



Law Society
of Saskatchewan

DOUGLAS JAMES HEINRICKS, Q.C.

HEARING DATE: May 14, 2020

DECISION DATE: May 22, 2020

Law Society of Saskatchewan v. Heinrichs, 2020 SKLSS 3

**IN THE MATTER OF *THE LEGAL PROFESSION ACT, 1990*
AND IN THE MATTER OF DOUGLAS JAMES HEINRICKS, Q.C.,
A LAWYER OF SWIFT CURRENT, SASKATCHEWAN**

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

Between the Offices of James Korpan, Q.C. (Chair), Ronalda Nordal, Q.C., Lynda Kushnir Pekrul, Doug Heinrichs, Q.C. and Timothy Huber

1. The matter concerns a formal complaint that Mr. Douglas Heinrichs, Q.C. (the “Member”) did accept cash in an aggregate amount of \$13,000 in respect of one transaction, contrary to Law Society of Saskatchewan rule 909(1).
2. The Member plead guilty to the complaint. Mr. Heinrichs and Mr. Huber, counsel on behalf of the Law Society, filed an Agreed Statement of Facts setting out the circumstances of the offence. The Member represented Mr. and Mrs. L. in relation to their purchase of a home. In the context of that transaction, Mr. and Mrs. L. provided him with \$13,000 cash on July 23, 2019, being the balance required to place the transaction.
3. On July 24, 2019, the Member wrote to the Law Society of Saskatchewan writing a self-report of this incident that included a copy of the receipt issued to his clients up his acceptance of the \$13,000 in cash. At the time he advised the Law Society of the breach, the cash had not yet been deposited to his firm’s trust account. The Member made no effort to conceal his actions. Rather, he advised the Law Society of the breach at his earliest opportunity.
4. On July 31, 2019, Professional Responsibility Counsel wrote to the Member and indicated that by virtue of accepting \$13,000 in cash from his client’s he was in violation of rule 909(1) which restricts the amounts that he may accept from any one client in one transaction to \$7,500. The Member was asked to provide an explanation as to why he was in violation of the rule.
5. In response to Professional Responsibility Counsel’s letter of July 31, 2019 the Member provided his response as follows:

“Accepting the cash funds was a complete error in judgment on my part. The client’s had a 4:30 appointment and had been asked to bring in a bank draft for the balance of their down payment. After reviewing and executing the mortgage documentation when I asked them for the bank draft they proceeded to give me cash. They advised they were unable to get to the bank that day and I made the mistake of accepting the cash. As you are aware I advised the Law Society that I had done so.

I can assure you that this will never happen again and all of our staff have been reminded of rule 909(1).”

6. The Member and Mr. Huber presented a joint sentencing submission urging the Committee to impose a \$1,000 fine and \$1,500 in costs. For the reasons that follow, the Committee accepts the joint recommendation.

7. In the mid-2000s, the Law Society gave effect to rules providing the Law Society with oversight over the circumstances under which members can accept cash. These rules intend to ensure that those involved in money laundering do not use the cloak of solicitor/client privilege to conceal money laundering activities. These rules strike a balance between maintaining the integrity of solicitor/client privilege, while also protecting members of the public and the public interest.

8. The breach here was at the less serious end of the spectrum. The amount involved was relatively small. There is nothing about the circumstances that suggested that Mr. and Mrs. L. were engaged in money laundering. The Member made an error in judgment. However, he did not attempt to conceal his mistake and advised the Law Society at his earliest opportunity.

9. The Committee accepts Mr. Heinrichs’ representation that this will not happen again. There is no need to impose a penalty in the name of specific deterrence.

10. However, general deterrence requires a penalty. Rule 909 is a strict liability offence, with good reason. Money laundering is not in the public interest. Law Societies need to police this strictly or risk eroding the public’s trust in the Law Societies’ ability to do so. On this basis, it is appropriate to impose a fine and an order for costs.

11. As there is a joint recommendation, the Committee is bound to accept it provided that the penalty is within the acceptable range. Mr. Huber provided several precedents imposing similar penalties for similar offences:

Law Society of British Columbia v. Lyons, [2008] L.S.D.D. No. 28.

12. *Lyons* is an early decision on a breach of the *no cash* rule. The conduct in question occurred approximately two years after the rules came into effect, but after the Law Society extensively communicated the existence of the new rule. The lawyer received cash in the amounts of \$32,900 USD, and \$23,000 CAD. Lyons was aware of the existence of the *no cash* rules and contacted the Law Society to see how he should handle the funds prior to depositing them to his trust account. The lawyer incorrectly understood that he could simply note the receipt of cash over \$7,500 as an exemption on his trust reporting. He failed to appreciate that it was an absolute bar and represented a professional misconduct. The lawyer was found guilty of conduct unbecoming. He was fined \$1,500 and ordered to pay \$2,700 in costs.

Law Society of British Columbia v. Van Twest, [2001] L.S.D.D. No. 95

13. The lawyer received \$111,000 into his trust account to complete a transaction for his client. Of that amount, \$9,000 had been provided in cash. The lawyer was aware of the *no cash* rule but thought that the limit was \$10,000 rather than \$7,500. Then, despite having had discussions with the Law Society about the breach, the lawyer inadvertently failed to disclose the breach on his annual trust report. He was found guilty of conduct unbecoming. The lawyer received a fine of \$2,000 and was required to pay costs of \$1,000.

Law Society of Upper Canada v. Gosdee, [2016] L.S.D.D. No. 146

14. The lawyer received two cash installments totaling \$195,110 in the context of a share transfer. Other minor conduct issues were also at play. The Hearing panel acknowledged that under the circumstances the range of penalty was from a reprimand to a short suspension. A joint submission for a reprimand was proposed and accepted.

Law Society of Saskatchewan v. Buitenhuis, 2020 SKLSS 2

15. The Buitenhuis case was recently heard in March of 2020. The lawyer accepted cash from his client in the amount of \$249,700. The lawyer had sought guidance by email about what to do when his client appeared with the cash. But, the lawyer's email was not received by the Law Society. The lawyer, receiving no response from the Law Society, decided to accept the cash into his trust account. He made no effort to contact the Law Society by phone. The Law Society did not discover the initial email from the lawyer for several days. There was no indication that the money in question constituted proceeds of crime. Just as the Member here self-reported to the Law Society, so did Mr. Buitenhuis in his email seeking guidance. He made no attempt to hide the transaction. He was aware of the rule regarding accepting cash. Mr. Buitenhuis' penalty was a \$7,500 fine.

16. In light of the above decisions, the joint recommendation is within the range of penalties. It is both fit and reasonable.

17. Accordingly, the Member is hereby required to pay to the Law Society of Saskatchewan a fine of \$1,000, together with \$1,500 in costs.

Dated at the City of Regina, in the Province of Saskatchewan, this "21st" day of May, 2020.

"James Korpan, Q.C.", Chair

"Ronalda A. Nordal, Q.C."

Dated at the City of Regina, in the Province of Saskatchewan, this "22nd" day of May, 2020.

"Lynda Kushnir Pekrul"

AGREED STATEMENT OF FACTS AND ADMISSIONS

In relation to the Formal Complaint dated October 2, 2019 alleging that he is guilty of conduct unbecoming a lawyer in that he:

- 1. did accept cash in an aggregate amount of \$13,000.00 in respect of one transaction, contrary to Law Society of Saskatchewan Rule 909.**

JURISDICTION

18. Douglas Heinrichs, Q.C. (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”).

19. The Member is currently the subject of a Formal Complaint initiated by the Law Society dated October 2, 2019. The Formal Complaint is comprised of the single allegation noted above. The original Formal Complaint was served upon the Member on October 11, 2019. Attached at Tab 1 is a copy of the original Formal Complaint. The Member intends to plead guilty to the allegation set out in the Formal Complaint.

PARTICULARS OF CONDUCT

20. The Member represented Mr. and Mrs. L in relation to their purchase of a home. In the context of that transaction Mr. and Mrs. L. provided him with \$13,000.00 cash, being the balance required to close the transaction

21. On July 24, 2019, the Member wrote to the Law Society of Saskatchewan providing a self-report of this incident that included a copy of the receipt issued to his clients upon his acceptance of the \$13,000.00 in cash.

22. On July 31, 2019, Professional Responsibility Counsel wrote to the Member and indicated that by virtue of accepting \$13,000.00 in cash from his clients he was in violation of Rule 909(1) which restricts the amount of money that he may accept from any one client on a transaction to \$7,500.00. The Member was asked to provide an explanation as to why he was in violation of this Rule.

23. In response to Professional Responsibility Counsel’s letter of July 31, 2019, Mr. Heinrichs provided his response as follows:

“Accepting the cash funds was a complete error in judgment on my part. The clients had a 4:30 appointment and had been asked to bring in a bank draft for the balance of their down payment. After reviewing and executing the mortgage documentation when I asked them for the bank draft they proceeded to give me the cash. They advised that they were unable to get to the bank that day and I made the mistake of accepting the cash.

As you are aware I advised the Law Society that I had done so.

I can assure you that this will never happen again and all of our staff have been reminded of Rule 909(1).”

PRIOR HISTORY

24. The Member has no relevant history.