

1 THE LAW SOCIETY OF MANITOBA and

2 JOHN SLAWKO PETRYSHYN

3 REASONS

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6 PANEL MEMBERS: William Haight (Chair)
7 Jennifer Cooper, Q.C.
8 Miriam Browne
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11 COUNSEL FOR THE LAW SOCIETY OF MANITOBA:
12 Darcia A.C. Senft
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14 COUNSEL FOR MEMBER: Self Represented
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17 Hearing held at The Law Society of Manitoba,
18 219 Kennedy Street, Winnipeg, Manitoba, October 6, 2014.
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22 **FOUR SEASONS REPORTING**
23 **91 Ashford Drive**
24 **Winnipeg, Manitoba R2N 1K7**
25 **(204) 256-2343**

1 THE CHAIR: The panel has reached a unanimous
2 decision. These will be our reasons, and the transcript of
3 these reasons shall serve as our written decision.

4 Before I begin I should point out for the
5 record that during the course of submissions this morning
6 members of the public were present, but have chosen not to
7 stay to hear the disposition, but I think the record should
8 indicate that.

9 MS. SENFT: Mr. Chair, could I just interrupt
10 you for one moment?

11 THE CHAIR: Yes.

12 MS. SENFT: I'm not certain if I misstated the
13 date of the citation in my oral submission. I may have
14 said 2013. I don't know if I did.

15 THE CHAIR: I don't recall.

16 MS. SENFT: It's June 3, 2014.

17 THE CHAIR: Yes, exactly, and I was just about
18 to say, I didn't hear that, Ms. Senft, but I was just about
19 to say by a citation dated June 3, 2014 --

20 MS. SENFT: Thank you.

21 THE CHAIR: -- The Law Society of Manitoba
22 charged the member, Mr. John Slawko Petryshyn, with three
23 counts of professional misconduct.

24 Mr. Petryshyn appeared before this panel of the
25 Discipline Committee on today's date, October 6, 2014. He

1 attended without counsel. The Law Society of Manitoba was
2 represented by Darcia Senft. The panel members were Miriam
3 Browne, public representative, Jennifer Cooper, Q.C., and
4 myself, Bill Haight, who acted as chair.

5 The citation was filed as Exhibit 1, and an
6 Agreed Statement of Facts, signed today, was filed as
7 Exhibit 2.

8 Mr. Petryshyn admitted membership in The Law
9 Society of Manitoba, admitted valid service of the
10 citation, and had no objection to any of the panel members
11 on the basis of bias or conflict.

12 Having established jurisdiction, the panel
13 then heard Mr. Petryshyn's plea to the charges, and
14 Mr. Petryshyn waived the formal reading of the citation and
15 entered a plea of guilty to Counts 1 and 3 of the citation,
16 Count 2 being stayed by Ms. Senft.

17 Mr. Petryshyn admits that the witnesses
18 available to The Law Society would, if called, testify in
19 accordance with the facts set out in the Agreed Statement
20 of Facts. Mr. Petryshyn also acknowledged that his conduct
21 as described in Counts 1 and 3 of the citation, and as set
22 out in the Agreed Statement of Facts, constitute
23 professional misconduct.

24 The panel finds, and resolves, pursuant to
25 Rule 5-96(5) of The Law Society Rules that, after hearing

1 the submissions of the member and counsel for The Law
2 Society, and after considering the facts agreed to in the
3 Agreed Statement of Facts, that the acts and omissions
4 stated in Counts 1 and 3 have been proved to the
5 satisfaction of the panel, and that those acts and
6 omissions constitute professional misconduct on the part of
7 Mr. Petryshyn.

8 This panel therefore finds Mr. Petryshyn guilty
9 of professional misconduct for Counts 1 and 3 of the
10 citation.

11 Rule 7.2-11 of the Code of Professional Conduct
12 requires a lawyer to honour every trust condition once
13 accepted. Our system relies heavily on this principle. It
14 is important for the public that this principle be followed
15 strictly.

16 In this instance there were consequences for
17 the third party, namely, the purchaser of the property,
18 consequences that went beyond inconvenience, and the panel
19 views that as an aggravating circumstance.

20 There was also a breach of 7.2-1, courtesy of
21 good faith, and that provision is also there to protect the
22 public.

23 There is a joint submission that has been made,
24 and I will not recount the joint submission right now,
25 other than to say that we are going to follow that joint

1 submission, and I will detail what that is in a moment, but
2 the law is clear that a discipline panel must give serious
3 consideration to a joint submission on penalty, unless the
4 penalty is unfit, unreasonable or contrary to the public
5 interest. It should not be departed from unless there are
6 good and cogent reasons for doing so.

7 We note that the joint recommendation is not
8 inconsistent with previous disciplinary decisions; that the
9 member has no record, in fact, has had a long unblemished
10 history in the practice of law. It is clear that the
11 member understands his obligation that he is not to accept
12 a trust condition that he could not be sure that he would
13 be able to fulfil.

14 The member has made changes in his practice to
15 try and ensure that this will not happen again. He has
16 been cooperative with The Law Society. His plea of guilty
17 is an indication of remorse and responsibility.

18 A reprimand is a public disposition, and after
19 43 years of unblemished record Mr. Petryshyn will now have
20 a disciplinary record that is accessible to the public.
21 The panel believes that publication as required by the
22 rules is a strong general deterrent to members of the
23 profession and, therefore, a protection of the public.

24 In addition to the publication of the reprimand
25 there have been financial consequences to Mr. Petryshyn

1 beyond the order of costs of \$2,000 that have been jointly
2 recommended.

3 The panel therefore concludes that the joint
4 recommendation is a disposition which will fulfil the
5 fundamental goal of The Law Society of Manitoba to protect
6 the public, and pursuant to rule 5-96(7) of the rules, and
7 section 72 of the *Legal Professions Act* the panel imposes
8 the following penalty as indicated in the Agreed Statement
9 of Facts:

10 Namely, that Mr. Petryshyn be reprimanded.
11 That Mr. Petryshyn be required to pay costs to The Society
12 in the amount of \$2,000 as a contribution towards the cost
13 associated with the investigation, prosecution and hearing
14 of this matter; and, with respect to the payment of costs
15 to The Society,

16 (a) the payment of costs is to be made on a
17 monthly basis in the amount of \$250 per month, commencing
18 on November 1, 2014, and monthly thereafter until the costs
19 are paid in their entirety, and;

20 (b) in the event of a default in any one
21 payment or, if a cheque is dishonoured when tendered, and
22 the default is not rectified, or the cheque replaced with
23 cash or money order, the entire amount outstanding will
24 become due and payable within 30 days of the date when the
25 default in payment occurred.

1 That is our decision, and those are our
2 reasons. Are there any questions?

3 MS. SENFT: Just one, Mr. Chair, just with
4 respect to the rule references. The breach of trust
5 condition rule is 7.2- --

6 THE CHAIR: 11.

7 MS. SENFT: -- 11.

8 THE CHAIR: Yes.

9 MS. SENFT: And the breach of --

10 THE CHAIR: -- courtesy and good faith I
11 believe is 7.2-1.

12 MS. SENFT: 5.

13 THE CHAIR: -5. Thank you very much.

14 MS. SENFT: I will just make sure here. Yes,
15 7.2-5.

16 THE CHAIR: Okay, thank you.

17 MS. SENFT: Thank you.

18 THE CHAIR: Anything further, Mr. Petryshyn?

19 MR. PETRYSHYN: No, sir.

20 THE CHAIR: Okay, very good. Good morning.

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23 (PROCEEDINGS CONCLUDED AT 10:55 A.M.)

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CERTIFICATE OF REPORTER

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I, JEFF BRUCE, Court Reporter, do hereby certify that the foregoing pages, numbered 1 to 7, are a true and accurate transcript of the proceedings herein as recorded by me to the best of my skill and ability.

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A handwritten signature in cursive script, appearing to read "Jeff Bruce", written over a horizontal line.

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Jeff Bruce

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Court Reporter

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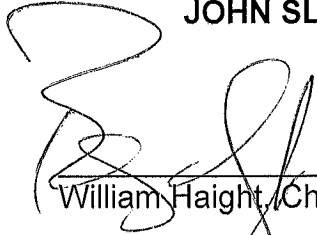
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THE PRECEDING 8 PAGES CONSTITUTE
THE DECISION AND REASONS FOR
DECISION OF THE DISCIPLINE COMMITTEE
OF THE LAW SOCIETY OF MANITOBA
RENDERED THE 6th DAY OF OCTOBER,
2014, IN THE MATTER OF:

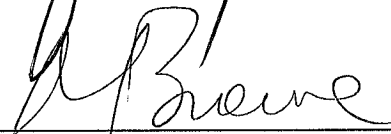
JOHN SLAWKO PETRYSHYN



William Haight, Chair



Jennifer Cooper, Q.C.



Miriam Browne