



Law Society
of Saskatchewan

JAMES DELBER TURNER, Q.C.
HEARING DATE: December 18, 2019
DECISION DATE: February 13, 2020
Law Society of Saskatchewan v. Turner, 2020 SKLSS 1

IN THE MATTER OF *THE LEGAL PROFESSION ACT, 1990*
AND IN THE MATTER OF JAMES DELBER TURNER, Q.C.
A LAWYER OF ROSETOWN, SASKATCHEWAN

DECISION OF THE HEARING COMMITTEE FOR THE
LAW SOCIETY OF SASKATCHEWAN

Members of the Hearing Committee: Nolan Kondratoff (Chair)

Jill Drennan

Judy McCuskee

Counsel:

Timothy Huber for the Conduct Investigation Committee

Jessie Buydens for the Member

1. A hearing was conducted by teleconference on December 18, 2019 by a Hearing Committee comprised of Nolan Kondratoff (Chair), Jill Drennan, and Judy McCuskee. James Delbert Turner, Q.C. (“the Member”) was represented at the hearing by Jessie Buydens. Timothy F. Huber represented the Conduct Investigation Committee (the “CIC”). There were no objections to the constitution or jurisdiction of the Hearing Committee. There were no preliminary applications or objections.

2. The formal complaint against the Member, dated the 11th of July 2019, alleges the Member committed conduct unbecoming a lawyer in that he:

a. Did improperly fabricate a Transfer Authorization document in order to transfer a land title out of his client’s name, by cutting and pasting the client’s signature from another document;

b. Did mislead the Information Services Corporation by submitting, or causing to be submitted, a Transfer Authorization relating to the transfer of a land title that he had improperly fabricated by cutting and pasting his client’s signature from another document;

c. Did have his clients swear Affidavits purporting to exhibit documents that were not yet in existence; and

d. Did have his clients swear an Affidavit including information which he knew to be false.

(the "Formal Complaint")

3. At the hearing a copy of the Formal Complaint as well as an Acknowledgement of Service of the Formal Complaint was filed into evidence. Also, an agreed statement of facts (the "Agreed Statement of Facts") was filed into evidence by agreement between the parties (a copy of which is attached to this decision).

4. At the hearing, the Member entered guilty pleas to all counts contained in the Formal Complaint. The Hearing Committee accepted the guilty pleas and convened a hearing on sentence on the 18th day of December, 2019 by teleconference. At the conclusion of the hearing, the Hearing Committee indicated its intention to reserve its decision on sentence and render written reasons for sentence.

FACTS

5. The facts are set out in the full in the attached Agreed Statement of Facts. For reference, some of the more salient facts will be detailed below.

6. The Member was at all material times engaged in the practice of law. The Member practiced in a private practice in Rosetown, Saskatchewan.

7. In relation to counts 3 and 4 of the Formal Complaint, the Member had previously done work for a client E.M.J. Such work included E.M.J.'s last will and testament and power of attorney. E.M.J. passed away on November 19, 2015.

8. The Member also had a previous relationship with E.J. and K.J., the sons of E.M.J. There were some disputes that arose in relation to the estate of E.M.J. Once the majority of the issues were settled in relation to E.M.J.'s estate, the Member began to prepare an Application for Letters Probate in relation to E.M.J.'s estate.

9. E.M.J.'s last will named three Executors being R.A., K.J., and E.J.

10. Each of the Executors mentioned above swore affidavits referring to the Application for Probate and the Statement of Property contained in the probate documents prepared by the member to obtain letters probate for E.M.J.'s estate. R.A. did so on December 4, 2015, and K.J. and E.J. executed their Affidavits on January 4, 2016. The affidavits executed by the Executors had them swear that the Statement of Property and Application for Probate marked as exhibits were a true and correct listing of the deceased E.M.J.'s property (and its fair market value) at the date of her death.

11. In reality, the values of several assets had not been ascertained by the Member when the affidavits were sworn. The Statement as to Property and Application for Probate had a great deal of information missing and/or included several typos. The Member had the executors swear the affidavits despite the missing and incorrect information contained therein. Not only was the information not inserted/incorrect in the Statement as to Property and Probate Application, much of the information required from financial and other institutions to complete the said documents was not even requested by the Member's office until after the aforementioned affidavits had been sworn by the Executors. The Member admits that he had the executors sign the Application for Probate and complete Affidavits in support of the Application before he knew the valuation of the assets of the estate.

12. Once that information was received by the Member (which took several months), the Member modified the documents and back dated the exhibit stamps on the Statement of Property and Application of Probate and attached the same to the affidavit of the Executors.

13. The application for probate in relation to E.M.J.'s estate was initially rejected by the Court as the Member had requested a Certificate of No Infants be issued by the Local Registrar, despite there being minors receiving specific bequests under E.M.J.'s last will and testament. The Member then had the Executor E.J., execute an affidavit in support of the granting of a Certificate of No Infants which stated that several minor beneficiaries of E.M.J.'s estate had already received lump sum payments, paid to their respective parents, from E.M.J.'s estate, and in keeping with the bequests contained in E.M.J.'s will. The aforementioned affidavit was provided to the Court when the Application for Probate was resubmitted by the Member. Letters Probate were issued after the aforementioned re-submission by the Member.

14. In actuality, the lump sum payments to the minor beneficiaries were not made until June 16, 2017, about 8 months after the Member had his clients swear the aforementioned affidavit. The Member prepared the Affidavit for Certificate of No Infants and had his client swear it knowing it to be false.

15. In relation to counts 1 and 2 of the Formal Complaint, salient facts are that in addition to handling the estate matters of E.M.J., there was an issue with a home which E.M.J. owned jointly with her sisters.

16. Prior to her death, E.M.J. had indicated that her sisters had no claim to the house she held with her sisters. The Member reached out to the sisters of E.M.J., and the sisters agreed to transfer the aforementioned home to E.J. After instructing the Member to put the house into his name, E.J. contacted the Member and indicated that the transfer should not go through as E.J.'s wife, D.J., took issue with the house being transferred into E.J.'s name.

17. The Member had indicated to E.J. that the transfer had already been registered at ISC Land Titles and the home was now in E.J.'s name. The aforementioned conversations and transfers took place from mid to late June 2016, at which time E.J. was working out of town, and indicated that he could not return to the Member's office in order to execute transfer back to E.M.J.'s estate for the house in question.

18. The Member then cut and pasted E.J.'s signature, which was already on file, on to an ISC Transfer Authorization and Homestead Affidavit. The documents containing the cut and pasted signature of E.J. were submitted to ISC by the Member, despite them being fabricated.

SUBMISSIONS AS TO SENTENCE

19. Both Counsel for the CIC, and Counsel for the Member, made verbal submissions as to penalty and provided the Hearing Committee with written materials. The submissions were of great assistance to the Hearing Committee. Both Counsel acknowledged that the range of penalties for similar misconduct by lawyers has varied greatly, dependant on the facts of each case. Cases of forgery and/or fabrication by lawyers have resulted in penalties which range from a reprimand to disbarment. It should be noted that that the most severe punishment, disbarment, was not suggested as appropriate by either Counsel.

20. Counsel for the Conduct Investigation Committee indicated that a term of suspension of two (2) months, as well as costs of this hearing, would be an appropriate penalty for the misconduct of the Member. In suggesting the aforementioned penalty, Counsel for the CIC brought several examples of caselaw to the attention of the Hearing Committee including *The Law Society of Saskatchewan v. Ferraton*, 2014 SKLSS 2 (hereinafter "*Ferraton*"). In *Ferraton*, the Member fabricated an Interest Authorization by cutting and pasting the interest holder's signature from another document and submitted the same to ISC. In that case, the Member had entered into a business relationship with her client and the fabrication of the aforementioned document was done in the context of the business transaction. In that case, the sentence imposed was a one (1) months suspension plus costs.

21. Counsel for the CIC also provided the case *Law Society of Upper Canada v. Kimberly*, [2009] LSDD 10. In that case, the lawyer forged her client's signature on several affidavits in support of motions to extend a time period. While the lawyer in the *Kimberly* case had instructions to seek the extensions, she did not explain to her client that further sworn documents would be required, and the lawyer prepared, signed, and commissioned the aforementioned affidavits seeking said extensions and filed them with the Court. In that case, there was a joint submission for a two (2) month suspension, along with remedial programming and costs.

22. In relation to general sentencing principles which should be considered by the Hearing Committee in forgery/fabrication cases, Counsel for the CIC noted that it was found in *Law Society of British Columbia v. Begin*, [1993] LSDD 192, that while disbarment is not appropriate in every instance of forgery or fabrication by a lawyer, the Hearing Committee in the *Begin* case determined that if a lawyer is not disbarred for such misconduct, significant punitive measures should nonetheless be imposed.

23. While there are several other cases which deal with similar subject matter, Counsel for the CIC suggested that the aforementioned cases and principles were the most salient to the issues at hand. Counsel for the CIC also submitted that the key sentencing principles for the case at hand should be general deterrence to the profession from similar conduct, specific deterrence for the Member from repeating any of the objectionable conduct, as well as protection to the public by maintaining high professional standards of members, and preserving public confidence in the legal profession.

24. Counsel for the CIC also suggested aggravating factors were:

- a. that the conduct of the Member surrounding the fabrication of the Transfer Authorization and the pre-swearing of Affidavits was indicative of a pattern of behaviour by the Member who either did not understand or chose to wilfully ignore the importance of maintaining integrity of documents which originate from a lawyer;
- b. that such conduct formed a series of event over a period of more than a year;
- c. that the creation and utilization of these falsified documents would fiercely damage confidence in the institutions that rely on this integrity thereby putting the public as well as the very functioning of these institutions at risk.

25. Counsel for the CIC noted that some of the mitigating factors in relation to the Member are:

- a. that the Member has been fully cooperative in relation to the investigation by the CIC;

- b. the Member has plead guilty on all counts in relation to the formal complaint;
- c. The Member entered into an Agreed Statement of Facts in relation to the subject matter of this hearing;
- d. the Member been a lawyer for more than thirty-five (35) years and has no discipline record;
- e. while misguided, the actions appear to be in order to convenience his clients.

26. Counsel for the CIC was therefore seeking a sentence consisting of a two (2) month suspension as well as costs in relation to this hearing in the amount of \$4,050.00.

Submissions to sentence on behalf of the Member

27. Counsel for the Member also provided various case law to assist the Hearing Committee. Of note, Counsel for the Member spoke to the application of the *Ferraton* decision to the case at hand. Counsel for the Member indicated that *Ferraton* was distinguishable from the conduct of the Member, as in the *Ferraton* case, the lawyer had a personal interest in/or could receive a personal gain from, the fabrication of the document. Counsel for the Member indicated that in the case at hand there was no such benefit that could be conferred upon the Member, and his actions were done to convenience a difficult client.

28. Counsel for the Member also relied on the case *Law Society of Saskatchewan v. Martens* 2016 SKLSS 12. In that case, a Member had self-reported creating false documents and submitting them to ISC in order to lead ISC to believe that they had lost materials he had been instructed to file and had not. In that case, the Member ultimately left the practice of law for medical reasons and was given a global reprimand and costs in the amount of \$2,500.00. It should be noted that the aforementioned reprimand and fine were as a result of a joint submission by the Law Society and the Member.

29. Counsel for the Member in written and verbal submissions suggested several mitigating factors to be considered by the Hearing Committee, which include but are not limited to that:

- a. the Member does not have a previous record for discipline in his 36 year career;
- b. the Member did not have any personal gain from this transaction. The Member did said actions to convenience his client;
- c. the Member was dealing with a difficult client;
- d. no person suffered any harm from the Member's actions;
- e. the Member is remorseful;
- f. the Member accepted responsibilities for his actions;
- g. the Member has a long history of volunteerism and community involvement in Rosetown and the surrounding area;
- h. the Member has incurred a significant external penalty due to negative social media publicity over the disciplinary action.

30. In relation to the point in 29 h., and how specific deterrence should factor in to the penalty in this Hearing, Counsel for the Member submitted that in relation to specific deterrence, given that the Member practices in a small community, and given that the current hearing has been well known in the community where he practices, the negative effects to his practice are enough to suggest that the Member will not repeat any of the actions which are the subject of this hearing. In relation to general deterrence, Counsel for the Member also argued that the public sanctions already suffered by the Member, including the affect of related social media on him and his practice, were sufficient to meet the general deterrence aspect of the sentence, as Counsel for

the Member argued that the public, as well as other lawyers, will see the impact such conduct has had on the Member, and will dissuade others from similar actions.

31. Counsel for the Member submitted that a reprimand and costs as suggested by the Law Society be an appropriate sentence for the Member.

ANALYSIS

32. The primary consideration in relation to sentence is protection of the public. Also, of the utmost importance, is the need to maintain the public's confidence, and the integrity of the legal profession and practice of law through general and specific deterrence.

33. The Hearing Committee notes that there are several cases in which conduct, similar to the Member's in the case at hand, was seen to require a period of suspension. The *Ferraton* case resulted in the imposition of a one (1) month suspension plus costs. Distinguishing factors in the *Ferraton* case are that the Member did self-report the fabrication/forgery of documents when she was being investigated for entering into a business transaction with a client and the charge resulted from a single instance of document fabrication. The proceedings before us are the result of an investigation taken by the Law Society after a complaint had been received by the spouse of E.J. and the charges result from multiple instances.

34. The *Kimberly* decision resulted in a penalty consisting of a two (2) month suspension and costs. It should be noted though that in the *Kimberly* case, the aforementioned penalty was the result of a joint submission as to sentence, a mitigating factor which is not true in the case at hand.

35. The Hearing Committee also notes that another Saskatchewan decision being *Law Society of Saskatchewan v. Adsit* 2016 SKLAA 7 involved a Member attempting to forge another lawyer's signature on an Affidavit and attempting to deceive the Law Society. In that case, the Member entered guilty pleas and the Committee again accepted a joint submission for a two (2) month suspension and costs in the amount of \$1,500.00.

36. The case law indicates that, in general, a period of suspension is required in cases where a Member knowingly fabricates or forges documents. The case at hand, the Member has committed the additional unbecoming conduct in the Member having his clients sign documents which contained untrue or false statements and/or referred to documents which were not in existence when the affidavits were sworn. While Counsel for the Member cites the *Martens* decision as an example where reprimand and costs were imposed on a member for similar conduct, it should be noted that the *Martens* case was very fact dependent. A joint submission and the various factors that surrounded that case were key in acceptance by the Hearing Committee of that particular sentence. While a reprimand was given in that case, at para 44 of that decision it was specifically noted that;

"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."

Additionally, in *Martens*, the member had already left the legal profession and was not practicing due to medical reasons. The Hearing Committee only accepted the joint submission when an undertaking of the member was obtained to state that if he ever returned to the practice of law he would not do so as a sole practitioner. The particular fact scenario of *Martens* allowed the Hearing

Committee to feel the public was adequately being protected with that specific sentence in that specific scenario.

37. The Hearing Committee does not agree that such a fact scenario exists in this case. Lawyers have a very privileged role when it comes to dealing with the Court, as well as various bodies such as Information Services Corporation. With that privilege also comes the responsibility to ensure that documents that are submitted to these institutions are accurate and executed appropriately. One just needs to look at a standard ISC Transfer Authorization and note that if the witness to a Transfer Authorization is a lawyer, no more formal sworn documentation is needed by ISC. For all other witnesses, additional sworn evidence is required. The trust in documentation coming from lawyers is built into that very system. The integrity of those systems is threatened by any deviation from the high standards placed on a lawyer to adhere to the requirements of integrity, honesty, knowledge, skill, proficiency, and competency. Any such deviation not only threatens the protection of the public, but the public's perception of the profession and their trust in it.

38. While counsel for the Member suggest that the specific ramifications that the Member has felt in relation to his practice in his community are enough to both meet the requirements for specific deterrence and general deterrence, the Hearing Committee cannot agree with that submission. While the Member is regretful and, given the consequences of his actions, he may likely not re-offend, a general deterrent to other members of the profession for cavalier or reckless attitudes to the drafting, execution, and submission of documents that come from lawyers should take precedence. Both the public and the institutions like Information Services Corporation and the Court should have faith that documents produced by lawyers are genuine and authentic. Anything less could jeopardize the very functioning of these institutions and therefore serious sanctions are required in such cases.

39. With respect to the mitigating factor proposed by the Member's Counsel that there was a lack of harm suffered by any person, the Hearing Committee agrees there is no evidence that the Member's actions were motivated by an attempt to gain advantage from his clients or commit fraud. The Committee notes that falsified documents in such cases would often be considered worthy of disbarment. However, the Hearing Committee finds that the concerns of the person who brought the complaint to the Law Society of Saskatchewan, the local publicity and criticism referenced by the Member's Counsel and the impact of the Member's actions on trustworthy functioning of key justice processes and institutions such as Land Titles and Probate of Wills do constitute evidence of harm to many people.

40. In coming to a conclusion as to sentence, the Hearing Committee considered various aggravating factors. The most troubling aspect of this case is that the Member appears to have developed a pattern of recklessness and/or uncaring behaviour in relation to the execution, authenticity and truthfulness of documents produced for E.M.J.'s estate. This pattern spanned over several months, while attending to E.M.J.'s estate matters and the ancillary matters thereto. This cannot be seen as a momentary lapse in judgment. While the Hearing Committee can appreciate the client may have been "difficult", the Member's long legal career should have afforded him the insight that the "benefit" of providing a convenience to one difficult client does not outweigh the damage to their reputation, the institutions lawyers serve, and the profession as a whole.

41. It was suggested by Counsel for the Member that a mitigating factor was the Member may have subjectively suffered more personal ramifications of his actions by virtue of having practiced in a small rural area. This argument is a double-edged sword. While the nature of the Member's

rural practice may seem to magnify the subjective hardships suffered by him as the result of his actions, the Member is likely only one of a few lawyers present in his community. His actions could be seen as being more damaging to the reputation and integrity of the legal profession in the eyes of his community, given that fewer practitioners are present for reference.

42. The Hearing Committee also notes that there are several mitigating factors to consider in relation to sentence. The Member has had a long career without any history of discipline. It has been acknowledged by the Counsel for the CIC that he has entered guilty pleas herein and has fully cooperated with the CIC. It should also be noted that the Hearing Committee considered and accepted factors like the Member's remorsefulness for his actions, and that there does not appear to be any personal benefit derived from his conduct.

43. After weighing the aggravating and mitigating factors present before it, the Hearing Committees' finds that the Member's actions warrant a period of suspension. The Hearing Committee orders that the Member be given a penalty consisting of a two (2) month suspension, and that the Member pay costs of these proceedings in the amount of \$4,050.00 to the Law Society of Saskatchewan by August 1st, 2020. The Member's suspension shall begin at a date agreed to between the Member and the Executive Director of the Law Society of Saskatchewan, but shall not begin any later than May 1st, 2020.

<u>"Nolan Kondratoff"</u>	<u>13 Feb 2020</u>
<u>"Jill Drennan"</u>	<u>13 Feb 2020</u>
<u>"Judy McCuskee"</u>	<u>13 Feb 2020</u>

AGREED STATEMENT OF FACTS AND ADMISSIONS

In relation to the Formal Complaint dated July 11, 2019 alleging that he is guilty of conduct unbecoming a lawyer in that he:

1. **did improperly fabricate a Transfer Authorization document in order to transfer a land title out of his client's name, by cutting and pasting the client's signature from another document;**
2. **did mislead the Information Services Corporation by submitting, or causing to be submitted, a Transfer Authorization relating to the transfer of a land title that he had improperly fabricated by cutting and pasting his client's signature from another document;**
3. **did have his clients swear Affidavits purporting to exhibit documents that were not yet in existence; and**
4. **did have his clients swear Affidavits including information which he knew to be false.**

JURISDICTION

44. James Delber Turner (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 confirming the Member’s status.

45. The Member is currently the subject of a Formal Complaint initiated by the Law Society dated July 11, 2019. The Formal Complaint is comprised of the four allegations noted above. The original Formal Complaint was served upon the Member on July 11, 2019. Attached at **Tab 2** is a copy of the original Formal Complaint along with proof of service in the form of an Acknowledgment of Service. The Member intends to plead guilty to all of the allegations set out in the Formal Complaint.

BACKGROUND OF COMPLAINT

46. The Law Society began an investigation into the Member after receipt of a complaint from D.J. on behalf of her husband E.J. dated December 19, 2016.

47. The complaint stemmed from the Member’s involvement in the Estate of EMJ, the mother of E.J.

48. On October 13, 2015, the Member received a note from his assistant [**Tab 3**], indicating that a client, E.J., had called indicating that his mother (EMJ) was ill, in the hospital, and wanted to complete a Will. E.J. asked the Member to attend at the hospital the next day. Both E.J. and EMJ were pre-existing clients of the Member, but E.J. had the more comprehensive solicitor-client relationship with the Member as a result of his farming and ranching operations. The Member had not been asked to do a Will for EMJ prior to E.J.’s call. The Member also had a pre-existing relationship with E.J.’s brother, K.J.

49. The Member attended at Rosetown Hospital on October 14, 2015 to take Will instructions from EMJ. On that date, E.J., K.J. and EMJ’s sister, D.R. (since deceased) were in attendance at the hospital. The Member recorded notes during the meeting with EMJ [**Tab 4**]. The instructions obtained from EMJ on that date included that the executors would be E.J., K.J. and a nephew R.A. Further instructions included provisions for \$10,000 bequests to grandchildren and how to deal with other assets. Generally speaking the instructions were to “make sure it all comes out even”, and “value it and equalize”, in relation to the land. On the day in question, EMJ was sitting up, appeared alert, acknowledged the Member as a lawyer, and appeared to understand what was being discussed and indicated her wishes. RA, the only non-beneficiary executor later swore an Affidavit [**Tab 5**] stating that in his visits with EMJ in the months and days prior to her death, she appeared to him to be bright, alert and capable of expressing her wishes.

50. On October 15, 2015, the Member again attended on EMJ, this time bringing his assistant, J.H., as an additional witness for the execution of the Will. D.R. was again in attendance but did not participate in the discussions. As with the day before, EMJ was sitting up and appeared alert. She reviewed the Will paragraph by paragraph and indicated her approval of each. The Will [**Tab 6**] was executed by EMJ, witnessed by the Member and J.H. J.H. has been interviewed by the Law Society and confirms that she was present to witness the execution of the Will and that she has no concerns with the manner of the execution of the Will.

51. When the Will was executed, the Member indicated that EMJ said she wished to do a new Power of Attorney, as E.J. was upset that she had only appointed K.J. as POA in the previous one. The previous POA was completed by the Member in August, 2015.

52. The Member went back to the hospital on October 16, 2015, and EMJ completed the new Power of Attorney naming both K.J. and E.J. [Tab 7].
53. EMJ passed away on November 19, 2015.
54. E.J. and his wife, D.J., indicated their intention to challenge the Will on the basis that:
- a. EMJ lacked the requisite mental capacity to execute a Will on October 15, 2015; and
 - b. EMJ s's signature on the Will was not made by her on October 15, 2015.
55. Applications were launched to challenge the validity of the Will but were later abandoned after settlement between the parties was reached.

PARTICULARS OF CONDUCT

Allegations 3 and 4

56. After the death of EMJ, the Member began work on the Application for Letters Probate [Tab 8]. Executor R.A. executed his portion of the Application for Letters Probate on December 4, 2015, and K.J. and E.J. completed theirs on January 4, 2016. Each Executor swore an Affidavit referring to the Application and the Statement of Property.
57. The Affidavits executed by the Executors caused them to swear that the attached Statement of Property was **“showing all the property owned by the deceased at the time of death; that statement truly and correctly, in so far as it has been possible to ascertain, sets forth all the property of the deceased showing the fair market value at death.”**
58. E.J. subsequently indicated that he did not see any documentation on that date, other than the two documents he signed (being the Affidavit and the Application). It was only beginning on January 5, 2016 [Tab 9] that the Member began to send letters to the asset holders of EMJ's estate indicating that he represented the Executors and asking for details of EMJ's assets as at the date of death.
59. Responses from these asset holders trickled in, and eventually a Statement of Property was completed by the Member including those assets, accurate to the statements received from the asset holders. To that Statement of Property, the Member affixed his Exhibit stamp, indicating that the Statement of Property was “Exhibit ‘C’ referred to in the Affidavits of R.A, K.J. and E.J., respectively. The Exhibit stamps were executed by the Member as Commissioner for Oaths, and dated December 4, 2015 for R.A. and January 4, 2016 for K.J. and E.J. The Statement of Property contained errors that were not caught by the Executors because they were never given an opportunity to review it. Typographical errors were present in the land descriptions and all of EMJ's investments with RBC were missing from the Statement.
60. The Member admits that he had the executors sign the Application for Probate and complete Affidavits in support of the application before he knew the valuation of the assets in question. The Member modified the documents after the Affidavits were signed. The Member backdated the Exhibit Stamp on the Statement of Property that was ultimately attached to the Executor Affidavits.
61. The application for Probate was not filed with the Court until June 30, 2016. The initial application was denied, as it had mistakenly included the “Certificate of No Infants Interested”

form, which was not appropriate as there were “infants” interested in the estate. The Application was submitted again, on July 7, 2016, and was accepted. Letters Probate were issued.

62. In the context of the administration of the Estate the Member had E.J. sign an Affidavit for Certificate of No Infants [**Tab 10**]. The Affidavit has Mr. Jones attesting to the following:

2. Every person who is named as a beneficiary in the will survived the Testatrix. All of the beneficiaries are now over the age of eighteen except for the following:

- i. MJ, grandson August 16, 2000
- ii. D.J., grandson February 13, 2004
- iii. E.J., granddaughter August 30, 2006

And their shares of the estate have been dealt with by paying the sum of \$10,000.00 to each of their respective parents who have acknowledged receiving the funds on their behalf and whom have agreed to pay the funds to them when they reach the age of 18 years.

63. The payments to the above three grandchildren were not issued by the Member or delivered to the parents of the listed minor children until June 16, 2017 [**Tab 11**], approximately eight months after the Member had his client swear this Affidavit. The Member prepared this Affidavit and had his client swear it when he knew it to be false.

Allegation 1 and 2

64. Outside of the Member’s handling of the estate matters, the Member also dealt with a house, located in Elrose, Saskatchewan, which was registered in the joint names of EMJ and two of her sisters. The house had come to be owned by the sisters after they inherited it from their mother. Before she had died, EMJ had indicated to the Member that the sisters had no interest in the house, that it was of nominal value, and that it was to be transferred to E.J.

65. In April and May, 2016, the Member reached out to EMJ’s sisters, indicating EMJ’s wishes and requesting that they complete Transfer Authorizations to transfer title into E.J.’s name. The Member had contacts from the executors supporting the transfer of the home to E.J. and other contacts from D.J. suggesting that they did not want the home to be transferred [**Tab 12**]. The Member relied on instructions from the executors that the transfer to E.J. was to proceed and he completed the transfer in mid-June of 2016.

66. Shortly after the transfer was submitted the Member claims that he received an “agitated” phone call from E.J. on or around June 29, 2016, asking him not to complete the transfer because his wife, D.J., decided that she wanted nothing to do with the house. The Member indicated that the transfer had already been completed, and that E.J. would have to now transfer the title out of his name. The Member claims that E.J. said he was working out of town and could not come in to sign the transfer documents, but that the transfer needed to occur quickly. The Member states that he offered to copy E.J.’s signature from signed documents he already had on file, onto the Transfer Authorization and accompanying Homestead Affidavit. The Member says that E.J. agreed that he could do that. The Member took no notes regarding this conversation. There is, however, a note on the file made by the Member’s assistant, indicating the following:

June 30/16 Jim advised the other house should be transferred into [EMJ]’s name.
I advised he instructed Janet to transfer the 2/3 share to [E] previously.

Jim instructed me to get [E]'s name from the file and get a transfer sent in with [EMJ]'s name and send an email to [D.J.] advising it was done.

67. The Member then caused E.J.'s signature from a previously signed Affidavit to be cut and pasted into the transfer document [Tab 13]. The original "cut and pasted" transfer document is not on the client file and cannot be found. The copy of the Transfer Authorization/Homestead Affidavit shows two identical signatures.

68. The Member then caused the transfer to be submitted to the Information Services Corporation when he knew that it had been fabricated and that it was not a properly signed Transfer Authorization.

69. The Member's assistant emailed D.J. as soon as the transfer authorizations conveying the property from E.J., back to the Estate of EMJ were submitted [Tab 14].

PRIOR HISTORY

70. The Member has no prior findings of conduct unbecoming.