct the deficiencies in the application.
19. From April 1, 2008 to September 2009 [Mr. Rogers] was contacted repeatedly in relation to progress of the Estate by the proposed administrator and creditors, specifically counsel for GMAC. [Mr. Rogers] provided little or no substantive response to these enquiries and did little or no work on the file during this period.
20. Ultimately, the pressure from GMAC was sufficient to prompt [Mr. Rogers] to issue a check from his firm's general account to counsel for GMAC in the amount of \$17,000.00 to stave off proceedings against the estate. This payment from the firm's general account was done without the permission of the firm or the knowledge of any other member of the firm and represents a misappropriation of firm funds.

21. On November 30, 2009, as part of a firm audit of [Mr. Rogers'] files, the \$17,000.00 payment from the firm's general account came to the attention of Terry Kimpinski. At this point [Mr. Rogers] agreed to go on a leave of absence and undertook not to practice law. The R.M. Estate was referred to another firm.
22. The new firm then attempted to obtain a copy of the Letter's [sic] of Administration from the Court of Queen's Bench in Saskatoon. It was later determined by the Law Society that a copy of the Letters of Administration that had been on the file and provided to opposing counsel had been fabricated by [Mr. Rogers] by way of a "cut and paste" from other documents.
23. By preparing and utilizing the fabricated letters of administration, [Mr. Rogers] had misled counsel for GMAC, SGI, his client, successor counsel to his client and the members of his firm.

R.P. Inc.

24. [Mr. Rogers] was retained to represent R.P. Inc. in relation to a foreclosure proceeding against the G. family in approximately June of 2006.
25. During the time when [Mr. Rogers] represented R.P. Inc., [Mr. Rogers] misled his client as to the status of the foreclosure proceeding. [Mr. Rogers] experienced difficulties in obtaining leave to commence foreclosure proceedings from the Court. Rather than pursue leave to commence through the proper channels, [Mr. Rogers] lied to his clients and advised them that leave to commence had in fact been granted.
26. To further his misrepresentations to this client [Mr. Rogers] also prepared a fabricated Statement of Claim by means of cutting and pasting portions from other documents. The fabricated claim, complete with a cut and paste copy of the deputy registrar's issuing stamp indicated that it had been issued out of the Court of Queen's Bench in the Judicial Centre of Battleford as action number QBG 984 of 2007. No record of such a claim exists at the Battleford Court of Queen's Bench.
27. During this period [Mr. Rogers] was misleading his client with regard to the existence of the action and the status of their file. [Mr. Rogers] went so far as to advise the clients that he had been contacted by opposing counsel, Member A, in relation to a Notice of Intent to Defend and ultimately a Statement of Defence in the matter. [Mr. Rogers] fabricated the Notice of Intent to Defend, the Statement of Defence and the correspondence of Member A. In each case the documents were prepared by cutting and pasting information from other documents. [Mr. Rogers'] intention in preparing these documents was to continue to deceive the client as to the status of the matter. [Mr. Rogers] had no legitimate connection with the R.P. Inc. matter.
28. The charade continued for approximately 3 years. During this period [Mr. Rogers], in addition to preparing fake documents associated with the matter, was in constant communication with his client and in every instance the communications furthered the ruse. These communications included details pertaining to several chambers applications court appearances and other steps pertaining to the proceedings that [Mr. Rogers] had never completed.

B.A. Inc.

29. In the spring of 2006 [Mr. Rogers] was retained to collect a debt for B.A. Inc., in relation to G.F. Ltd.
30. A Statement of Claim was issued by [Mr. Rogers] but was never properly served upon all defendants. Garnishee proceedings were instituted. After difficulty with the garnishee proceedings [Mr. Rogers] began to mislead B.A. Inc. as to the status of the proceeding.
31. In much the same manner as was done on the R.P. Inc. file, [Mr. Rogers] began misleading the client as to the status of the file including misrepresentations in relation to chambers applications and other steps in the proceeding that had never in fact been completed.

H.M.G. Inc.

32. [Mr. Rogers] was retained in 2006 to handle a foreclosure action on behalf of his client H.M.G. Inc. [Mr. Rogers] began the preliminary steps for the foreclosure action on August 16, 2006 when he first applied for an appointment to set an application for leave to commence the action. Various appearances were made on this matter but leave to commence the action was never granted by the Court.
33. Ultimately, [Mr. Rogers] fabricated a Statement of Claim in relation to the matter, complete with a fabricated issuing stamp of the deputy registrar. This document was prepared by cutting and pasting information from previously issued documents into a Statement of Claim that he had prepared.
34. Later in the proceeding [Mr. Rogers] also fabricated a Statement of Defence purporting to be signed by another lawyer, Member B. Member B was completely unrelated to the matter. [Mr. Rogers] created the Statement of Defence and forged the signature of Member B.
35. The preparation of the fabricated Statement of Claim and forged Statement of Defence was intended to deceive [Mr. Rogers'] client as to the status of the foreclosure proceeding. [Mr. Rogers] later advised the client that he was preparing for an application to strike the Statement of Defence which he himself had forged.
36. Throughout the process that lasted approximately 3 years, [Mr. Rogers] actively deceived H.M.C. Inc. [*sic*] as to the progress on the file which, in reality, had not yet progressed past the application for leave to commence stage.

9. The evidence of Mr. Rogers' counsellor indicated he was severely depressed, overwhelmed by the burdens of his practice and unable to ask for help. According to his counsellor he has made significant progress in recovering his wellbeing since his suspension. He was gainfully employed at the University of Saskatchewan as a contract specialist performing due diligence work. He was compliant with his recovery program. According to his counsel, Mr. Rogers was remorseful and fully aware his resignation would be equivalent to disbarment, and would become a matter of public record. He stated that Mr. Rogers had "no desire to be readmitted, but understands it will be an arduous process (if he does)".

10. His counsel acknowledged that the misconduct itself may have warranted disbarment had charges been laid.

ANALYSIS

11. The controlling test in cases involving sentencing based on a joint submission is contained in the Court of Appeal's decision in *Rault v. Law Society of Saskatchewan*¹. The Court held that a joint submission should not be rejected unless it is unfit, unreasonable or contrary to the public interest and there are good and cogent reasons for so doing.

12. The Benchers were urged by counsel to appreciate that resignation is equivalent to disbarment and is a just and fit outcome. Counsel suggested the public interest is served because Mr. Rogers will not practice law and the decision will become a matter of public record. In the submission of both counsel, there was no good or cogent reason to depart from the joint submission. We were referred to the previous decision of the Benchers in the matter *W. Arliss Dellow*, where Mr. Dellow falsely reported the status of court proceedings on numerous occasions, gave false reasons for the cancellation of court hearings, but filed no documents to protect his client's rights or to preserve matrimonial assets. In an unrelated matter, Mr. Dellow acted on the sale of farm land and equipment. He neglected to prepare and file appropriate documents. He paid out trust funds before security was in place. He provided false statements to the Law Society. Like Mr. Rogers, Mr. Dellow was also suffering from depression. He was given permission by the Benchers to resign in the face of discipline.

13. In this case, the Benchers considered these factors:

- (a) The misconduct is serious and reflects adversely upon the integrity of Mr. Rogers and the profession generally;
- (b) The public is protected from further harm by Mr. Rogers by a resignation being equivalent to disbarment; and
- (c) Where the outcome is equivalent to disbarment, there is a measure of censure sufficient to achieve the objective of denunciation and general deterrence.

14. Counsel for the Law Society suggested little would be gained by a hearing as the permission requested by Mr. Rogers was equivalent to a disbarment in any event.

15. The Benchers were asked to prescribe the minimum period of time under Section 53(3)(a)(i) of the Act before Mr. Rogers would be eligible to apply for readmission. Mr. Huber urged us to prevent any application before the maximum 5 year period. We were urged by counsel for the Investigation Committee of the Law Society to create a bar against an application for readmission that would allow time to determine the impact of Mr. Rogers' conduct on the public, and the scope and quantum of any liability claim against Mr. Rogers.

¹ 2009 SKCA 81, paras. 13 – 19.

16. The Benchers were satisfied that the public was adequately protected by permitting the resignation in the face of discipline as equivalent to disbarment, without a full hearing and sentencing by the Benchers.

17. In fixing the minimum period of time before Mr. Rogers is eligible to apply for readmission the Benchers were mindful of the interim suspension served pursuant to Mr. Rogers' undertaking to not practice made the 1st day of November, 2009. In determining this aspect of the decision the Benchers considered the need to continue to protect the public and to consider the likelihood of recurrence.

18. Having regard to these considerations, a 3 year bar against an application for readmission is appropriate. This determination is merely an administrative barrier to an application for readmission and in no way represents a predetermination of Mr. Rogers' suitability for readmission at that time. That decision must be made upon the application of the appropriate test by the Committee of the Benchers having jurisdiction to do so in the context of any such application.

19. The Benchers were not asked to make any order as to costs and therefore declined to do so.

DECISION

1. Permission is given to Mr. Rogers to resign pursuant to Rule 400(3)(a) in the face of discipline, on the basis such resignation is equivalent to disbarment.

2. Our discretion is exercised under 400(3)(c) to impose, as a condition of such permission, a prohibition against any application for readmission for 3 years from April 4, 2011.

3. There is no order as to costs.

AGREED STATEMENT OF FACTS AND ADMISSIONS

JURISDICTION

1. William Kevin Rogers (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. After the Law Society of Saskatchewan began an investigation in relation to complaints of conduct unbecoming, the Member, at the request of the Law Society, signed an undertaking not to practice law on November 1, 2009. He has not practiced law since that date.

3. The Member is now seeking permission to resign in the face of discipline. He is aware that pursuant to the Rules of the Law Society of Saskatchewan, such a resignation is deemed to be equivalent to disbarment.

4. In support of his application, the Member admits the statements and facts contained herein.

PARTICULARS OF CONDUCT

5. The investigation into the practice of this Member arose as a result of two complaints in relation to estate matters. Both complaints related to Canada Savings Bonds that were either missing or unaccounted for. A review of the estate files occurred and anomalies were identified. After further investigation into the Member's practice, more serious problems were revealed. The following is a summary of the Member's conduct as discovered during the investigation.
Complaint of G.E. and Failure to Respond to the Law Society

6. One of the two complaints that originated the investigation into the Member was the complaint of G.E. Mr. E's complaint concerned the handling of his father's estate. The Member was hired in November 2006 to assist in settling the estate. Unfortunately, the estate had not been finalized more than 27 months later. The date of the complaint was February 11, 2009. Mr. E also complained that the Member had repeatedly failed to respond to numerous telephone and email messages.

7. The Law Society had similar difficulty in getting a prompt response from the Member. The Law Society sent letters on February 17, 2009, March 3, 2009 and March 17, 2009, before any response was received from the Member. The Member then advised that the only item that remained outstanding in the estate was to finalize the proper amount of interest in relation to \$6,000.00 in Canada Savings Bonds. The bonds were delivered to the Member by CIBC on April 3, 2007.

8. The Member admitted that Mr. E was quite justified in his displeasure over communication in this matter and advised he would be in touch with Mr. E within three weeks of the date of his letter (March 25, 2009). As of July 17, 2009, Mr. E had still not heard from the Member.

9. On April 7, 2009 the second complaint in relation to the Member's dealings with Canada Savings Bonds was received by the Law Society. This complaint pertained to the Estate of J.H. This prompted an in-person visit from Mr. Allen to the Member's Saskatoon office. The Member told Mr. Allen that he had the bonds but had been delayed in dealing with them because of his "burnout" occasioned by a busy real estate practice.

10. On April 22, 2009, Mr. Allen wrote to the Member outlining his expectations relative to further information required to complete his audit with respect to the E estate and one other estate. Mr. Allen wrote follow-up letters on:

- May 22, 2009 – requesting response by June 5, 2009;
- June 10, 2009 – requesting response by June 24, 2009;

- June 10, 2009 – requesting monthly updates;
- July 31, 2009 – requesting response by August 10, 2009; and
- August 12, 2009 – requesting response by August 30, 2009.

11. During this time, Mr. Allen did receive 2 letters from the Member dated June 23, 2009 and August 10, 2009. However, neither represented a substantive response.

12. On September 15, 2009, the Member was sent a letter from the Law Society asking him to address his failure to respond to Mr. Allen. No response was received. A second letter was sent October 8, 2009. Again no response was forthcoming from the Member. A third letter was sent October 15, 2009 advising of the Law Society's concern with his lack of response and that if a response was not received forthwith, this matter may be referred to the Discipline Committee. The last letter was copied to Terry Kimpinski, a partner in the Member's firm.

13. As a result of the complaints the Member became involved with the Professional Standards Committee Practice Advisor, Rod MacDonald. On November 2, 2009, Rod MacDonald met with the Member and upon reviewing the Member's accounts noticed that a cheque for \$6,000.00 had been drawn from the firm's general account on March 11, 2008. Mr. MacDonald noticed that on the account ledger, every other general cheque had a designation for what the cheque was for but not in this instance. When questioned, the Member claimed he did not remember the details of the \$6,000.00 payment.

14. It was later determined that the Member misplaced the bond certificates and, rather than having them reissued, paid the beneficiaries from his firm's general account. Subsequently the firm has made an application to have the bonds replaced with the intention of reimbursing the firm for the money the Member had taken out of the firm's general account.

R.M. ESTATE

15. After the initial concerns about the Member were expressed to Mr. Kimpinski by the Law Society in November 2009, Mr. Kimpinski agreed to conduct an audit of the Member's files.

16. During the audit anomalies were identified in relation to the R.M. Estate. R.M. passed away on May 16, 2007 at the age of 50 in a motor vehicle accident. The Member was retained by the administrators of the estate to provide assistance with the estate including payment of outstanding debts. The process of contacting creditors and dealing with outstanding debts did not move quickly, nor did the Member's application for Letters of Administration.

17. On October 3, 2007 counsel on behalf of GMAC, issued a demand letter for \$32,702.34 for an outstanding contract on the vehicle that had been damaged in the fatal accident.

18. The Member filed the Application for Letters Administration on February 5, 2008. The application was rejected on February 14, 2008. The Member did nothing to correct the deficiencies in the application.

19. From April 1, 2008 to September 2009 the Member was contacted repeatedly in relation to progress of the Estate by the proposed administrator and creditors, specifically counsel for

GMAC. The Member provided little or no substantive response to these enquiries and did little or no work on the file during this period.

20. Ultimately, the pressure from GMAC was sufficient to prompt the Member to issue a check from his firm's general account to counsel for GMAC in the amount of \$17,000.00 to stave off proceedings against the estate. This payment from the firm's general account was done without the permission of the firm or the knowledge of any other member of the firm and represents a misappropriation of firm funds.

21. On November 30, 2009, as part of a firm audit of the Member's files, the \$17,000.00 payment from the firm's general account came to the attention of Terry Kimpinski. At this point the Member agreed to go on a leave of absence and undertook not to practice law. The R.M. Estate file was referred to another firm.

22. The new firm then attempted to obtain a copy of the Letter's of Administration from the Court of Queen's Bench in Saskatoon. It was later determined by the Law Society that a copy of the Letters of Administration that had been on the file and provided to opposing counsel had been fabricated by the member by way of a "cut and paste" from other documents.

23. By preparing and utilizing the fabricated letters of administration, the Member had misled counsel for GMAC, SGI, his client, successor counsel to his client and the members of his firm.

R.P. INC.

24. The Member was retained to represent R.P Inc. in relation to a foreclosure proceeding against the G. family in approximately June of 2006.

25. During the time when the Member represented R.P. Inc., the Member misled his client as to the status of the foreclosure proceeding. The Member experienced difficulties in obtaining leave to commence foreclosure proceedings from the Court. Rather than pursue leave to commence through the proper channels, the Member lied to his clients and advised them that leave to commence had in fact been granted.

26. To further his misrepresentations to this client the Member also prepared a fabricated Statement of Claim by means of cutting and pasting portions from other documents. The fabricated claim, complete with a cut and paste copy of the deputy registrar's issuing stamp, indicated that it had been issued out of the Court of Queen's Bench in the Judicial Centre of Battleford as action number QBG 984 of 2007. No record of such a claim exists at the Battleford Court of Queen's Bench.

27. During this period the Member was misleading his client with regard to the existence of the action and the status of their file. The Member went so far as to advise the clients that he had been contacted by opposing counsel, Member A, in relation to a Notice of Intent to Defend and ultimately a Statement of Defence in the matter. The Member fabricated the Notice of Intent to Defend, the Statement of Defence and the correspondence of Member A. In each case the

documents were prepared by cutting and pasting information from other documents. The Member's intention in preparing these documents was to continue to deceive the client as to the status of the matter. Member A had no legitimate connection with the R.P. Inc. matter.

28. The charade continued for approximately 3 years. During this period the Member, in addition to preparing fake documents associated with the matter, was in constant communication with his client and in every instance the communications furthered the ruse. These communications included details pertaining to several chambers applications court appearances and other steps pertaining to the proceedings that the Member had never completed.
B.A. Inc.

29. In the spring of 2006 the Member was retained to collect a debt for B.A. Inc., in relation to G.F. Ltd.

30. A Statement of Claim was issued by the Member but was never properly served upon all defendants. Garnishee proceedings were instituted. After difficulty with the garnishee proceedings the Member began to mislead B.A. Inc. as to the status of the proceeding.

31. In much the same manner as was done on the R.P. Inc. file, the Member began misleading the client as to the status of the file including misrepresentations in relation to chambers applications and other steps in the proceeding that had never in fact been completed.
H.M.G. Inc.

32. The Member was retained in 2006 to handle a foreclosure action on behalf of his client H.M.G. Inc. The Member began the preliminary steps for the foreclosure action on August 16, 2006 when he first applied for an appointment to set an application for leave to commence the action. Various appearances were made on this matter but leave to commence the action was never granted by the Court.

33. Ultimately, the Member fabricated a Statement of Claim in relation to the matter, complete with a fabricated issuing stamp of the deputy registrar. This document was prepared by cutting and pasting information from previously issued documents into a Statement of Claim that he had prepared.

34. Later in the proceeding the Member also fabricated a Statement of Defence purporting to be signed by another lawyer, Member B. Member B was completely unrelated to the matter. The Member created the Statement of Defence and forged the signature of Member B.

35. The preparation of the fabricated Statement of Claim and forged Statement of Defence was intended to deceive the Member's client as to the status of the foreclosure proceeding. The Member later advised the client that he was preparing an application to strike the Statement of Defence which he himself had forged.

36. Throughout the process that lasted approximately 3 years, the Member actively deceived H.M.C. Inc. as to the progress on the file which, in reality, had not yet progressed past the application for leave to commence stage.

DISCIPLINE HISTORY

37. The Member has no prior discipline history.