

THE LAW SOCIETY OF MANITOBA

IN THE MATTER OF:

**RYAN WILLIAM FAWCETT
(the “Member”)**

- and -

IN THE MATTER OF:

THE LEGAL PROFESSION ACT

Hearing Date: November 28, 2023

Panel: Richard Scott (Chair)
Dean Scaletta
Maureen Morrison (Public Representative)

Counsel: Rocky Kravetsky for the Law Society of Manitoba
D. Greg Bartel for the Member

REASONS FOR DECISION

Introduction

1. This Panel rendered its decision on a preliminary motion brought by Ryan William Fawcett (Mr. Fawcett”, or “the Member”) in *The Law Society of Manitoba v Fawcett*, 2023 MBL 2. Much of the factual background relevant to the current proceeding may be found in that decision.
2. A hearing on the merits was convened via Zoom on November 28, 2023 to hear argument with respect to a Joint Submission on sanction based on a Statement of Agreed Facts and guilty plea. The Statement of Agreed Facts (excluding the tabbed exhibits) – redacted to protect the identities of persons other than the Member, and to maintain the confidentiality of medical information entered into the record for the purposes of this proceeding – is attached as Appendix “A” to these Reasons.
3. Mr. Fawcett was charged in a citation dated May 20, 2022, amended on November 27, 2023 (File No. 22-009-DIS) (“the Amended May Citation”) with: (a) one count of harassment or sexual harassment (“Charge 1(a)”), (b) one count of conduct unbecoming a lawyer (“Charge 1(b)”), both contrary to Rule

6.3 of the *Code of Professional Conduct* (“the *Code*”), and (c) one count of a breach of the duty of integrity, contrary to Rule 2.1-1 of the *Code*. The Amended May Citation is attached as Appendix “B” to these Reasons.

[Note: At the outset of the hearing, the date in the second line of Charge 1 was amended, by consent, to read “November 26, 2021”.]

4. Mr. Fawcett was also charged in a citation dated September 1, 2022 (File No. 22-012-DIS) (“the September Citation”) with one count of professional misconduct (“Charge 1”), contrary to Rule 5-79 of the *Law Society Rules* (“the *Rules*”) and Rule 7.2-11 of the *Code*. The September Citation is attached as Appendix “C” to these Reasons.
5. The jurisdiction and composition of the Panel, the valid service of both of the Citations on the Member, and his membership in the Law Society of Manitoba (“the Society”), and in no other governing body of the legal profession in any other jurisdiction, were all admitted in Appendix “A”.
6. Mr. Fawcett entered guilty pleas to all of the charges. Further, he admitted that the conduct particularized in Charge 1 of the Amended May Citation constituted conduct unbecoming a lawyer, and that the conduct particularized in Charge 2 of the Amended May Citation and in Charge 1 of the September Citation constituted professional misconduct.
7. The Panel is indebted to counsel for their well-researched, thoughtful, balanced, and compelling submissions. Mr. Fawcett was permitted to address the Panel, and offered what it believes was a sincere apology to those individuals who were harmed by his misconduct.
8. The parties made a Joint Submission on sanction which includes the following elements:
 - (a) findings of professional misconduct and conduct unbecoming a lawyer;
 - (b) a two-month suspension, effective immediately;
 - (c) costs payable to the Society in the amount of \$5,000; and,
 - (d) an indefinite suspension “until such time as he demonstrates to the CEO of the Society that he has [his] addictions under control with a reasonable demonstration of stability such that he can be trusted to practise under such conditions”.
9. For the reasons which follow, the Panel has resolved to accept and endorse the Joint Submission on sanction.

Brief Facts

10. Mr. Fawcett has been a member of the Society since June, 2001, practising almost exclusively in the areas of criminal defence and public interest law.
11. He has struggled from time to time with addictions to drugs and alcohol. His periods of absence from practice (in 2008 and 2009, during the years 2020 to 2022, and currently), and his conduct-related interactions with the Society starting in 2017, have all arisen from, or been related to, these struggles.
12. Mr. Fawcett has a prior discipline history. In May, 2022, he entered guilty pleas to a charge of professional misconduct resulting from his breach of an Undertaking given to Society in July, 2020, and to a charge of conduct unbecoming a lawyer resulting from his unwanted communications of a sexual and harassing nature on multiple occasions with five women over several years, beginning in approximately August, 2016. He received a reprimand, and was made subject to conditions as to his practice setting, abstinence from alcohol and any substance prohibited by law, treatment, monitoring, and reporting; several of those conditions remain in effect today.
13. In October, 2020, Mr. Fawcett entered into a new Undertaking to the Society (“the October Undertaking”) which replaced the one he had given in July, 2020, although it included a number of the same conditions.
14. Two provisions of the October Undertaking are relevant to these proceedings:
 - (a) Clause 5.8 reads: “I will abstain from the consumption of alcohol. If I experience a relapse of consumption of alcohol, I will notify the Society, in writing, within 48 hours”; and,
 - (b) Clause 5.9 reads, in part: “Unless I have prior written authorization of the Society, I will not contact any woman who is a member of the Society; a legal assistant; or an employee of the courts, Manitoba Justice, Justice Canada or Legal Aid Manitoba; by Face Time, text, email or other direct messaging or video communications application, for any reason that is not strictly about a work related matter.”
15. The 2022 Discipline Panel Order relieved Mr. Fawcett of several provisions of the October Undertaking, but the two quoted above (and three others) remained in effect.
16. Mr. Fawcett has neither applied for nor been issued any practising certificate since the date of that Order. Its restrictions and conditions remain in effect and are applicable to any practising certificate that may be issued to him in the future.

17. The evidence supporting the charges in the Amended May Citation and in the September Citation are set out in considerable detail at Paragraphs 7.1 to 7.24 and 8.1 to 8.12, respectively, of the Statement of Agreed Facts, and need not be repeated here.

Relevant Statutory Provisions

18. *The Legal Profession Act*
Sections 3(1), 3(2)(b), 72(1)(c), 72(1)(e), & 72(1)(k)
19. *Code of Professional Conduct*
Rule 2.1-1 and Commentary [1] & [3]
Rule 6.3-2 and Commentary [1] & [2](b)
Rule 6.3-3 and Commentary [1](a), [2](i), & [4]
Rule 7.2-11
20. *Law Society Rules*
Rules 5-79(1) & 5-79(2)

Relevant Authorities and Principles

Purposes of Professional Discipline

21. The Panel is indebted to prior Discipline Panels which have articulated the guiding principles applicable to cases such as this one. These principles (in no particular order of importance) include the following:

- (a) The purposes of law society discipline proceedings are not to punish offenders and exact retribution, but rather to protect the public, maintain high professional standards, and preserve public confidence in the legal profession.

The Law Society of Manitoba v Nadeau, 2013 MBL 4, citing Lawyers & Ethics: Professional Responsibility and Discipline, Gavin McKenzie, Carswell 2012

- (b) The discipline hearing panel focuses on the offence rather than the offender, and considers the desirability of parity and proportionality in sanctions, and the need for deterrence. ... The panel also considers ... aggravating and mitigating factors [which] include the lawyer's prior discipline record, the lawyer's reaction to the discipline process, ..., the length of time the lawyer has been in practice, the lawyer's general character and the lawyer's mental state.

Other relevant considerations (derived from the list of so-called “Ogilvie” factors) include: “(a) The nature and gravity of the conduct proven; (b) the age and experience of the respondent; (c) the previous character of the respondent, including details of prior disciplines; (d) the impact upon the victims; (e) the advantage gained or to be gained, by the respondent; (f) the number of times the offending conduct occurred; (g) whether the respondent had acknowledged the misconduct and taken steps to disclose and redress the wrong and the presence or absence of other mitigating circumstances; (h) the possibility of remediating or rehabilitating the respondent; (i) the impact on the respondent of criminal or other sanctions or penalties; (j) the impact of the proposed penalty on the respondent; (k) the need for specific and general deterrence; (l) the need to ensure the public’s confidence in the integrity of the profession; and (m) the range of penalties imposed in similar cases.”

The Law Society of Manitoba v Sullivan, 2018 MBLs 9, citing *Nadeau and Lawyers & Ethics: Professional Responsibility and Discipline*, Gavin McKenzie, Carswell 2012

- (c) Integrity is the foundation of the legal profession. It is first rule in the *Code of Professional Conduct* and every other rule is based upon it. ... Without this level of trust, the profession cannot function.

The Law Society of Manitoba v McKinnon, 2010 MBLs 5

Behaviour Constituting Professional Misconduct

22. An old, but still useful, definition of “professional misconduct” was articulated by the Ontario Court of Appeal in *Re: Davidson and Royal College of Dental Surgeons of Ontario*, 1925 CarswellOnt 254:

If it is [shown] that a member of the college, in the pursuit of his profession, has done something with respect to it which would be reasonably regarded as improper by his professional brethren, of good repute and competency, then it is open to the board of directors of the college to decide that he has been guilty of improper conduct in a professional respect.

23. More recently, the British Columbia Court of Appeal formulated its own articulation of the test in *Strother v. Law Society of British Columbia*, 2018 BCCA 481 (at para. 64):

[A] hearing panel will consider whether the lawyer's conduct was a marked departure from the conduct expected of lawyers. Put another way, the lawyer's conduct must display culpability of a gross or aggravated nature, rather than a mere failure to exercise ordinary care.

Behaviour Constituting Conduct Unbecoming a Lawyer

24. The distinction between professional misconduct and conduct unbecoming a lawyer is that the former arises out of acts performed in the professional capacity of lawyers or in connection with their professional status, while the latter arises out of acts performed in their personal or private capacity.

Lawyers & Ethics: Professional Responsibility and Discipline, Gavin McKenzie, Carswell 2021

25. In order for the personal or private conduct of a lawyer to amount to conduct unbecoming a lawyer, it must tend to bring discredit upon the legal profession or the administration of justice.

Lawyers & Ethics: Professional Responsibility and Discipline, Gavin McKenzie, Carswell 2021

26. Integrity is the fundamental quality of any person who seeks to practise as a member of the legal profession. If personal integrity is lacking, the usefulness of the lawyer to the client and reputation within the profession will be destroyed regardless of how competent the lawyer may be.

Lawyers & Ethics: Professional Responsibility and Discipline, Gavin McKenzie, Carswell 2021

27. Dishonourable or questionable conduct on the part of a lawyer in either private life or professional practice will reflect adversely upon the integrity of the profession and the administration of justice. Whether within or outside the professional sphere, if the conduct is such that knowledge of it would be likely to impair the trust of the client in the lawyer the Society may be justified in taking disciplinary action.

Lawyers & Ethics: Professional Responsibility and Discipline, Gavin McKenzie, Carswell 2021

Breach of Undertaking

28. The breach of an Undertaking given to the Society by a member cannot be described as a victimless offence. Undertakings are not just important; they are fundamental to our legal system. Failures of members to honour them must be firmly dealt with. The public has the right to expect that lawyers will keep their promises. The Society is charged with the responsibility of ensuring members of the legal profession do exactly that.

The Law Society of Manitoba v Walker, 2020 MBLS 2, citing *The Law Society of Manitoba v Wang*, 2015 MBLS 12

Joint Submissions

29. An adjudicator should not depart from a joint recommendation on penalty unless the proposed disposition would bring the administration of justice into disrepute or would otherwise be contrary to the public interest.

Anthony-Cook v Her Majesty the Queen, 2016 SCC 43

30. To be contrary to the public interest means the joint recommendation is so “markedly out of line with the expectations of reasonable persons aware of the circumstances of the case that they would view it as a break down in the proper functioning of the [professional discipline process]”.

Anthony-Cook v Her Majesty the Queen, 2016 SCC 43

31. “Rejection denotes a [recommendation] so unhinged from the circumstances of the offence and the offender that its acceptance would lead reasonable and informed persons, aware of all the relevant circumstances, including the importance of promoting certainty in resolution discussions, to believe that the proper function of the [professional discipline process] had broken down. This is an undeniably high threshold – and for good reason.”

Anthony-Cook v Her Majesty the Queen, 2016 SCC 43

32. Although the principles in *Anthony-Cook* were articulated in the context of a criminal prosecution, they have been adopted by other regulators of health care professionals.

Pillay (Re), 2018 CanLII 47172 (MB CPSDC)

33. Joint submissions are to be encouraged, not ignored. If joint submissions are ignored, plea bargains such as occurred here will be much less likely to occur. Lengthy discipline hearings and increased costs to be borne initially by members of the profession and perhaps ultimately by the public they serve will result. Joint submissions are in the public interest and should be followed by administrative tribunals in the same fashion as is done by the Courts unless it can be clearly demonstrated they are unfit, unreasonable or contrary to the public interest.

Pankiw v The Board of Chiropractors' Association of Saskatchewan, 2009 SKQB 268

Submissions on Behalf of the Society

34. Mr. Kravetsky divided his comments between the “governability issues” (primarily the breaches of Undertakings the Member gave to the Society at different times, and his lack of candour with the Society in his initial response to the A.B. complaint) and the “behavioural issues” (primarily his interactions with A.B. and C.D.) raised by the facts of the case. He submitted that the Joint Submission addresses and properly balances both categories of behaviours. It does so by providing robust protection of the public and, as well, serving the broader public interest in facilitating the return to practice (if possible) of an individual who, by all accounts, has demonstrated that he is a skilled and competent lawyer serving individuals who are among the most marginalized members of society.
35. He notes that the none of the behaviours for which the Member is now being disciplined were “practice-related”, in the sense that they did not occur in course of his day-to-day dealings with clients, colleagues, and other players in the criminal justice system in which he worked, nor did they cast doubt upon his ability or competence to act as criminal defence counsel.
36. In particular, Mr. Kravetsky noted that the offences involving A.B. and C.D. both occurred while the Member was under the influence of alcohol and other intoxicants to which he was, and likely still is, addicted. While the Member has demonstrated an ability in the past to abstain from the misuse of these substances, his addictions are not currently under control and there is no way to predict when that control might be achieved. Mr. Kravetsky stressed that addiction is an illness and that the professional discipline process must take that reality into account, both in its processes and in the punitive and rehabilitative measures which it seeks to impose on members being disciplined.
37. The immediate two-month suspension addresses the requirements for both specific and general deterrence by reinforcing – for the benefit of *all* members of the Society – the critical importance of full and unconditional cooperation with their regulatory body while it is engaged in fulfilling its statutory duty to regulate the profession in the public interest.
38. The indefinite suspension to follow protects the public in the areas of greatest concern by providing for treatment, supervision, monitoring, and reporting until such time as Mr. Fawcett demonstrates that it is safe for him to return to practice.
39. Based on his previous successes in the long-standing battle with his addictions, it is reasonable to expect a good outcome for Mr. Fawcett, the Society, and the public they both strive to serve. Until that outcome is achieved, however, he will be kept out of practice.

Submissions on Behalf of the Member

40. Mr. Bartel endorsed the submission on behalf of the Society. He noted that all of the disciplinary measures which Mr. Fawcett has faced stem from his addiction; he has paid (and continues to pay) a heavy price as a consequence of his illness.
41. He notes that Mr. Fawcett has admitted his guilt and accepted responsibility for his actions. As a result, none of the individuals impacted by his behaviour had to testify before the Panel, the Society was not put to the formal proof of any element of his conduct, and the Society was not required to formally establish either “professional misconduct” or “conduct unbecoming a lawyer”. All of these admissions on his part served to expedite the resolution of the Charges and to reduce the costs of the prosecution.
42. The addiction under which Mr. Fawcett labours has and will be lifelong; it can be managed, but not cured. His recovery journey is ongoing and will be for the foreseeable future.
43. By virtue of the Discipline Panel Order from May, 2022, Mr. Fawcett was relieved of all of the conditions of the October Undertaking with exception of the ones numbered 8, 9, 10, 11, and 12 (to the extent that they impose ongoing obligations or have not otherwise been satisfied). The Order imposed significant and detailed remedial conditions on Mr. Fawcett (they take up more than three pages of text in Reasons for Decision), many of which have never yet been engaged because Mr. Fawcett has never, since the Order was issued, applied for reinstatement of his practising certificate.
44. The Joint Submission adds to these conditions by stipulating that he can only apply for reinstatement once he has his addiction under control, thereby adding yet another level of protection for the public.
45. Professional discipline is not meant to punish the member but to protect both the public interest and the reputation of the profession, while recognizing the underlying illness that was a major factor in the misconduct. The process can and should be remedial and supportive of the member in achieving the goal of a return to vigorous mental and physical health.
46. The Joint Submission achieves this fine balance, and imposes meaningful consequences which are in line with the authorities cited in both Books of Authorities.

Analysis

47. The accepted template for assessing of the suitability of a Joint Submission involves a careful consideration of the relevant “*Ogilvie*” factors:

- (a) the nature and gravity of the conduct proven

As noted in *Wang* and *Walker*, the breach of an Undertaking given to the Society is a serious matter which goes to the heart of the right to self-governance. If a regulatory body cannot effectively compel its members to comply with their duties and obligations as professionals, the public is not adequately protected and the very right to self-govern is put at risk.

This factor encompasses the failure to abstain from alcohol, the failure to report relapses to the Society in a timely manner, and the inappropriate contact with C.D. Her occupation was prominently displayed on her public profile, and the Member could not possibly have been unaware prior to making contact with her that she worked as a legal assistant.

The assault on A.B. was nonetheless an unwarranted encroachment on the integrity of her person. The swift denial that anything untoward had occurred added insult to injury.

- (b) the age and experience of the member

Apart from the absences from practice between 2008 and 2010, the Member had been practising for more than 16 years at the time of the assault on A.B. Apart from those and the additional absences starting about 15 months before the misconduct outlined in the September Citation, he had been practising for more than 20 years at that time. Youth and inexperience do not come into play with respect to the conduct of the Member.

- (c) the previous character of the member, including details of prior disciplines

There is no evidence of prior misconduct on the part of the Member while engaged in actual practice. His work was good, and his relations with others he interacted with in a professional context were cordial and respectful.

The only previous disciplinary proceeding arose from conduct similar to that described in the September Citation; it resulted in a reprimand, a significant award of costs, and the imposition of conditions which continue to bind him.

(d) the impact upon the victims

As noted in Fawcett #1, the Victim Impact Statement submitted by A.B. in the criminal proceedings against the Member “paints a vivid portrait of a vulnerable, frightened, and confused young woman; an articling student, who wanted to practise criminal law from an early age, who had been assaulted – in an overtly sexual manner – by a relatively senior member of the local criminal Bar”. From her perspective, the “power imbalance” (veteran male lawyer / female articling student) must have been palpable. In the aftermath of the assault, the awareness of her extreme vulnerability had to have been acute.

While A.B. continues to practise law in Manitoba, she has left Brandon and no longer practises criminal defence. She has sought and received counselling. No matter how one frames it, the negative impact on A.B. has been profound.

The Panel did not hear any evidence of specific harm to C.D. as a result of her online and telephone contacts with the Member, but it has no difficulty in concluding that the experiences were emotionally distressing and perhaps even frightening for her.

It was submitted on behalf of the Member, ostensibly in mitigation, that neither victim suffered a financial loss; that is, “at least [the Member] didn’t steal trust money”. While the misappropriation of trust money is a significant aggravating factor, frequently resulting in disbarment, its absence is by no means a mitigating factor, particularly when the misconduct involves inappropriate behaviour towards younger women.

(f) the number of times the offending occurred

The incident involving A.B. lasted about five seconds, and was not repeated.

Both counsel described the interactions with C.D. as a discrete series of contacts over a relatively short time frame. The Panel concurs with that assessment.

(g) whether the member has acknowledged the misconduct and taken steps to disclose and redress the wrong and the presence or absence of other mitigating circumstances

(h) the possibility of remediating or rehabilitating the member

These two factors may be conveniently dealt with together. The Member has acknowledged and apologized for his misconduct; in the case of

A.B., both in the Provincial Court of Manitoba and before this Panel. He has been an active participant in his treatment regimes and in the remedial programs he was required to complete (the *Professional Boundaries Program* is but one example). While it is still early days, and while the road ahead for the Member is likely to be a long and arduous one, the prospects for an ultimately successful outcome appears to be quite good.

- (i) the impact on the member of criminal or other sanctions or penalties
- (j) the impact of the proposed penalty on the member

These two factors may also be conveniently dealt with together. The Member was convicted of common assault in the Provincial Court of Manitoba, “not a small thing” according to Mr. Kravetsky. The Joint Submission imposes an immediate two-month suspension, also not insignificant, as well as an indefinite suspension governed by a number of stringent conditions on any future return to practice.

Those conditions are not punitive and are, in fact, of benefit to the Member. They act as “guardrails” which not only guide him toward the ultimate goal of a return to active practice, but also prevent him from making a precipitous application for reinstatement before he is truly ready.

- (k) the need for specific and general deterrence

Undertakings given by a member to the Society are a useful tool in the proper and efficient regulation of individual members of the profession, but their utility is severely diminished unless the membership as a whole believes that a failure to comply will invariably lead to significant consequences. Given the fundamental role that Undertakings serve within the regulatory regime, a stern sanction for the breach of one sends the appropriate message to the sanctioned member and to the profession at large.

- (l) the need to ensure the confidence of the public in the integrity of the profession

This is a factor of paramount importance.

The purpose of the Society is succinctly described in Section 3(1) of *The Legal Profession Act*. It reads: “The purpose of the Society is to uphold and protect the public interest in the delivery of legal services with competence, integrity and independence.”

The Panel in *Walker* stated: “The public has the right to expect that lawyers will keep their promises. The Society is charged with the responsibility of ensuring members of the legal profession do exactly that.”

When a lawyer breaches an Undertaking given to the Society, or behaves in their private life in a manner which dishonours the profession as a whole, the Society must act decisively to restore and maintain the public reputation of the profession. The proper functioning of the legal system depends on it.

- (m) the range of penalties imposed in similar cases

On this point, counsel cited several relevant authorities:

The Law Society of Manitoba v Wiens, 2010 MBLS 3

The Law Society of Manitoba v King, 2011 MBLS 5

The Law Society of Manitoba v Law, 2018 MBLS 7

The Law Society of Manitoba v Walker, 2020 MBLS 2

48. Taking all of the above factors into account, the Panel is satisfied that the proposed sanctions are appropriate and it has no hesitation in accepting the Joint Submission.

Disposition

49. In accordance with the Joint Submission particularized in Paragraph 10.2, the Panel finds that the conduct of Mr. Fawcett set out in the Statement of Agreed Facts constitutes:

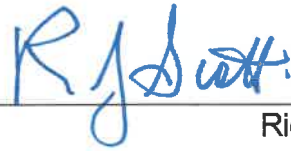
- (a) under the Amended May Citation, conduct unbecoming a lawyer as alleged and particularized in Charge 1 and professional misconduct as alleged and particularized in Charge 2; and,
- (b) under the September Citation, professional misconduct as alleged and particularized in Charge 1;

and orders that:

- (c) For Charge 2 of the Amended May Citation and Charge 1(c) of the September Citation, effective immediately, he be suspended from the practice of law and ineligible for a practising certificate for a period of two months and that he pay costs to the Society of \$5,000, on terms of payment set by the CEO of the Society;
- (d) For Charge 1 of the Amended May Citation and Charge 1(b) of the September Citation, he thereafter be suspended from the practice of

law, and ineligible for a practising certificate, until such time as he demonstrates to the CEO of the Society that he has his addictions under control, with a reasonable demonstration of stability, such that he can be trusted to practise under such conditions as may be continued, and as may be modified or set by the Society, having regard to information available at the time when his application to resume practising is considered.

DATED this 11th day of December, 2023.



Richard Scott



Dean Scaletta



Maureen Morrison

Relevant Statutory Provisions

The Legal Profession Act

Purpose

3(1) The purpose of the society is to uphold and protect the public interest in the delivery of legal services with competence, integrity and independence.

Duties

3(2) In pursuing its purpose, the society must

- (a) establish standards for the education, professional responsibility and competence of persons practising or seeking the right to practise law in Manitoba; and
- (b) regulate the practice of law in Manitoba.

Consequences of professional misconduct or conduct unbecoming

72(1) If a panel finds a member guilty of professional misconduct or conduct unbecoming a lawyer or student, it may do one or more of the following:

- (c) for any period the panel considers appropriate,
 - (i) confirm, vary or impose restrictions on the member's practice, or
 - (ii) suspend the member from practising law;
- (e) order the member to pay all or any part of the costs incurred by the society in connection with any investigation or proceedings relating to the matter in respect of which the member was found guilty;
- (k) make any other order or take any other action the panel thinks is appropriate in the circumstances.

Code of Professional Conduct

Chapter 2 – Standards of the Legal Profession

2.1 Integrity

2.1-1 A lawyer has a duty to carry on the practice of law and discharge all responsibilities to clients, tribunals, the public and other members of the profession honourably and with integrity.

Commentary

[2] Public confidence in the administration of justice and in the legal profession may be eroded by a lawyer's irresponsible conduct. Accordingly, a lawyer's conduct should reflect favourably on the legal profession, inspire the confidence, respect and trust of clients and of the community, and avoid even the appearance of impropriety.

[3] Dishonourable or questionable conduct on the part of a lawyer in either private life or professional practice, for example, committing any personally disgraceful or morally reprehensible offence including an act of fraud or dishonesty, will reflect upon the integrity of the lawyer, the profession and the administration of justice. Whether within or outside the professional sphere, if the conduct is such that the knowledge of it would be likely to impair the client's trust in the lawyer, the Society may be justified in taking disciplinary action.

Chapter 6 – Relationship to Students, Employees and Others

6.3 Harassment and Discrimination

6.3-2 A lawyer must not harass a colleague, employee, client or any other person.

Commentary

[1] Harassment includes an incident or a series of incidents involving physical, verbal or non-verbal conduct (including electronic communications) that might reasonably be expected to cause humiliation, offence or intimidation to the person who is subjected to the conduct. The intent of the lawyer engaging in the conduct is not determinative. It is harassment if the lawyer knew or ought to have known that the conduct would be unwelcome or cause humiliation, offence or intimidation. Harassment may constitute or be linked to discrimination.

[2] Examples of behaviour that constitute harassment include, but are not limited to:

(b) behaviour that is degrading, threatening or abusive, whether physically, mentally or emotionally;

6.3-3 A lawyer must not sexually harass a colleague, employee, client or any other person.

Commentary

[1] Sexual harassment is an incident or a series of incidents involving unsolicited or unwelcome sexual advances or requests, or other unwelcome physical, verbal, or nonverbal conduct (including electronic communications) of a sexual nature. ... The intent of the lawyer engaging in the conduct is not determinative. It is sexual harassment if the lawyer knew or ought to have known that the conduct would be unwelcome. Sexual harassment may occur:

(a) when such conduct might reasonably be expected to cause insecurity, discomfort, offence, or humiliation to the person who is subjected to the conduct;

[2] Examples of behaviour that constitute sexual harassment include, but are not limited to:

(i) unsolicited or unwelcome physical contact or touching;

[4] Lawyers are reminded that the provisions of this Rule do not only apply to conduct related to, or performed in, the lawyer's office or in legal practice.

Chapter 7 – Relationship to the Society and Other Lawyers**7.2 Responsibility to Lawyers and Others****Undertakings and Trust Conditions**

7.2-11 A lawyer must not give an undertaking that cannot be fulfilled and must fulfill every undertaking given and honour every trust condition once accepted.

Law Society Rules**Part 5 – Protection of the Public****Division 7 – Complaints Investigation Committee****Undertaking to society**

5-79(1) Where a member gives the committee a written undertaking to do or refrain from doing anything, the undertaking is deemed to be an undertaking given to the society.

Breach of undertaking

5-79(2) The failure of a member, without reasonable excuse, to comply with an undertaking under subsection (1) may constitute professional misconduct.

Appendix "A"

THE LAW SOCIETY OF MANITOBA

IN THE MATTER OF:

RYAN WILLIAM FAWCETT

- and -

IN THE MATTER OF:

THE LEGAL PROFESSION ACT

STATEMENT OF AGREED FACTS

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IN THE MATTER OF:

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THE LEGAL PROFESSION ACT

STATEMENT OF AGREED FACTS

For the purpose of the above proceeding, the parties agree on the following facts:

I. Jurisdiction, Service and Panel Composition

- 1.1 Ryan William Fawcett was admitted to act as a solicitor and called to the Bar in Manitoba on June 21, 2001. He has been a member of The Law Society of Manitoba ("the Society") since then.
- 1.2 Mr. Fawcett is not a member or licensee of the governing body of the legal profession in any other jurisdiction.
- 1.3 Mr. Fawcett was validly serviced with the Citation dated May 20, 2022, which Citation was amended on November 27, 2023 ("the Amended May Citation", Tab 1). Mr. Fawcett consents to that amendment and acknowledges that he has been validly served with the Amended May Citation. He makes no objection to it, whether as to its validity or as to the timeliness of service, or otherwise.

- 1.4 Mr. Fawcett was validly served with the Citation dated September 1, 2022 (the September Citation”, Tab 2).
- 1.5 Mr. Fawcett has no objection to any of the panel members either on the basis of bias or conflict or otherwise.

II. Practice History

- 2.1 Mr. Fawcett articulated with firm then known as Pinx, Roitenberg, Campbell and his practising history since then is as follows:

June 21, 2001 - July 15, 2002	Associate	Pinx Roitenberg Campbell
July 15, 2002 - December 31, 2003	Partner	Saheel Zaman Law Office
January 5, 2004 - March 31, 2008	Employee	Legal Aid Manitoba - Criminal Law Office, Winnipeg
April 1, 2008 - May 13, 2008	Non-practising	
May 14, 2008 - June 19, 2008	Employee	Legal Aid - Public Interest Law Centre
June 20, 2008 - June 7, 2009	Inactive	
June 8, 2009 - September 13, 2009	Employee	Legal Aid - Criminal Law Office, Winnipeg
September 14, 2009 - August 10, 2010	Non- practising	
August 11, 2010 - August 31, 2020	Employee	Legal Aid - Westman Community Law Centre, Brandon
September 1, 2020 - March 21, 2022	Leave of Absence	Legal Aid - Westman, Brandon

March 22, 2022 - March 29, 2022 Sole Practitioner Brandon

March 30, 2022 – Present Inactive

2.2 Mr. Fawcett’s practice with Legal Aid Brandon consisted entirely of criminal defence work.

III. Discipline History

3.1 On April 13, 2022 Mr. Fawcett entered pleas of guilty to:

- a. a charge of professional misconduct for breaching two aspects of his Undertaking to the Society of July 8, 2020, as more fully described below; and
- b. a charge of conduct unbecoming a lawyer by making unwanted communications of a sexual and harassing nature on multiple occasions to five women over several years, beginning in approximately August 2016.

3.2 In consequence of those facts, the Discipline Committee Panel accepted the joint recommendation of counsel and ordered that Mr. Fawcett:

- a. be reprimanded;
- b. pay \$7500 as a contribution to the costs of the investigation and prosecution of the charges;
- c. be subject to conditions as to his practice setting, abstinence from alcohol, cocaine and any substance prohibited by law, treatment, monitoring and reporting.

(Reasons for Decision, May 5, 2022, Tab 3).

IV. Admission

4.1 Mr. Fawcett has reviewed the Amended May Citation (Tab 1), the September Citation (Tab 2) and this Statement of Agreed Facts and the attached documents.

He admits the facts contained in this Statement of Agreed Facts and the authenticity of the attached documents. These are formal admissions.

- 4.2 Mr. Fawcett and the Society tender no other evidence and make no submissions on the issues of professional misconduct and conduct unbecoming a lawyer other than that the admitted conduct constitutes:
- a. under the Amended May Citation, conduct unbecoming a lawyer as alleged and particularized in Charge 1 and professional misconduct as alleged and particularized in Charge 2;
 - b. under the September Citation, professional misconduct as alleged and particularized in Charge 1.

V. Background - Addiction Issues 2008-2010

5.1 Mr. Fawcett has struggled from time to time with addictions to drugs and alcohol. His periods of absence from practice in 2008 and 2009, in 2020-2022 and currently have arisen from, or been related to, these struggles.

5.2 [Personal health information redacted.]

5.3 Certain remedial and protective Undertakings and Restrictions were given or imposed from time to time to address Mr. Fawcett's addictions and related conduct concerns as follows:

- a. on April 9, 2008 Mr. Fawcett gave his undertaking not to apply to change his status from non-practising to practising without first obtaining the consent of the Chief Executive Officer of the Society (the "CEO");
- b. as a condition of the CEO's consent to his resumption of practising status, on May 5, 2008 Mr. Fawcett gave his undertaking to the Society to practise under supervision, to comply with a treatment plan prescribed by his

- psychologist, to undergo an assessment by the Addictions Foundation of Manitoba ("AFM"), to comply with AFM's recommended course of treatment, and to provide reports of the AFM assessment and monthly reports from the psychologist;
- c. this conditional approval was rescinded on June 20, 2008;
 - d. Mr. Fawcett was again permitted to resume practising status on conditions imposed on March 31, 2009 that included supervision, treatment, reporting and monitoring;
 - e. As a result of information concerning [his substance abuse], Mr. Fawcett's status was changed to non-practising effective September 14, 2009;
 - f. An application to resume active practice was again approved on April 20, 2010 subject to conditions to be in place for a minimum of three years including as to practice arrangement, supervision, treatment, monitoring and reporting and restrictions on use of alcohol and non-prescription mood altering substances or intoxicants and Mr. Fawcett resumed practising under those conditions on August 11, 2010;
 - g. The April 20, 2010 conditions were removed by the Society on September 3, 2013 as it appeared that Mr. Fawcett had successfully brought his addictions under control and he had practised without any addictions related incidents for three years.

VI. Recent and Current Undertakings and Conditions

- Undertaking of July 8, 2020

- 6.1 In the course of the Society's investigation into the complaint from [Name and occupation redacted] received in October 2019 relating to unwanted communications of a sexual nature, Mr. Fawcett disclosed that he was again struggling with substance abuse, specifically of alcohol.

6.2 Having regard to Mr. Fawcett's apparent success in dealing with addictions in the past and his willingness to give certain undertakings to the Society, [this] complaint was initially resolved by Mr. Fawcett's formal Undertaking dated July 8, 2020 (Tab 4).

6.3 This Undertaking included provisions as to treatment and reporting upon the progress of that treatment to the Society. It also contained undertakings including to:

8. abstain from the consumption of alcohol. If I experience a relapse of consumption of alcohol, I will notify the Society in writing forthwith;

9. have no contact with any female member of the Society by FaceTime, text, email or other direct messaging or video communications application, for any reason other than for strictly work-related matters. If I intend on communicating with a female lawyer of the Society for a non-work-related reason, in the manners described, I will first obtain the written authorization of the Society.

6.4 Mr. Fawcett complied with the treatment undertakings but breached undertakings 8 and 9 almost immediately.

- Undertaking of October 8, 2020

6.5 On October 8, 2020, pursuant to a resolution of the Complaints Investigation ("CIC") Committee Mr. Fawcett was relieved of his Undertaking of July 8, 2020 and entered into a new Undertaking (the "October Undertaking", Tab 5). The October Undertaking contained replacement provisions as to medical assessment, treatment, reporting and monitoring and included the following:

8. I will abstain from the consumption of alcohol. If I experience a relapse of consumption of alcohol, I will notify the Society, in writing, within 48 hours;

9. Unless I have prior written authorization of the Society, I will not contact any woman who is:

- a member of the Society;
- a legal assistant; or
- an employee of the courts, Manitoba Justice, Justice Canada or Legal Aid Manitoba;

by Face Time, text, email or other direct messaging or video communications application, for any reason that is not strictly about a work related matter.

6.6 By the Order of the Discipline Committee made following a hearing on April 13, 2022 (Reasons, May 5, 2022, Tab 3), Mr. Fawcett was relieved of the October Undertaking (Tab 5) except for the provisions set out in paragraphs numbered 8, 9, 10, 11 and 12.

- Discipline

6.7 In addition to relieving Mr. Fawcett of certain of the provisions of the October Undertaking, by its Order set out in Reasons dated May 5, 2022 (Tab 3), the Discipline Committee Panel ordered that any practising certificate issued to Mr. Fawcett be subject to:

- a. restrictions limiting the settings in which he may practise, requiring that he practise under supervision, with specific reporting requirements;
- b. a condition that he abstain from use of alcohol and of cocaine and other substances prohibited by law;
- c. conditions that he be under the care of a Mental Health Professional and specific monitoring and reporting requirements.

- 6.8 Mr. Fawcett has neither been issued or applied for any practising certificate since the date of that order. Its restrictions and conditions remain in effect and applicable to any practising certificate that may be issued to Mr. Fawcett in the future.

VII. Facts - The Amended May Citation

- Charge No. 1 (Conduct Unbecoming)- The Assault

- 7.1 As at October 2017 Mr. Fawcett had been practising as a criminal defence lawyer with Legal Aid in Brandon for over eight years. [A.B.] was a [much younger] articling student working in the area of criminal law. She was four and a half months into her articling term with [Name of law firm redacted] in Brandon.
- 7.2 At about 5:30 p.m. on October 6, 2017, [A.B.] went to a local Brandon pub called The Dock on Princess, with [Name redacted], a first year lawyer at [Name of law firm redacted] in Brandon who had articulated at [Name of law firm redacted]. The first two months of [A.B.'s] term of articles had overlapped with the end of [Name redacted] articles.
- 7.3 Later in the evening, about 9:30 p.m., they were joined at their table by Mr. Fawcett and about a half hour after that by [Name and occupation redacted].
- 7.4 All were drinking alcohol, though [Name redacted] consumed much less than the others. He observed that Mr. Fawcett became "grossly intoxicated and simply not himself." He observed that Mr. Fawcett was "was far louder, jovial and talkative" than he was accustomed to seeing in his usual workplace dealings with Mr. Fawcett.
- 7.5 Later in the evening, at about 11:30 p.m., Mr. Fawcett got up from his seat, walked around the table and stood directly behind [A.B.]. Without saying anything, or anything being said to him, Mr. Fawcett then reached out around [A.B.] with left hand and grabbed [A.B.'s] left breast over her clothing for about five seconds.

7.6 [Names redacted] both told Mr. Fawcett that he should apologize but he did not.

- Charge No. 2 (Professional Misconduct) - Investigation and Criminal Charge

7.7 On October 17, 2017 [A.B.] made a formal complaint to the Society about the assault (Tab 6). The Society conducted an investigation.

7.8 In response to [A.B.'s] complaint Mr. Fawcett "completely denied" that he touched [A.B.] "in any way the could be considered an offensive assault." He described "the only physical contact" by saying "I got up and gave [Names redacted] a hug, my hands touching their shoulders or upper arms" (Letter, November 23, 2017, Tab 7).

7.9 In the course of that investigation, [Name redacted] provided a statement of the events of that evening consistent with [A.B.'s] description. [Name redacted] gave a description of the events consistent with Mr. Fawcett's and said specifically that [they] did not see Mr. Fawcett grab [A.B.'s] breast.

7.10 [A.B.'s] complaint and the investigation information were referred to CIC for consideration at its meeting of May 16, 2018. It directed that Mr. Fawcett be issued a formal Reminder of his obligations to conduct himself honourably and with integrity (Letter, June 5, 2018, Tab 8).

7.11 In September 2020 [A.B.] made a complaint to the Brandon Police Service arising from the assault of October 6, 2017 and on October 6, 2020 Mr. Fawcett was arrested and charged with sexual assault.

7.12 On November 26, 2021 Mr. Fawcett appeared in Provincial Court before Judge Bayly. He was represented by Richard Wolson and Evan Roitenberg, two experienced criminal defence lawyers. The Crown was represented by Christina Kopynsky, an experienced prosecutor.

7.13 Pursuant to a plea bargain, Mr. Fawcett offered a plea of guilty to the included charge of common assault and that offer was accepted by the Crown. This was confirmed by a plea inquiry conducted by Mr. Wolson (Transcript, Tab 9, p. T3 In 25 - T-5, In 9). A joint recommendation was made for a conditional discharge and supervised conditions for counseling, including addictions counseling and restrictions against contact with [A.B.] (Tab 9, p. T10, In 2-35).

7.14 Ms. Kopynsky for the Crown and Mr. Wolson for Mr. Fawcett made submissions in support of the joint recommendation (Transcript, Tab 9).

7.15 Ms. Kopynsky set out the facts of the assault as follows (Transcript, Tab 9, p.T6 at lines 7-16:

The accused got up from his chair at one point, and these were these higher, stool-type tables, as I understand it. He walked around the -- around the table and he was standing directly behind the complainant when he reached out with his left hand and grabbed her left breast. The assault lasted for about five seconds. The victim was in complete shock and didn't know how to react because it sort of came out of nowhere. Nothing was said prior to the assault and at no point was there any flirtation between the victim and the accused. The assault happened over her clothing. The victim stated in a subsequent statement that she just froze and everything after that was a blur. Obviously, there was no consent to this assault.

7.16 When Mr. Wolson addressed the Court he did not dispute or object to the statement of facts by Ms. Kopynsky. He described the process by which the joint recommendation was made as follows (Tab 9, p. T13, lines 6-9):

At the end of the day, you have before you a plea bargain that has been the subject of a lot of discussion. It's been the subject of our cumulative thoughts. There's been some give and take in our discussions, but you have three lawyers that combined probably have 120 years of experience.

7.17 Mr. Fawcett addressed the court himself. He expressed regret for his actions and apologized to [A.B.] for the pain that he caused (Transcript, Tab 9, p. T14, lines 28-38). He did not suggest any different facts than those put before the Court in support of the joint recommendation.

7.18 Judge Bayly then delivered oral Reasons accepting the joint recommendation. In his Reasons for Sentence, His Honour summarized the plea bargain process as follows (Sentence Transcript, Tab 10, p. T1, lines 17-22):

The accused, Ryan Fawcett, has pled not guilty to the offence of sexual assault but has offered a guilty plea to the offence of common assault. That plea was accepted and agreed to by the Crown Attorney after a lengthy period of discussion and negotiations between two or three highly experienced and well-respected criminal attorneys. Further to this agreement, as to the plea, there was also a jointly recommended sentence for the Court to consider.

7.19 His Honour described the assault itself as follows (Sentence Transcript, Tab 10, p. T1, lines 36-41):

At one point in the evening, the accused stood up from his chair, walked around the table and stood directly behind [A.B.]. The accused then without warning or without any conversation reached out with his left hand and grabbed [A.B.'s] left breast over top of her clothing. [A.B.] told police some time later that the incident took approximately five seconds.

7.20 Neither counsel nor Mr. Fawcett indicated any disagreement or other difficulty with the facts as were put to the Court and accepted.

7.21 As he was required to do, on October 7, 2020, during the course of an appearance before CIC arising from other matters, Mr. Fawcett advised of the criminal charge arising from the assault on [A.B.]. It was as a result of that appearance that the October Undertaking (Tab 5) was provided.

- 7.22 In the ordinary course that follows such a disclosure, the Society opened a new file and gathered information concerning the charge, but otherwise held the matter in abeyance until being notified of the disposition of the charge.
- 7.23 On January 25, 2022, after receiving and reviewing the transcripts of the proceedings before Judge Bayly, the Society's Complaints Resolution Counsel, Jennifer Houser, wrote to Mr. Fawcett seeking his confirmation that the facts conveyed to the court are accurate and true and seeking an explanation of the responses given to the Society in 2018 given the apparent contradictions between those responses and the submissions made to the court (Tab 11).
- 7.24 Mr. Fawcett responded by letter from his counsel dated February 28, 2022 (Tab 12) in which it was explained that rather than having recalling the specific facts set out in November 23, 2017 letter to the Society (Tab 7), he had no recollection of what happened between him and [AB.] in the October 6, 2017 incident and entered a guilty plea accepting the recollections of others who were present.

VII. The September Citation

- Charge 1 (b) - Contact with ["C.D." - Name redacted]

- 8.1 In December 2021, [C.D.] was a legal assistant employed by [Name and address of law firm redacted].
- 8.2 At the time she used Internet dating applications known as "Tinder" and "Bumble". These sites are set up to recommend participants to each other based on the profiles that they provide. If, after reviewing the profile of the other recommended person, each of the parties to such a match expresses an interest to do so they are able to communicate with each other using the application to chat directly.

- 8.3 [C.D.] identified herself in her main profile for each of those applications as a legal assistant (Tab 13).
- 8.4 On December 2, 2021 [C.D.] was matched through a dating application with a person who identified himself as "Bill" but was, in fact, Mr. Fawcett, though she did not make that determination until a later interaction. The profile photo of "Bill" (Tab 14) is actually of Mr. Fawcett.
- 8.5 She and "Bill" then exchanged introductory pleasantries through the chat function provided by the dating application. "Bill" used a phone number that has since been identified as Mr. Fawcett's number.
- 8.6 On the evening of Friday, December 10, 2021 they exchanged text messages by the iMessage function available to iPhone users. In the attached screen shots (Tab 15), [C.D.'s] parts of the conversation are in blue bubbles and Mr. Fawcett's in grey.
- 8.7 After the initial exchange Mr. Fawcett called [C.D.] by phone and they spoke for 48 minutes.
- 8.8 Part way through the call [C.D.] became uncomfortable. From information conveyed by Mr. Fawcett during the call she was able to identify him and asked a friend, via the Snapchat application, to find out about him by a Google search. At 43 minutes into the call the friend emailed her a link to a news article about his prior discipline case (which is to say the decision at Tab 3). At that point she determined to end the call without confronting Mr. Fawcett. It was [C.D.'s] impression based on Mr. Fawcett's manner of speech and his demeanor changing from "boisterous" to "weepy" and "crying" that he was intoxicated during the conversation.
- 8.9 After the call ended Mr. Fawcett resumed text messaging with [C.D.] (Tab 16). By then [C.D.] had located the public portion of the October Undertaking on the

Society's website and ended participation in the conversation by sending a copy to Mr. Fawcett.

- 8.10 Later that night Mr. Fawcett sent further messages to which [C.D.] did not respond when she saw the messages (Tab 17) the next morning. She then blocked his phone number.

- Charge 1 (c) - Failure to Report to the Society

- 8.11 Mr. Fawcett accepts based on the evidence provided by [C.D.] that he was in contact with [C.D.] as she has described but does not remember the contacts. This is because, though he initially denied it, he was intoxicated by consumption of alcohol at the relevant times.

- 8.12 Mr. Fawcett did not report to the Society the fact of having consumed alcohol to the point of intoxication. He did not report that relapse to the Society, even after he was again sober.

IX. Other Factors

Medical and Treatment Information

- 9.1 [Personal health information redacted.]

- 9.2 [Personal health information redacted.]

- 9.3 Reports from Mr. Fawcett's Supervisor at Legal Aid and information from others are that while at Legal Aid Brandon during the working day, Mr. Fawcett performed at a high level in his work and that his relationships during work hours were appropriate.

X. JOINT SUBMISSION

- 10.1 Counsel for Mr. Fawcett and for the Society have had pre-hearing discussions relating to this matter, culminating in an agreement to make a joint submission in respect of an appropriate disposition.
- 10.2 The parties jointly submit and request that the Discipline Committee Panel dispose of the matter by making a finding that the conduct of Mr. Fawcett as set out in this Statement of Agreed Facts constitutes:
- a. under the Amended May Citation, conduct unbecoming a lawyer as alleged and particularized in Charge 1 and professional misconduct as alleged and particularized in Charge 2;
 - b. under the September Citation, professional misconduct as alleged and particularized in Charge 1.
- and order that:
1. For Charge 2 of the Amended May Citation and Charge 1(c) of the September Citation, effective immediately, he be suspended from the practice of law and ineligible for a practising certificate for a period of two months and pay costs to the Society \$5000;
 2. For Charge 1 of the Amended May Citation and Charge 1(b) of the September Citation, he thereafter be suspended from the practice of law and ineligible for a practising certificate until such time as he demonstrates to the CEO of the Society that he has addictions under control with a reasonable demonstration of stability such that he can be trusted to practise under such conditions as may be continued and as may be modified or set by the Society, having regard to information available at the time when his application to resume practising is considered.

November 27, 2023

D. Greg Bartel
Counsel for Ryan William Fawcett

Rocky Kravetsky
Counsel for The Law Society of Manitoba

APPENDIX "B"

THE LAW SOCIETY OF MANITOBA

IN THE MATTER OF:

RYAN WILLIAM FAWCETT

- and -

IN THE MATTER OF:

THE LEGAL PROFESSION ACT

AMENDED CITATION

THE LAW SOCIETY OF MANITOBA

200 - 260 St. Mary Avenue

Winnipeg, MB R3C 0M6

Telephone No.: (204) 942-5571

Facsimile No.: (204) 956-0624

Rocky Kravetsky

Direct Telephone No.: 204-926-2018

E-mail: rkravetsky@lawsociety.mb.ca

File No.: 22-009-DIS

THE LAW SOCIETY OF MANITOBA

IN THE MATTER OF:

RYAN WILLIAM FAWCETT

- and -

IN THE MATTER OF:

THE LEGAL PROFESSION ACT

AMENDED CITATION

TO: RYAN WILLIAM FAWCETT of the City of Winnipeg, in the Province of Manitoba, lawyer, and a member of The Law Society of Manitoba.

TAKE NOTICE that a hearing will be held by a panel of the members of the Discipline Committee of The Law Society of Manitoba to consider charges of professional misconduct and conduct unbecoming a lawyer laid against you by the Complaints Investigation Committee of The Law Society of Manitoba. If you are found guilty of professional misconduct or conduct unbecoming a lawyer, you may be disbarred and your name struck off the Rolls of The Law Society of Manitoba or you may be suspended from practising law or you may otherwise be dealt with by the

Discipline Committee panel under the provisions of *The Legal Profession Act* and the *Rules of The Law Society of Manitoba*. A statement of the charges is as follows:

1. On October 6, 2017 you assaulted A.B., who was then an articling student, by grabbing her breast, for which assault, on November 6, 2021, you entered a plea of guilty in Provincial Court and by that conduct, you:
 - a. acted contrary to Rule 6.3 of the *Code of Professional Conduct* in that you harassed or sexually harassed Ms. A.B., as defined by Commentaries under that Rule;
 - b. engaged in such dishonourable conduct as to be unbecoming a lawyer by committing a disgraceful and morally reprehensible offence.
2. You acted contrary to Rule 2.1-1 of the *Code of Professional Conduct* in that you misled The Law Society of Manitoba.

Particulars

in response to a complaint made to The Law Society of Manitoba in October 2017 by A.B. concerning an incident that occurred on October 6, 2017, you said "I did not touch Ms. [A.B.] in any way that could be considered and offensive attack" when by reason of your alcohol consumption on that occasion you had no recollection of the events of that evening at all.

YOU OR YOUR COUNSEL are required to appear before the Chairperson of the Discipline Committee or his designate on **Tuesday, June 7, 2022 at 12:00 noon**, at the offices of The Law Society of Manitoba, 200 - 260 St. Mary Avenue, Winnipeg, Manitoba, to set a date for the hearing of the charges against you. If you or your counsel do not attend at the said time and place, the Chairperson of the Discipline Committee or his designate, in accordance with the *Rules of The Law Society of Manitoba*, may proceed to set a date for the hearing in your absence.

DATED at the City of Winnipeg, in the Province of Manitoba, this 20th day of May, 2022.

"L. Kosokowsky"
LEAH KOSOKOWSKY
Chief Executive Officer
The Law Society of Manitoba

Amended this 27th day of November 2023


LEAH KOSOKOWSKY
Chief Executive Officer
The Law Society of Manitoba

NOTE: Until further notice all attendances before the Chairperson of the Discipline Committee and Panels of the Discipline Committee will be by video conference. You will be provided with the details necessary to attend by email to the latest email address provided by you to the Society being: ryan.fawcett@gmail.com. If your email address has changed you must contact the Administrative Assistant to the Discipline Committee by email at: lharrison@lawsociety.mb.ca or by telephone at 204-942-5571.

APPENDIX "C"

THE LAW SOCIETY OF MANITOBA

IN THE MATTER OF:

RYAN WILLIAM FAWCETT

- and -

IN THE MATTER OF:

THE LEGAL PROFESSION ACT

CITATION

TO: **Ryan William Fawcett**, lawyer, and a member of The Law Society of
Manitoba.

TAKE NOTICE that a hearing will be held by a panel of the members of the Discipline Committee of The Law Society of Manitoba to consider charges of professional misconduct laid against you by the Complaints Investigation Committee of The Law Society of Manitoba. If you are found guilty of professional misconduct, you may be disbarred and your name struck off the Rolls of The Law Society of Manitoba or you may be suspended from practising law or you may otherwise be dealt with by the Discipline Committee panel

under the provisions of *The Legal Profession Act* and the *Rules of The Law Society of Manitoba*.

A statement of the charges is as follows:

1. In December 2021 you contacted C.D. a legal assistant, by FaceTime, text, email and other messaging applications and in so doing, you breached your Undertaking to The Law Society of Manitoba ("the Society") dated October 8, 2020 and thereby acted contrary to Rule 5-79 of the *Rules of The Law Society of Manitoba* and Rule 7.2-11 of the *Code of Professional Conduct*.

Particulars

a. On October 8, 2020 you gave to the Society your Undertaking in writing, including that:

- "8. I will abstain from the consumption of alcohol. If I experience a relapse of consumption of alcohol, I will notify the Society, in writing, within 48 hours;
9. Unless I have prior written authorization of the Society, I will not contact any woman who is:
 - i. a member of the Society;
 - ii. a legal assistant; or
 - iii. an employee of the courts, Manitoba Justice, Justice Canada or Legal Aid Manitoba;

by FaceTime, text, email or other direct messaging or video communications application, for any reason that is not strictly about a work-related matter."

b. In breach of provision No. 9 of your said Undertaking, in December 2021 you contacted Ms. C.D. on several occasions, including as follows:

- i. On December 2, 2021 by an electronic dating application;

- ii. On December 10, 2021 by an electronic messaging application or applications;
 - iii. On December 10, 2021 by the FaceTime audio application;
 - iv. On December 10 and 11, 2021 by telephone.
- c. In breach of provision No. 8 of your said Undertaking, in December 2021 you:
- i. Consumed alcohol;
 - ii. Did not notify the Society within 48 hours, or at all, that you had a relapse of consumption of alcohol.

YOU OR YOUR COUNSEL are required to appear before the Chairperson of the Discipline Committee or his designate on **Tuesday, October 4, 2022 at 12:00 noon**, at the offices of The Law Society of Manitoba, 200 - 260 St. Mary Avenue, Winnipeg, Manitoba, to set a date for the hearing of the charges against you. If you or your counsel do not attend at the said time and place, the Chairperson of the Discipline Committee or his designate, in accordance with *The Rules of The Law Society of Manitoba*, may proceed to set a date for the hearing in your absence.

DATED: September 1st, 2022.



LEAH KOSOKOWSKY
Chief Executive Officer
The Law Society of Manitoba

NOTE: Until further notice all attendances before the Chairperson of the Discipline Committee and Panels of the Discipline Committee will be by video conference. You will be provided with the details necessary to attend by email to the latest email address provided by you to the Society being: ryan.fawcett@gmail.com. If your email address has changed you must contact the Administrative Assistant to the Discipline Committee by email at: lharrison@lawsociety.mb.ca or by telephone at 204-942-5571.

THE LAW SOCIETY OF MANITOBA

IN THE MATTER OF:

RYAN WILLIAM FAWCETT

- and -

IN THE MATTER OF:

THE LEGAL PROFESSION ACT

CITATION

THE LAW SOCIETY OF MANITOBA

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Rocky Kravetsky

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File No.: 22-012-DIS