

THE LAW SOCIETY OF MANITOBA

IN THE MATTER OF:

KAREN WEBB,

- and -

AND IN THE MATTER OF:

THE LEGAL PROFESSION ACT

REASONS FOR DECISION

Hearing Date: April 20, 2021 at 10:00 a.m.

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IN THE MATTER OF:

KAREN WEBB,

- and -

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THE LEGAL PROFESSION ACT

Hearing Date: April 20, 2021

Panel: Victor P. Bellay – Chair
Lori Ferguson Sain Q.C.
Maureen Morrison (Public Representative)

Counsel: Ayli Klein for the Law Society of Manitoba
Karen Webb, Self Represented

DECISION

INTRODUCTION

1. Karen Webb is a member of The Law Society of Manitoba (the “Society”), having been Called to the Bar on February 20, 2007 and her name entered as a barrister and solicitor in the Rolls of the Society on that date.

2. In a Citation dated September 24, 2020, it is alleged that Ms Webb committed professional misconduct in that she failed to provide service to her client that was competent, timely, conscientious, diligent, efficient and civil.

3. On April 20, 2021, a Discipline Hearing Panel (the "Panel") conducted a virtual hearing in this matter. Counsel for the Society and Ms Webb submitted a Statement of Agreed Facts. In the Agreed Facts, Ms Webb entered a plea of guilty to one count in the Citation. The Society stayed a second count of professional misconduct.

4. At the hearing, counsel for the Society and Ms Webb advanced a joint recommendation as to the appropriate penalty. They submitted that the appropriate penalty was that Ms Webb pay a fine of \$1500 and pay costs to the Society in the amount of \$5000. In addition, the Panel was advised that Ms Webb, as part of this agreement, completed remedial training in the area of practice management, and sought the support of the Society's Practice Management Advisor. This resulted in Ms Webb putting into place better systems for the organization of her practice.

5. At the April 20, 2021 hearing, the Panel decided to accept the joint recommendation with written reasons to follow. These are those written reasons.

FACTS

6. The facts underlying the Citation arise from Ms Webb's handling of a family law matter involving divorce, sole custody and financial support. She was retained by her client on July 17, 2018.

7. Ms Webb did not take meaningful steps to serve her client and advance the matter as she had been instructed to do. Her client made regular attempts to contact Ms Webb and on many occasions she did not receive a response.

8. It was not until January 8, 2020 that Ms Webb made her first attempt to file the Petition for Divorce, which was rejected because the Respondent's name had been recorded incorrectly. The Amendment to the Petition was successfully filed on March 2, 2020, and the Respondent was served on March 26, 2020. Twenty months passed between the time that Ms Webb was retained and the date of service of the Petition.

9. During that time period, the client repeatedly questioned Ms Webb about the inactivity on her file and whether she should retain other counsel. Ms Webb advised her client that she had been too busy but committed to advancing the matter. She did not do so.

10. Throughout the retainer, the client made consistent requests for updates and better communication from Ms Webb. Ms Webb failed to provide meaningful communication to her client, and she failed to make timely progress on the matter. Ultimately, when Ms Webb provided notice

in March 2020 that she would be changing firms, the client decided to change counsel.

DISCIPLINE HISTORY

11. In late 2019, Ms Webb accepted a formal caution from the Complaints Investigation Committee relating to Quality of Service and other duties under the *Code of Professional Conduct*. She has no other formal discipline history with the Society.

BACKGROUND AND PRACTICE HISTORY

12. Ms Webb was Called to the Bar of the Province of Ontario on February 17, 2000. She obtained her Call to the Bar of Manitoba in 2007 and has practiced in Manitoba since that time. Ms Webb practiced law in four different law firms and estimates that her practice consists of 80% Child Protection Law and 20% Family Law.

ANALYSIS AND DECISION

13. The Panel finds that Ms Webb acted contrary to Rule 3.2-1 of the *Code of Professional Conduct* in that she failed to provide service that was competent, timely, conscientious, diligent, efficient and civil, and did thereby commit professional misconduct.

14. In considering the joint submission of the parties as to penalty, the Panel is mindful of the principle enunciated in *Anthony-Cook v Her Majesty*

The Queen, 2016 SCC 43 dealing with circumstances in which a tribunal such as this one can depart from a joint recommendation as to sentence.

15. In *Anthony-Cook*, the applicable test is noted to be the public interest test, which is that a trial judge should not depart from a joint submission on sentence unless the proposed sentence would bring the administration of justice into disrepute or would otherwise be contrary to the public interest.

16. This test was followed in Manitoba in the decision of *The Law Society of Manitoba v Champagne*, 2018 MBLS 4. Paragraph 8 of that decision provides as follows:

Joint submissions as to penalty serve a very important role to the justice system at large, including in law society proceedings. Certainty as to result provides an efficient and cost effective process to resolve disciplinary complaints against lawyers and protect the public. Skilled lawyers, bringing their common wisdom to the task, are well suited to find a just and appropriate resolution. As such, discipline panels 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;

17. During her submissions, counsel for the Society referred the Panel to the decision of *LSM v Nadeau*, 2013 MBLS 4, and reminded us that in cases where professional misconduct is either admitted or proven, the purposes of law society discipline proceedings are not to punish offenders and exact retribution, but to protect the public, maintain high professional standards, and preserve public confidence in the legal profession.

18. The Panel considers the submission of the parties and concludes:

a) The nature and gravity of Ms Webb's conduct is on the lower end of seriousness. Ms Webb did not possess any nefarious intent in relation to her conduct.

b) Ms Webb is experienced counsel with a long practice history. Her discipline history is essentially unremarkable.

c) We accept the submission of counsel for the Society that Ms Webb's conduct did not result in a significant impact to the client.

d) Ms Webb gained no personal advantage from her conduct.

e) Ms Webb took active steps to mitigate her conduct. She was prepared to accept responsibility for her conduct at an early stage in these proceedings. She took remedial measures in relation to practice management and has ongoing contact with a practice advisor.

f) Ms Webb is remorseful for her conduct, and accepted responsibility by entering a plea of guilty.

19. The Panel considered the *Champagne* decision in which the member received a fine of \$1500, a cost award and undertaking not to practice in a

certain area on a conviction for professional misconduct contrary to Rule 3.2-1 of the *Code of Professional Conduct*. The Panel also considered the decision of *LSM v Stienstra*, 2016 MBL 3, where a \$1500 fine and cost award was imposed in circumstances where the member failed to move his client's matter along. He voluntarily made contact with the Society's Practice Management Advisor and had received material and suggestions dealing with time management.

CONCLUSION

20. The Panel finds that the joint recommendation is appropriate in this case. The proposed penalty is consistent with similar penalties imposed on members in similar circumstances. The fine, in addition to the remedial training completed by Ms Webb and the ongoing support that she is obtaining from the Society's Practice Management Advisor, meets the purposes of protecting the public, maintaining high professional standards, and preserving public confidence in the legal profession.

21. The Panel orders that:

- a) Ms Webb pay a fine in the amount of \$1500.
- b) Ms Webb pay \$5000 to the Society in costs.

The Panel thanks Ms Webb and counsel for the Society for their submissions in this matter.

Dated this 27th day of October 2021



Victor P. Bellay, Chair



Lori Ferguson Sain Q.C.



Maureen Morrison