



Law Society
of Saskatchewan

The Law Society of Saskatchewan
Law Society of Saskatchewan v. Hoffart

IN THE MATTER OF THE *LEGAL PROFESSION ACT, 1990*
AND A REQUEST FOR MEMBER'S APPLICATION
TO RESIGN INSTEAD OF CONTINUED PROCEEDINGS BY JACK HOFFART
REASONS FOR THE DECISION OF THE CONDUCT INVESTIGATION COMMITTEE
FOR THE LAW SOCIETY OF SASKATCHEWAN

1. On April 1, 2022, Jack Hoffart applied to the Law Society of Saskatchewan Conduct Investigation Committee (the Committee) to resign instead of continued proceedings, pursuant to Rule 1112 (formerly Rule 400.1) of The Rules of the Law Society of Saskatchewan.
2. Rule 1112 provides as follows:

Resignation Instead of Continued Proceedings

1112(1) A member may make an application to resign instead of continued proceedings to:

- (a) a Conduct Investigation Committee in the early stage of an investigation or after a Formal Complaint has been served on the member but before commencement of a hearing; or
 - (b) the Chairperson of the Competency Committee at any time during a review pursuant to Rule 1108.
- (2) The Conduct Investigation Committee or Chairperson of the Competency Committee may hear the application to resign instead of continued proceedings, as follows:
- (a) by consent of Counsel for Conduct Investigation Committee or Counsel for the Society; and
 - (b) if the member makes admissions and enters into an Agreed Statement of Facts.
- (3) The Conduct Investigation Committee or the Chairperson of the Competency Committee may:
- (a) reject the application pending the completion of the respective discipline or competency processes;
 - (b) grant the application and accept the member's resignation instead of continued proceedings, and may impose conditions on the acceptance of same;
 - (c) impose conditions including a time period of up to five years during which the member will not apply for reinstatement;

- (d) direct that, upon any application for reinstatement, the Agreed Statement of Facts will be considered;
 - (e) prior to any application for reinstatement, require the member to:
 - (i) complete a remedial educational program;
 - (ii) undertake to refrain from practicing in specified areas of law;
 - (iii) obtain one or more of:
 - (A) a psychiatric assessment;
 - (B) a psychological assessment; and
 - (C) an addictions assessment;
 - (iv) obtain one or both of:
 - (A) a medical examination; and
 - (B) a medical opinion respecting the member's capability to practise law;
 - (v) satisfy any other conditions, prior to application for reinstatement, that the Conduct Investigation Committee or Chairperson of the Competency Committee deems appropriate.
- (4) The decision of the Conduct Investigation Committee or the Chairperson of the Competency Committee mentioned in subrule (3) shall remain on the member's file and be considered upon any future application for reinstatement.
- (5) If the Conduct Investigation Committee accepts a resignation pursuant to this Rule, the Agreed Statement of Facts and any decision rendered by the Conduct Investigation Committee shall be published in the same manner and to the same persons as the Notice required by Rule 1137.
- (6) If the Competency Committee Chairperson accepts a resignation pursuant to this Rule, the Agreed Statement of Facts shall not be published in accordance with Rule 1137.

3. For the purposes of this application, the Committee is comprised of Mr. Jeffrey Baldwin and Ms. Suzanne Jeanson. Mr. Hoffart is represented by Mr. Ronald Miller, and the Committee is represented by Mr. Tim Huber. The Rules do not require a formal hearing of the matter, and the parties consented to proceed without one.

4. At all material times, Mr. Hoffart was a practicing member of the Law Society of Saskatchewan and was subject to the provisions of *The Legal Profession Act, 1990* and the Rules of the Law Society of Saskatchewan.

5. Mr. Hoffart is currently the subject of an outstanding formal complaint alleging that he is guilty of conduct unbecoming a lawyer in that he:

- a. did prepare or cause to be prepared, a Last Will and Testament document wherein his client, D.K., was to leave him and his spouse substantial testamentary gifts.

6. Mr. Hoffart now expresses his desire to resign his membership in the Law Society of Saskatchewan instead of continuing the proceedings related to the formal complaint.

7. In support of his application to resign, Mr. Hoffart entered into an Agreed Statement of Facts which includes an acknowledgement of the conduct and events which lead us to the current application. This Agreed Statement of Facts meets the requirement of Rule 1112(2)(b), and same is now attached to this decision.

8. In accordance with Rule 1112(2)(a), counsel for the Committee consented to Mr. Hoffart's application to resign in the face of discipline.

9. As all pre-requisites to the application have been fulfilled, the Committee considered whether to grant the application to resign instead of continuing the proceedings related to the formal complaint. We hereby grant the application. We have also considered the facts that ground the formal complaint, and the recommendation of Counsel for the Committee, and in doing so decline to order any conditions to attach to this order.

10. There is no order as to costs.

DATED: June 21, 2022

"Suzanne Jeanson"

"Jeffrey Baldwin"

AGREED STATEMENT OF FACTS AND ADMISSIONS
BETWEEN JACK HOFFART AND
THE LAW SOCIETY OF SASKATCHEWAN

Jurisdiction

11. JACK HOFFART (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").

12. The Member became the subject of an investigation initiated by the Law Society on August 7, 2020. That investigation led to the issuance of a Formal Complaint dated November 19, 2021, comprised of the following allegation:

THAT Jacob Hoffart, of the City of Swift Current, in the Province of Saskatchewan, is guilty of conduct unbecoming a lawyer in that he:

Did prepare or cause to be prepared, a Last Will and Testament document wherein his client, D.K., was to leave him and his spouse substantial testamentary gifts.

13 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 continued proceedings in relation to the pending Formal Complaint. This Agreed Statement of Fact is advanced for the purposes of allowing the Member's resignation "instead of continued proceedings", pursuant to Rule 400.1(2)(b). In the event that the Application to Resign is granted, the allegation in the Formal Complaint [Tab 1] will be stayed.

Particulars of Conduct

14. These matters arose after the Member contacted the Law Society to seek advice in relation to how he, as legal counsel to an estate, would interact with an executor of that estate when the executor of that estate was his spouse.

15. The Member disclosed that he had prepared a Will (the "Will") [Tab 2], Power of Attorney and Healthcare Directive for his client and family friend for over 15 years, D.K. The Member advised that as D.K. and her late husband were childless, the Will appointed two of D.K.'s nephews as executors. The Member further advised his wife, Mary Hoffart ("Mary") had been designated as an alternate executor in the Will.

16. When the Member contacted the Law Society he stated that one of D.K.'s nephews would be renouncing his status as executor due to health issues and that his wife would, as a result, be assuming the role of co-executor.

17. The Will contemplated that the executor would be paid 2% of the value of the Estate for each year the administration of the Estate remained outstanding. Co-executors would share that annual sum. The value of the Estate was approximately \$1.4 million dollars.

18. The Member advised that D.K. had left several specific bequests to family and friends. From the file materials it is apparent that D.K. had attended the office with a list outlining these specific bequests. The Member and his spouse were not on the original list prepared by D.K. The list in the Member's file had a yellow note affixed to it in the Member's wife's handwriting detailing that his name, his wife's name (Mary) and one other name were to be added to the list of specific bequests. The list with the additional note are attached at Tab 3. The Member and his spouse were to receive the amount of \$10,000.00 each. The Member ultimately confirmed that he drafted the Will (or caused the Will to be drafted) on the basis of this revised bequest list that included the gifts to him and his wife.

19. The Member further advised the Will was witnessed by Mary's son, S.L. (S.L. is the Member's stepson), and the Member's former legal assistant, C.S. The Member has stated that normally, the Member and Mary would sign as witnesses to the Will, but in this case as they were beneficiaries they had to arrange for other witnesses. The Member also confirmed that D.K. did not receive independent legal advice or independent legal representation in relation to this Will.

20. At the time of the Member's call to the Law Society he was preparing the D.K.'s Estate for probate.

21. On August 24, 2020, Professional Responsibility Counsel for the Law Society wrote to the Member and advised him that there were concerns that his conduct amounted to a breach of Rule 3.4-39 which directs that unless the client is a family member of the lawyer, a lawyer must not prepare or cause to be prepared an instrument giving the lawyer a gift or benefit from the client, including a testamentary gift. D.K. is not a family member of the Member.

22. On September 28, 2020, Professional Responsibility Counsel advised the Member that, due to the conflict of interest associated with his drafting a will that included gifts to himself and his spouse, he should consider withdrawing as the lawyer for the Estate and send the file elsewhere for completion. The Member was further advised it may be beneficial to consider waiving his gift as a beneficiary under the Will.

23. On January 15, 2021, Professional Responsibility Counsel wrote to the Member seeking an update on his involvement in the D.K. Estate. On February 2, 2021, the Member advised that he continued to act in this matter, although he had arranged for an independent review of the Application for Letters Probate and signing of the documents with an independent Notarial Public in Swift Current.

24. On May 14, 2021, the Member further confirmed the following:
- a. He would be billing the Estate for the work to complete winding up the Estate, which at the date of death was \$1,400,000.00;
 - b. That both he and his wife would be receiving the specific bequests in the Will;
 - c. The executors would receive 2% of the Estate in each year is shared between them, being \$15,000.00 each for the first year. Both Executors have requested to receive half of their share (7,593.00) in July 2021 and the same payment in January 2022;
 - d. The other co-executor for the Estate had not received legal advice from anyone other than the Member in respect to the Will.
 - e. The Member stated that he had told the remaining co-executor about the questions the Law Society had about the Estate, and had provided him with a copy of the letter from Professional Responsibility Counsel.

Prior History

25. The Member has one prior finding of conduct unbecoming from 2016 wherein he was found guilty of participating in the concealment of physical evidence so as to obstruct or attempt to obstruct the course of justice.