

THE LAW SOCIETY OF MANITOBA

IN THE MATTER OF:

MICHAEL JAMES STIENSTRA

- and -

IN THE MATTER OF:

THE LEGAL PROFESSION ACT

Hearing Date: October 17, 2024

Panel: Richard Buchwald, K.C. (Chair)
Kathrine Basarab
Patrick Fortier (Public Representative)

Counsel: Ayli Klein for the Law Society of Manitoba
Member Self Represented

REASONS FOR DECISION

Introduction and Facts

1. Michael James Stienstra was called to the bar of the Province of Manitoba on June 17, 2004 and his name was entered as a solicitor and barrister on the rolls of the Court and of the Law Society of Manitoba on June 17, 2004.
2. Mr. Stienstra was charged in a Citation dated May 23, 2024 with professional misconduct, having failed to answer with reasonable promptness all professional letters and communications from other lawyers that required an answer and, further, with failure to comply with his Undertaking which he had provided to the Law Society on September 1, 2021, contrary to Rules 7.2-5 and 7.2-11 of the *Code of Professional Conduct*.

3. Mr. Stienstra entered a plea of guilty before the Panel. The relevant facts were set out in the Statement of Agreed Facts. The facts established that on September 1, 2021, Mr. Stienstra provided the Law Society with an Undertaking (the "Undertaking"). The Undertaking imposed certain obligations on him, including with regard to responsive communications.
4. Mr. Stienstra acted for a client ("AA") on a domestic matter. Counsel for the opposing party, AA's former spouse, drafted a Separation Agreement for Mr. Stienstra's review with his client, which was provided to him on January 24, 2023. The Separation Agreement incorrectly stated that Mr. Stienstra's client did not have a pension.
5. Mr. Stienstra met with his client on February 22, 2023 and asked his client to follow up with her pension administrator to obtain a commuted value statement. Subsequently, Mr. Stienstra's client requested his assistance in obtaining this statement. On six occasions between March 9, 2023 and June 5, 2023, AA contacted Mr. Stienstra in order to seek an update as to his progress, and while they spoke briefly, Mr. Stienstra did not substantially respond to her.
6. Opposing counsel contacted Mr. Stienstra on four occasions between March 13, 2023 and June 15, 2023, but Mr. Stienstra did not respond.
7. Subsequently, during the course of the Law Society's investigation in this matter, in October 2023, Mr. Stienstra did contact opposing counsel. The Separation Agreement is now complete, having been signed by both parties in April 2024.

Discipline History

8. In 2016, Mr. Stienstra entered a guilty plea to two charges of professional misconduct, for failing to provide the requisite quality of service and failing to respond to communications from opposing counsel. As part of a joint submission, Mr. Stienstra was fined \$1,500.00 and ordered to pay \$3,500.00 in costs.

Analysis and Disposition

9. This matter proceeded on the basis of a joint submission as to disposition. The parties agreed that an appropriate penalty was a fine of \$3,000.00 and a contribution to costs of \$4,000.00.
10. Joint submissions as to penalty serve a very important role in the justice system at large, including Law Society proceedings. By providing certainty as to result, it is a means to ensure an efficient and cost-effective process to resolve disciplinary complaints against lawyers and protect the public. Counsel (including the member, where self-represented) bring their experience to this task and are well-suited to find a just and appropriate resolution in keeping with the principles to be followed in the Law Society proceedings. As such, a discipline panel should only depart from a joint submission in the rare circumstances where the proposal would bring the administration of justice into disrepute or would otherwise be contrary to the public interest (see *R v. Anthony-Cook*, 216 S.C.C. 43).
11. The Panel is satisfied that the penalty agreed upon in this case is appropriate. While Mr. Stienstra does have a prior discipline record, the last matter was several years ago. Furthermore, Mr. Stienstra was forthright in his submission to the Panel regarding the client matter that led to the subject charges of professional misconduct. Mr. Stienstra explained that he has had challenges with procrastination (as opposed to file and practice organization) which, while not excusing the violations, provides context and explanation regarding the circumstances. Mr. Stienstra advises that he has been engaged in several Law Society CPD programs that deal with procrastination and is finding these to be helpful. He acknowledges the work he has to do in this regard and accepts the proposed penalty.
12. Counsel for the Law Society submits that in recommending the proposed penalties, the principle of progressive discipline is being applied in this case and that the proposed

penalties are consistent with penalties imposed in similar cases (see *Law Society of Manitoba v. Stern*, 2022 MBLS 6 and *Law Society of Manitoba v. Greenberg*, 2022 MBLS 9).

13. The Panel agrees with this submission.

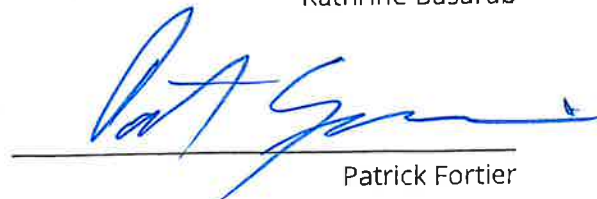
Conclusion

14. Having regard to the submissions from counsel for Law Society and from Mr. Stienstra himself, and having regard to the principles surrounding joint submissions, the Panel finds the public interest is served by the finding of professional misconduct accompanied by a consequence jointly agreed to by the parties.
15. The Panel therefore accepts the guilty plea and finds Mr. Stienstra guilty of professional misconduct pursuant to Rules 7.2-5 and 7.2-11 of the *Code of Professional Conduct* and directs that Mr. Stienstra pay a fine in the sum of \$3,000.00 and pay \$4,000.00 as a contribution to the costs of the investigation and prosecution of this matter. The Undertaking provided to the Law Society on September 1, 2021, shall remain in effect to the extent applicable. Arrangements for payment of the fine and costs can be made with and at the discretion of the Chief Executive Officer of the Law Society.

Dated this 31 day of November, 2024.


Richard Buchwald, K.C., Chair


Kathrine Basarab


Patrick Fortier