



Law Society  
of Saskatchewan

**The Law Society of Saskatchewan  
*Law Society of Saskatchewan v. Webb, 2019 SKLSS 4***

**IN THE MATTER OF *THE LEGAL PROFESSION ACT, 1990*  
AND A REQUEST FOR MEMBER'S APPLICATION TO RESIGN INSTEAD  
OF CONTINUED PROCEEDINGS BY WAYNE WEBB,**

**REASONS FOR THE DECISION OF THE CONDUCT INVESTIGATION COMMITTEE FOR  
THE LAW SOCIETY OF SASKATCHEWAN**

1. Wayne Gary Webb ("the Member") is currently subject to a Formal Complaint initiated by the Law Society on July 7, 2016 which was amended on March 14, 2018 ("the Amended Formal Complaint").
2. The Amended Formal Complaint contains 5 charges alleging that the Member is guilty of conduct unbecoming a lawyer relating to action/inaction during the period between February 2015 and March 2016.
3. The Member has acknowledged that:
  - a) He was aware of the reasonable and authorized expectations and requirements of the Law Society in relation to his obligation to respond to communication and to participate in mandatory programming like the New Solo Practitioner Practice Review.
  - b) He has, without explanation, consistently avoided, failed to meet and not respond to reasonable and authorized communications and demands from the Law Society including full participation in a practice review.
  - c) He was not entitled to accept retainers in advance of completing work as he did not have a trust account in which to deposit retainers.
  - d) He was unable to provide records to substantiate his claim that funds received from a member of the public, B.H. were in payment for work already completed; nor could he substantiate that additional work had been completed to justify the payment of funds by B.H.
  - e) He generally failed to maintain proper books and records associated with his practice, including failing to render accounts to clients in relation to fees or properly recording cash and in-kind payments.
  - f) He failed to keep a receipt book of any sort.

4. The Member has offered a resignation as a member of the Law Society of Saskatchewan pursuant to Rule 400.i of the Rules of the Law Society of Saskatchewan instead of continued proceedings.

5. As the Conduct Investigation Committee in this matter, after reviewing the Member's Application and Agreed Statement of Facts and Admissions, copies of which are attached to this decision, we accept the Member's Application to Resign Instead of Continued Proceedings.

DATED this 21<sup>st</sup> day of May 2019

“Jeff Baldwin”

“Ronni Nordal, Q.C.”

### **AGREED STATEMENT OF FACTS AND ADMISSIONS**

In relation to the Amended Formal Complaint dated July 7, 2016, alleging the following:

**THAT WAYNE GARY WEBB, of the City of Regina, in the Province of Saskatchewan is guilty of conduct unbecoming a lawyer in that he:**

- 1. did, between February 2015 and March 2016, fail to promptly and completely reply to communications from the Law Society of Saskatchewan;**
- 2. did, contrary to Rule 996(4) fail to respond to reasonable requests from, and/or cooperate with, the Law Society of Saskatchewan practice advisors appointed to review his legal practice.**
- 3. did accept trust funds from his client, B.H. and failed to deposit said trust funds into a mixed trust account in accordance with Law Society of Saskatchewan Rule 910;**
- 4. did fail to maintain a book of duplicate receipts for cash transactions for cash received in excess of \$500.00 as required by Law Society of Saskatchewan Rule 909(6);**
- 5. did fail to maintain proper books and records in connection with his legal practice.**

### **JURISDICTION**

6. Wayne Gary Webb (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”).

7. The Member is currently the subject of a Formal Complaint initiated by the Law Society dated July 7, 2016 and later amended on March 14, 2018. Service of the Amended Formal Complaint is acknowledged.

8. Pursuant to Law Society of Saskatchewan Rule 400.1, the Member wishes to resign his membership in the Law Society of Saskatchewan as an alternative to proceeding with the amended Formal Complaint. This Agreed Statement of Fact is advanced for the purposes of the Member's resignation "instead of continued proceedings", pursuant to Rule 400.1(2)(b).

#### **ORIGIN OF COMPLAINT**

9. On August 6, 2015, Valerie Payne, Complaints Counsel with the Law Society, referred the above-noted matters to a Conduct Investigation Committee (the "CIC"). A supplementary memo was completed on February 5, 2016

10. At issue was the Member's lack of compliance with Rule 996 of the Rules of the Law Society of Saskatchewan and section 6.01(1) of the Code of Professional Conduct. Specifically, these authorities reference that the Executive Director of the LSS may direct a review of any Member's practice and that lawyers must reply promptly and completely to any communication from the LSS.

#### **PARTICULARS**

11. The Member became a "solo practitioner" on December 1, 2013. For many years, the LSS has made it a policy to review the practices of all "New Solo" Members. In 2014, under authority of the newly-implemented Rule 996 relating to practice reviews, and to support its mandate of governing in the public interest, these "New Solo" practice reviews were made mandatory. The Rule allows the review of "any Member's practice to determine whether the Member is in compliance with the Act, these Rules, and The Code of Professional Conduct."

12. The Member received a letter from the Law Society dated January 16, 2015 advising him that a Practice advisor had been appointed to complete the mandatory "New Solo" practitioner review of his legal practice.

13. On March 23, 2015, the Practice Advisor informed the LSS that after having an initial discussion with the Member on Feb 4, 2015, to discuss the possibility of meeting with the Member the week of February 23, 2015, he was having difficulty contacting the Member. The practice advisor had left several voice messages and had not heard a response from the Member.

14. On March 26, 2015 the Member left a voice mail with the Practice Advisor indicating he was aware of the Practice Advisor's attempts to arrange a meeting and he would try to contact the Practice Advisor later that same day. The Practice Advisor was not contacted by the Member later that day or subsequently.

15. Complaints Counsel sent the Member a letter on April 20, 2015 reminding him of the mandatory nature of the review, referencing Rule 996 of the Rules. A request was made to the Member to respond "as soon as possible and preferably within a week" of receiving the letter.

16. After receiving no response to the letter of April 20, 2015 the Law Society emailed and faxed the Member a letter on May 20, 2015, referencing section 6.01(1) of the Code of Professional Conduct, and requested the Member schedule a meeting with the Practice Advisor within seven days from the date of the letter.

17. After receiving no response from the Member, Complaints Counsel requested the Practice Advisor conduct a "surprise" practice review by attending the Member's office, which is located in the Member's residence. This occurred on July 22, 2015. No contact with the Member was made during the attempted visit.

18. In a letter dated July 23, 2015, Complaints Counsel advised the Member that his apparent non-compliance was being referred to the CIC, and "strongly encouraged" the Member to contact the Practice Advisor. The letter also requested that the Member provide an explanation for his lack of compliance within ten days of the date of the letter. This letter was sent by fax, email, and registered letter to the Member's business address on file. The registered letter went unclaimed. There was no further contact from the Member. The matter was referred to the CIC on August 6, 2015.

19. Following continued efforts by the Law Society to contact the Member, including requesting information and intervention from a former colleague of the Member, the Member left a phone message with the Law Society on August 19, 2015, indicating a number at which he could be reached. The Member did not answer calls made by the Law Society to that number on that same day.

20. On August 21, 2015 the Deputy Director of the Law Society was able to reach the Member by telephone. During that call the Member confirmed that all of his contact information on file, with the exception of his email address, was correct, he acknowledged receiving some of the communications directed to him by the Law Society, and that he did not respond to the Practice Advisor. In addition to transmitting the essence of all previous communications, the Deputy Director of the Law Society informed the Member that he must participate in a practice review by September 10, 2015. These details were also sent via letter, which the Member acknowledged receiving.

21. While contacting and making arrangements for a meeting with the Member remained difficult, a meeting between the Member and a Practice Advisor did occur on September 10, 2015. Following that meeting the Practice Advisor provided an initial, verbal summary of his meeting with the Member to the Law Society. The Practice Advisor's summary referenced deficiencies in the Member's practice that the Practice Advisor would include in a written report he intended to produce.

22. Prior to completing his report the Practice Advisor requested (on September 17, 2015, via a confirmed correct email address) that the Member provide him with copies of his accounts for all completed files. Not having received the requested information by October 26, 2015 the Practice Advisor sent an email to the Member reminding him of the request and advising the Member that failure to reply could be an issue.

23. On December 9, 2015, with no response forthcoming from the Member, Complaints Counsel sent an email and registered letter (which was accepted) to the Member, summarizing the history of this matter as well as the requirement that he provide the accounting information, and indicating the matter was being referred back to the CIC.

24. No response from the Member was received.

25. The Member was in contact with the Admissions and Education department of the Law Society to renew his membership for 2016, and to request information regarding his completion

of mandatory continuing professional development requirements i.e. the Member sent a fax to the Admissions and Education department of the Law Society on December 30, 2015 and an email on March 18, 2016, from the same number and email address the Law Society had on file when it was trying to reach him.

26. Given the continuing concern that the Member was non-responsive to communications and requests from the Law Society, as well as the concerns raised by the Practice Advisor indicating potential deficiencies in the Member's practice, on March 28, 2016, the CIC authorized a Notice of Intention to Interim Suspend the Member.

27. The Member was aware of the reasonable and authorized expectations and requirements of the Law Society in relation to his obligation to respond to communications and to participate in mandatory programming like the New Solo Practitioner Practice Review. Without explanation the Member has consistently avoided, failed to meet and not respond to reasonable and authorized communications and demands from the Law Society including full participation in a practice review.

28. Within the context of the practice review and subsequent to the initial phase of this file, a complaint was received from a Member of the public, B.H. B.H. stated that he provided a retainer to the Member but that the Member failed to complete the work associated with the retainer. The Member was not entitled to accept retainers in advance of completing work as he did not have a trust account in which to deposit retainers. The Member stated that the funds received were in relation to work previously done and that other valuable work had been completed by the Member. However, the Member was unable to provide records to substantiate his claim that the funds paid were for work already completed or that additional work had been completed to justify the payment of funds from B.H.

29. The Member generally failed to maintain proper books and records associated with his practice, including failing to render accounts to clients in relation to fees or properly recording cash and in-kind payments. The Member also failed to keep a receipt book of any sort.

#### **PRIOR HISTORY**

30. The Member has no prior discipline history.