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THE LAW SOCIETY OF MANITOBA and
DOUGLAS ALBERT MAYER
REASONS

PANEL MEMBERS: Brian A. Pauls (Chair)
 Brock Lee, Q.C.
 Neil Cohen

COUNSEL FOR THE LAW SOCIETY OF MANITOBA:
 Rocky Kravetsky

COUNSEL FOR MEMBER: Gavin Wood

Hearing held at The Law Society of Manitoba,
219 Kennedy Street, Winnipeg, Manitoba, June 18, 2015.

FOUR SEASONS REPORTING
91 Ashford Drive
Winnipeg, Manitoba R2N 1K7
(204) 256-2343

ORIGINAL

1 in that you failed to provide your
2 client with the quality of service
3 required of a lawyer which is service
4 that is competent, timely, conscientious,
5 diligent, efficient and civil.

6 Particulars

7 (a) On numerous occasions during the
8 course of your client's retainer, you
9 failed to reply within a reasonable time,
10 or at all, to communications from your
11 client which required replies.

12 (b) During the course of your client's
13 retainer, you failed to provide your
14 client with information as to the status
15 of her matter on a timely or regular
16 basis, despite having received repeated
17 requests from your client for such
18 information.

19 (c) During the course of your client's
20 retainer, you failed to respond to
21 several communications that you received
22 from counsel representing the Director
23 of Child and Family Services.

24 (d) During the course of your client's
25 retainer you failed to provide her with

1 relevant information regarding her legal
2 matter on a timely basis in that you
3 received such information on May 5, 2012
4 and you did not provide it to your client
5 until August 16, 2012."

6 Count 2:

7 "While representing your client S.T. ...
8 with respect to a child welfare matter,
9 you acted contrary to the requirements
10 of Rule 5-43(1)(c) of the *Rules of the*
11 *Law Society of Manitoba* made by the
12 Benchers of The Law Society of Manitoba,
13 in that on November 16, 2011 you withdrew
14 the sum of \$1,000.00 from your pooled
15 trust account to pay for the recovery of
16 fees and/or disbursements without having
17 prepared and sent or delivered a
18 statement of account for such fees and/or
19 disbursements to your client on or before
20 making such withdrawal."

21 Count 3:

22 "While representing your client S.T. ...
23 with respect to a child welfare matter,
24 you acted contrary to the requirements
25 of Rule 5-43(1)(c) of the *Rules of the*

1 *Law Society of Manitoba* made by the
2 Benchers of The Law Society of Manitoba,
3 in that on March 29, 2012 you withdrew
4 \$1,000.00 from your pooled trust account
5 to pay for the recovery of fees and/or
6 disbursements without having prepared
7 and sent or delivered a statement of
8 account for the full amount of such fees
9 and/or disbursements to your client on
10 or before making such withdrawal."

11 Further counts on the citation were withdrawn
12 by The Law Society.

13 A signed statement of agreed facts was filed
14 with the committee as Exhibit 2; the citation having been
15 filed as Exhibit 1.

16 Upon reviewing the agreed facts and hearing
17 the submissions of counsel, the panel is satisfied that
18 the member is guilty of professional misconduct as alleged,
19 and that Charges 1, 2 and 3 in the citation have been
20 proved.

21 The facts are, in summary, Mr. Mayer was
22 retained by the complainant to assist her in the return of
23 foster children taken from her foster home by the
24 appropriate authority. He began by writing letters,
25 requesting a review. Along the way her licence to operate

1 a foster home was cancelled, more or less, by the same
2 authority.

3 Her appeal of that licence cancellation was
4 dismissed in December 2011. Mr. Mayer was notified in a
5 timely way of that, and he drew up a notice of appeal.

6 He did not follow the appropriate appeal
7 procedures, did not avail himself of possible assistance,
8 which evidently was being proffered to him by the
9 government counsel, to explain the process to him, and
10 although at some point fairly early on in 2012 he must have
11 realized that he was not going to be able to obtain a
12 successful result for the client, but he did not respond to
13 her request for updates, and did not enlighten her at all
14 as to his inability to pursue an appeal until the complaint
15 to The Law Society was made.

16 Along the way he accepted retainer cheques from
17 her, each in the amount of \$1,000, and after depositing the
18 cheques into trust, subsequently transferred the funds into
19 his general account, without rendering her a statement of
20 the account.

21 Our role in the disciplinary process has as its
22 primary function the protection of the public. It follows
23 that our role is to ensure that such protection takes
24 place, and that the public is protected.

25 In so doing, we have considered the need for

1 specific terms of the member, and also the general rule
2 of mitigation, including what we had described to us very
3 effectively by his counsel as to the efforts which
4 Mr. Mayer has made, to seek the appropriate help and
5 guidance to enable him to practice his profession
6 honourably in the future.

7 Although he has a past disciplinary record on
8 two other occasions, we are led to believe, and we accept,
9 that the efforts to avert any recurrence of the types of
10 problems that may have plagued him in the past are genuine
11 ones.

12 The joint recommendation of two distinguished
13 counsel carries great weight with us, and the panel is
14 unanimous in endorsing that recommendation.

15 So, we accept the recommendation, which is that
16 there be a fine of \$3,000, and that Mr. Mayer pay the sum
17 of \$6,000 in addition as a contribution to the costs
18 incurred by The Law Society in bringing the matter to this
19 point.

20 So, that is our decision, subject to what might
21 be done about the manner in which time to pay is handled.
22 During your submission, Mr. Wood, you suggested that the
23 total, which is \$9,000, would be payable, you proposed, by
24 payments of \$125 over 72 months, and with a commencement
25 date, would July 1st be acceptable?

1 MR. WOOD: Would July 15th, the 15th of each
2 month, beginning --

3 THE CHAIR: July 15th, and on the 15th of each
4 month thereafter?

5 MR. WOOD: Yes.

6 THE CHAIR: And what position do you have,
7 Mr. Kravetsky, on that?

8 MR. KRAVETSKY: That's acceptable. I have no
9 objection.

10 THE CHAIR: The panel had some brief discussion
11 about the amount of time it would take Mr. Mayer to pay
12 that, and the fact that it was an absolute amount without
13 any factor taken into account for interest and the like.
14 Do you have any position about that?

15 MR. KRAVETSKY: Again, no position is taken
16 with interest. So long as he makes his payments the
17 Society wouldn't be concerned with that. The way this
18 would work, again, subject to your direction, would be,
19 again, my suggestion was that the amount be specified to
20 be a minimum, and that in default the entire amount becomes
21 payable.

22 The Society is of course entitled to register
23 the amount as a judgment, and that it bears interest from
24 the time that they register it, bears interest at the
25 court-ordered rate if there is default.

1 THE CHAIR: All right. So, I do not have the
2 precise wording in my hand. The fine and costs would be
3 \$9,000 payable on the terms that we just discussed, and the
4 principal involved would be that if a payment was missed,
5 and not made up within 30 days, then the Society would have
6 the right to accelerate the entire amount, is that how it
7 works?

8 MR. KRAVETSKY: Sure. There should be some,
9 obviously some amount. I would say 30 days seems rather
10 generous. I would have suggested 15 days notice in writing
11 to the member, and in the event of default, if he doesn't
12 make it up, if the default is not cured after 15 days
13 notice, then the entire amount is due and payable.

14 THE CHAIR: Is that understood, Mr. Wood?

15 MR. WOOD: Yes, it is.

16 THE CHAIR: All right.

17 MR. WOOD: And I was actually going to mention
18 to Mr. Mayer afterwards that if there is a problem with a
19 payment, he contacts the Society ahead of time to let them
20 know.

21 THE CHAIR: All right. So, as far as notice is
22 concerned, the rules allow the entire matter to be in the
23 discretion of the committee. I take it, apart from what is
24 not at the discretion of the committee, as to mandated
25 notice to the profession, correct?

1 MR. KRAVETSKY: The ordinary notice would be
2 publication by way of a discipline digest, and posting on
3 the website.

4 THE CHAIR: Yes.

5 MR. KRAVETSKY: Nothing further than that is
6 requested. Of course these are open proceedings, and the
7 statute, *The Legal Profession Act* and the rules provide for
8 disclosure of exhibits and other matters in the discretion
9 of the CEO.

10 THE CHAIR: There is no additional request
11 being made by you?

12 MR. KRAVETSKY: No additional request.

13 THE CHAIR: Also, members of the panel had a
14 small discussion about the fact that the complainant was
15 present and has been sitting there quietly.

16 Have you been in discussion with her? Is there
17 anything that you believe that we ought to have known or
18 should know now of any point?

19 MR. KRAVETSKY: I've certainly been in
20 discussion with her in preparation for the potential that
21 she would testify, and I don't know of anything that she
22 might want to say to you.

23 She and I have had a discussion. She has
24 expressed some opinions, as you can imagine, but I don't
25 think there's anything I need to tell you. But certainly

1 if you wish to hear from her I have no objection to that.
2 It's not generally provided for in the process, and she
3 hasn't asked to speak to you.

4 THE CHAIR: Okay, thank you. Anything else?

5 MR. LEE: No.

6 MR. COHEN: No.

7 THE CHAIR: Any questions further from
8 Mr. Mayer or from counsel?

9 MR. WOOD: No, sir, thank you.

10 THE CHAIR: All right. So the process will be
11 that in due course this will get typed up, distributed, and
12 hopefully everybody will move forward with their lives and,
13 Mr. Mayer, I think everyone wishes you the very best, and
14 hopefully nothing but good things will happen in the future
15 and we won't see you again.

16 MR. MAYER: Except in the usual course.

17 MR. WOOD: We thank the panel for its time.

18 THE CHAIR: Okay, thank you.

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(REASONS CONCLUDED AT 11:52 A.M.)

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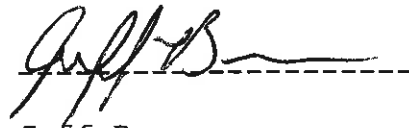
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CERTIFICATE OF REPORTER

I, JEFF BRUCE, Court Reporter, do hereby certify that the foregoing pages, numbered 1 to 11, are a true and accurate transcript of the reasons herein as recorded by me to the best of my skill and ability.

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

Jeff Bruce


Court Reporter

THE PRECEDING 12 PAGES CONSTITUTE
THE DECISION AND REASONS FOR
DECISION OF THE DISCIPLINE COMMITTEE
OF THE LAW SOCIETY OF MANITOBA
RENDERED THE 18th DAY OF JUNE, 2015, IN
THE MATTER OF:

DOUGLAS ALBERT MAYER



Brian A. Rauls, Chair



Brock Lee, Q.C.



Neil Cohen