



Law Society
of Saskatchewan

HEARING DATE: May 5, 2026

DECISION DATE: May 25, 2026

Law Society of Saskatchewan v. Fonkalsrud, 2026 SKLSS 2

**IN THE MATTER OF *THE LEGAL PROFESSION ACT, 1990*
AND IN THE MATTER OF ESTES BAIN FONKALSRUD,
A LAWYER OF MOOSE JAW, SASKATCHEWAN**

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

Introduction

1. Estes Fonkalsrud (“Member”) is the subject of a Formal Complaint dated March 5, 2026 alleging the Member is guilty of conduct unbecoming a lawyer in that he:
 - (a) did act or continue to act for his client, J.D., when he was in a conflict from doing so by acting against the interests of a former client, C.D., in the same or a related matter; and
 - (b) did breach his duty of loyalty to his former client, C.D.
2. On May 5, 2026, a Hearing Committee of the Law Society of Saskatchewan (“Law Society”) convened virtually by MS Teams to hear and determine the Formal Complaint. The panel was comprised of Melissa Nicolls as chair, Maya Scott, and Harold Bhagaloo. The Member appeared on his own, representing himself. Timothy Huber, K.C. appeared on behalf of the Law Society’s Conduct Investigation Committee.
3. Neither party had any objections to the jurisdiction or composition of the Hearing Committee.
4. The Member entered a guilty plea to the Formal Complaint and the hearing proceeded as a penalty hearing.
5. An Agreed Statement of Facts and Admissions dated May 5, 2026 (“Agreed Statement”) was entered at the hearing on consent of the parties and marked as Exhibit L-2. The Agreed Statement is appended to this decision.
6. The parties proposed a joint submission penalty on the following terms; the Member:
 - (a) receive a reprimand; and

(b) pay costs of \$2,000 to the Law Society.

7. As explained in the reasons set out below, the Hearing Committee accepts the joint submission.

Facts

8. The facts are set out in the Agreed Statement and summarized as follows.
9. In 2022, C.D. retained the Member for a family law matter to seek child support from the father of C.D.'s two oldest children, E.M. In 2023, C.D. and her spouse, J.D., retained the Member in respect of a child apprehension matter and on criminal charges for an alleged assault against E.M.
10. In December 2023, J.D. was charged with assaulting C.D. with a weapon and uttering threats. C.D. raised the incident with the Member who advised C.D. he could no longer act for her as he was in a conflict from doing so.
11. On December 22, 2023, the Member accepted a retainer from J.D. relating to the December 2023 criminal charges.
12. In an email exchange with C.D. in February 2024, the Member advised he would not act for either C.D. or J.D. given the overlap in the files. He also asked C.D. to confirm she was seeking Legal Aid representation for each of her legal matters.
13. In May 2024, J.D. was charged with another assault and a breach.
14. Between January 2024 and September 2024, the Member took various steps on behalf of J.D. relating to both the December 2023 and May 2024 criminal charges, including: contacting C.D. in January 2024 regarding J.D.'s cats and C.D. moving out of the home; meeting with J.D. in March 2024; communicating with J.D. in March, April, May, June, July, and September 2024; communicating with the prosecutor in March 2024; requesting disclosure in May 2024; and appearing in court for J.D. on numerous occasions to adjourn matters.
15. In July 2024, the Member sent J.D. a statement of account for services rendered.
16. In his communications with J.D. between at least March 2024 and September 2024, the Member advised J.D. that he would need to retain new counsel but that the Member would keep appearing for J.D. to adjourn matters for him. The Member also indicated he could represent J.D. in a plea deal with C.D.'s permission.
17. At some point, C.D. learned the Member was acting for J.D. on the December 2023 criminal charges and submitted a complaint to the Law Society.

18. In his communications with the Law Society about the complaint, the Member explained that he informed both parties he would be willing to appear and adjourn their matters until they could obtain new counsel. While C.D. quickly obtained new counsel, J.D. did not as he did not qualify for Legal Aid and had financial difficulties. Further, J.D. had moved away from Moose Jaw so the Member appeared for J.D. to adjourn his matters. As soon as the Member was notified of the Law Society complaint, he informed J.D. he could no longer appear for him. The Member advised he never intended to set J.D.'s matters for trial and represent him.
19. The parties agree and submit that the Member's motivation in continuing to act for J.D. was to facilitate a smooth transition to new counsel, but that in doing so, the Member "lost sight of the distinction between brief transition management and prolonged continued representation."
20. The Member has had prior dealings with the Law Society. In September 2017, the Member was referred to the Competency Committee and participated in a Practice Review following a referral from the Law Society Auditor's due to a breach of the cash rules. In May 2020, the Member was found guilty of conduct unbecoming on two citations. The first citation concerned the Member acting in a conflict of interest by conducting business with a client. The second citation related to the Member's criminal conviction for breaching an undertaking to the court to abstain from alcohol consumption. In January 2024, the Member was issued a Formal Caution in relation to concerns that he may have acted for two parties when their interests were in conflict. The Member was reminded of the importance of avoiding conflicts of interest by fully considering the potential for a conflict to arise at all stages of a joint retainer and to take appropriate action and withdraw from both parties should a dispute arise.

Reasons For Penalty

21. The Hearing Committee accepts that the Agreed Statement supports a finding that the Member's conduct was unbecoming. The Member provided legal services to J.D. while he was in a conflict of interest and consequently breached his duty of loyalty to C.D.
22. The Hearing Committee reviewed the facts of this matter, the regulatory authorities, the provided case law regarding sentencing and supporting the proposed penalty, the aggravating and mitigating factors, and the law on joint submissions in determining the appropriate penalty.
23. The Hearing Committee accepts that it is its duty to consider the joint submission and determine if the penalty put forward by the parties is appropriate in the circumstances.
24. In support of the joint submission, the parties relied on Law Society of Saskatchewan v Sheppard, 2014 SKLSS 5. In Sheppard, the lawyer received a reprimand, \$1,000 fine, and costs order where he acted for a criminal law client accused of domestic assault against the lawyer's former family law client. The lawyer in that case had no prior discipline

record, had cooperated with the Law Society, and his breach of duty did not harm his former client's legal interests; however, the Hearing Committee concluded that at the sentencing hearing of the criminal law client, the lawyer took an adversarial position against his former client by presenting his client's version of events, which differed from his former client's version.

25. The Hearing Committee accepts that the present matter is less severe than Sheppard. The Member did not complete proceedings in circumstances of divided loyalty or engage in conduct that undermined his work for C.D.
26. In the present matter, the Hearing Committee accepts an aggravating factor is the Member's prior findings of conduct unbecoming in 2020. However, one of those findings concerned conduct unrelated to that at issue in the present matter. The other finding related to a conflict of interest of a different nature than that at issue in the present matter: a conflict of interest between a lawyer and client in a business transaction raises issues of self-dealing, personal benefit, and integrity, which are not at issue here, where the Member failed to manage the transition of a client where there was a known conflict.
27. The Member also had prior dealings with the Law Society in 2017 and 2024. The 2017 dealing concerned a practice review on an unrelated topic. The Hearing Committee accepts the 2017 dealing does not constitute an aggravating factor considering its nature and severity.
28. The 2024 dealing resulted in a Formal Caution where the Member may have acted for two parties with conflicting interests. During the hearing, the Hearing Committee enquired if the 2024 Formal Caution constituted an aggravating factor given the similarity of the conduct and the timing of the Formal Caution, issued shortly before the events in the present matter took place. The parties submitted it was an aggravating factor in that it is part of the Member's history and should be considered as part of the spectrum of the progressive discipline ladder. The Committee accepts these submissions.
29. The Hearing Committee accepts the mitigating factors are that the Member took responsibility for his actions by executing the Agreed Statement and entering a guilty plea in this matter. Further, the Member's conduct was rooted in his efforts to arrange a smooth transition for J.D. to new counsel.
30. The Hearing Committee finds the proposed penalty in these circumstances for the Member is not unfit, unreasonable, contrary to the public interest or outside the range of sentences.

Order

31. Therefore, pursuant to subsection 1131(3) of the *Rules of Law Society of Saskatchewan*, the Hearing Committee makes the following orders:
 - (a) The Member will be reprimanded; and

(b) The Member will pay costs in the amount of \$2,000 to the Law Society.

Dated at Saskatoon, Saskatchewan, this 25th day of May, 2026.

"Melissa Nicolls"
Melissa Nicolls, Chair

Dated at Saskatoon, Saskatchewan, this 27th day of May, 2026.

"Maya Scott"
Maya Scott

Dated at Regina, Saskatchewan, this 27th day of May, 2026.

"Harold Bhagaloo"
Harold Bhagaloo

AGREED STATEMENT OF FACTS AND ADMISSIONS

Jurisdiction

32. Estes Fonkalsrud (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").
33. The Formal Complaint in this matter is attached at Tab 1 along with proof of service in the form of an Affidavit of Service. The Member intends to plead guilty to allegations 1 and 2 as set out in the Formal Complaint.

Particulars of Conduct

34. The Law Society received a complaint from a client, CD, regarding concerns that the Member was acting in a conflict of interest in legal matters contrary to her own interests.
35. In her complaint, CD stated that she first hired the Member in 2022 for a family matter in which CD was seeking to obtain child support from EM, the father of her two oldest children. CD has a third child, with her husband, JD. In October 2023, CD's three children were apprehended from the care of CD and JD. CD and JD hired the Member to represent them in relation to the child apprehension matter. During this time, the Member was also retained to represent CD and JD on criminal charges relating to an alleged assault on EM. CD states that the Member worked with both her and JD in relation to all of their legal issues.

36. JD was arrested and charged in late December 2023 for assaulting CD with a weapon and uttering threats. CD raised the incident with the Member. CD complains that, upon learning that JD was charged with assaulting CD, the Member advised CD that he could no longer act for her, as he was in a conflict from doing so.
37. However, on December 22, 2023, the Member accepted a retainer in the amount of \$2,500.00 from JD in relation to the criminal charges.
38. The Member contacted CD directly on January 18, 2024, on behalf of JD, to make arrangements for JD's cats and to inquire about when CD planned on moving out of their house. In response, CD asked the Member if he was representing JD. She received a reply from the Member on the same date, but the Member did not respond to CD's question about whether he continued to act for JD.
39. The Member's office contacted CD by telephone on February 1, 2024, and asked CD to confirm that she was seeking Legal Aid representation for each of her legal matters. CD sent an email to the Member and asked why she needed to seek Legal Aid for all of her legal matters, including the matters on which the Member was acting that did not relate to JD. In her email, CD stated that if she needed to find a new lawyer for certain matters, that it would leave her under a week to find a new lawyer. She also asked the Member to confirm if he was acting for JD in relation to any legal matters.
40. During this email exchange the Member said, "Given all the files overlap I am not going to act for anyone. The assault on you I think will put me in a conflict on all matters. Your next court date I can work with you to adjourn. I assume you are still working with Social Services. The problem with me acting for you regarding the social services matter is I assume you will not be wanting JD to have contact."
41. CD subsequently became aware, through information received from third parties, that the Member continued to act for JD on the assault charges (including making court appearances for JD), despite the Member's indication that he would have to cease acting for both CD and JD.
42. In his response to the complaint, the Member confirmed that he had acted on various matters for CD and for JD. The Member stated that during his retainer on the child apprehension matter, JD was charged with assaulting CD and that once that event took place he "would be in a conflict" and "could not represent either party if matters would be contested." The Member stated that he informed both CD and JD that they would have to obtain independent counsel.
43. In his explanation to Professional Responsibility Counsel, the Member also made the following statements:
 - (a) "I informed both parties that I would be willing to appear and adjourn their matters until they were able to obtain new counsel. [CD] was able to obtain new counsel

quickly as she qualified for Legal Aid. [JD] did not qualify for Legal Aid and financial issues would stop him from hiring a lawyer immediately."

- (b) "[JD] had moved out of the Moose Jaw area, so I agreed to appear for him to adjourn the matters. After appearing to adjourn the matters for [JD], I had contact with [CD's] counsel at Legal Aid to inform them that [JD] may choose to resolve the matter involving [CD]. I indicated I would be in an obvious conflict to run any trial, but I would update if [JD] chose to resolve the matter in a fashion that would not create the conflict. [JD] did not resolve his matter. I continued to appear for [JD] to simply adjourn the matter."
 - (c) "[JD] continued to hold off on getting new counsel for his criminal or family matter as he indicated financial difficulties. As [JD] continued to reside outside of the City of Moose Jaw, I appeared on numerous occasions to adjourn this matter. Since receiving notice of the complaint, I informed [JD] that I could not attend Court on his behalf to adjourn matters any longer."
 - (d) "I indicated to both parties that I would adjourn the matter until they obtained counsel. I continued to do so for [JD] as he had not retained counsel. I have never had any intention of setting the matters down for a trial and representing [JD]."
44. Information from the Member's files indicate that the Member met with JD on March 3, 2024, via telephone call to discuss the alleged assault on CD. The Member's handwritten notes indicate that he told JD that he needed to withdraw from the matter unless JD was willing to admit the offence and plead guilty and that he would also need CD's permission to continue. JD appears to have instructed the Member to make inquiries on a plea deal. Later that day, the Member wrote to the prosecutor on behalf of JD.
45. JD wrote to the Member on March 15, 2024. He updated the Member on his recovery and asked how court was earlier that week. JD thanked the Member for being his friend and lawyer. It appears from a handwritten note that the Member called JD later that day to update JD on the Crown's position. JD indicated that he needed to consider his options. The note states that the Member told JD that if he is not accepting (of the offer), he must retain another lawyer.
46. The Member wrote to JD on April 20, 2024 to seek JD's instructions on how to proceed, as a court date was scheduled for May 8. The Member spoke with JD later that day and was instructed to agree to the facts and sentence proposed by the Crown.
47. In May 2024, JD had new charges relating to a breach and assault. The Member spoke with JD on May 22. In the handwritten notes on file, the Member stated that JD "MUST get new lawyer. If she had agreed to me resolving the first [charges] I would have but with new he has to get advice from lawyer." The Member noted that he told JD that he would request disclosure from the Crown, which he did.
48. The Member appeared in court for JD on June 13, 2024. On June 18, JD and the Member exchanged the emails attached at Tab 2. The emails are indicative of a continuing solicitor-

client relationship between the Member and JD. JD's email contained negative comments about CD. The Member's response included confirmation from the Member that he was waiting for disclosure on the new criminal matters and that he and the Crown had talked. The Member confirmed that he would connect with the Crown again once disclosure arrived from the RCMP.

49. On July 2, 2024, the Member sent JD a statement of account for services rendered (in the amount of \$3,146.50) and advised JD that the next court date was July 16, at which time the Member hoped to determine if there could be a global resolution to all outstanding criminal charges reached.
50. The Member spoke with JD on July 15 and took notes about their conversation. In the handwritten notes, The Member wrote: "He needs new lawyer. He said he will look. No \$ is the problem. [...] If no lawyer he has to be prepared to attend himself." "Client good with everything - I will keep adjourning for him."
51. The Member spoke on the phone with JD on September 4, 2024. His handwritten notes indicate that he again stated that he "can adj but he needs to decide what he is doing. Either lawyer or he will have to pick day to come in for court and talk to crown."
52. On December 16, 2024, the Member wrote to the Crown to return disclosure, as he was no longer representing JD. He also wrote to JD and stated that he had withdrawn as counsel because CD made a complaint to the Law Society.
53. It is apparent that the Member's motivation for continuing to act for JD was a desire to facilitate a smooth transition for JD, but the Member lost sight of the distinction between brief transition management and prolonged continued representation.

Prior History

54. In May 2020, the Member was found guilty of conduct unbecoming a lawyer following a hearing in relation to two separate citations. The first citation related to a complaint made by another member of the Law Society in which the Member acted in a conflict of interest by conducting business with a client. The second citation related to the Member's criminal conviction for breaching an undertaking to the court to abstain from the consumption of alcohol pending the disposition of a separate criminal matter (in which Fonkalsrud was acquitted). A hearing panel made a decision regarding both matters concurrently. The panel ordered that the Member be suspended from practice for two weeks and that he pay a fine in the amount of \$1,000.00 and costs in the amount of \$3,000.00.
55. In January 2024, the Member was issued a Formal Caution in relation to concerns that he may have acted for two parties when their interests were in conflict. The Member was reminded of the importance of avoiding conflicts of interest by fully considering the potential for a conflict to arise at all stages of a joint retainer and to take appropriate action and withdraw from both parties should a dispute arise.

56. September 27, 2017, the Member was referred to the Competency Committee and participated in a Practice Review in respect to a referral from the Law Society Auditor's due to a breach of the cash rules.