

1 THE LAW SOCIETY OF MANITOBA and

2 ALLAN PHILLIP BAKER

3 REASONS

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PANEL MEMBERS: G. Mitchell, Q.C. (Chair)

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K. Bueti

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K. Molloy

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COUNSEL FOR THE LAW SOCIETY OF MANITOBA:

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R. Kravetsky, Esq.

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COUNSEL FOR THE MEMBER:

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Self Represented

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Hearing held at The Law Society of Manitoba,

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219 Kennedy Street, Winnipeg, Manitoba, February 17, 2017.

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FOUR SEASONS REPORTING

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91 Ashford Drive

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Winnipeg, Manitoba R2N 1K7

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(204) 256-2343

ORIGINAL

1 THE CHAIRPERSON: This is a matter of
2 allegations of misconduct against member Allan Phillip
3 Baker brought by The Law Society relating to the citation
4 dated the 1st of September, 2016, and involves allegations
5 around a particular real estate transaction involving
6 several vendors of property, including L , who is a
7 resident of California and not a resident of Manitoba.
8 There was an element to the transaction that required that
9 the member deal with any CRA implications of capital gain
10 for a nonresident.

11 Mr. Baker was aware of the requirement, sent
12 the proper documents to his clients, including the client
13 in California, but did not process the matter with the
14 amount of dispatch that was required in the circumstances,
15 and because of delays there was a CRA penalty and some
16 interest that was owed.

17 As pointed out by counsel for the Society,
18 there are three elements to the misconduct. One, is the
19 undue delay in processing the transaction; secondly, a
20 failure adequately to communicate to his clients, issues
21 around that delay; and, thirdly, noncompliance with a trust
22 condition that was part of the transaction.

23 The member has admitted the misconduct. He has
24 explained the circumstances that although it was the first
25 time he had dealt with the issue of a nonresident vendor,

1 he was aware of what the requirements were, knew what
2 needed to be done, and just delayed getting to it because
3 of perhaps more urgent matters in the rest of his practice.

4 He has said to us that he is running a sole
5 practice without any administrative support and, in effect,
6 doing everything himself. He keeps tabs on what needs to
7 be done in his practice by maintaining a to-do list, and in
8 this case what needed to be done was on that list but just
9 was neglected for an undue period of time.

10 Although it is not an insignificant matter in
11 the range of issues that come before the discipline
12 committee, it is at the lower end of the scale of
13 seriousness, and for that reason the Society has agreed
14 with the member, Mr. Baker, that a reprimand, together with
15 an order of costs of \$3,000 would be the appropriate
16 disposition of these charges.

17 Mr. Kravetsky has explained to us why, from the
18 perspective of The Law Society, it is an adequate penalty,
19 has provided us with precedent cases and sentencing
20 principles to support that, and I think has very fairly
21 given us a balanced picture of the seriousness of the
22 incident, but also the mitigating factors, including the
23 restitution that Mr. Baker has provided and made his client
24 whole for the delay and anxiety that his clients
25 experienced as a result of the way he handled the file.

1 We believe that he has learned from the
2 incident, and from The Law Society while dealing with the
3 incident. We agree that a reprimand is a significant event
4 in the practicing history of a member, and perhaps do not
5 need to say that if there was a similar incident we would
6 not be talking about a reprimand, and there would be a more
7 serious disposition if it happened in a short time.

8 The member has a discipline history, but it is
9 so old that it is probably not material to this incident.

10 So for all of those reasons the panel accepts
11 the recommendation, and orders that Mr. Baker be
12 reprimanded and be ordered to pay costs to the Society in
13 the amount of \$3,000.

14 Because there is a financial element to the
15 disposition I would ask you, Mr. Baker, how much time you
16 might require to fulfil the disposition and pay the costs?

17 MR. BAKER: I would be asking for one year.

18 THE CHAIRPERSON: One year to pay the \$3,000?
19 To February 17, 2018. Do you have any concerns with that,
20 Mr. Kravetsky?

21 MR. KRAVETSKY: I don't, and unless the panel
22 or Mr. Baker require it to be part of the formal
23 disposition, we can deal with it through the CEO's power to
24 extend time. Sometimes that gives us a little more
25 flexibility as the thing goes forward. But, yes, it's

1 certainly acceptable for the Society on that length of time
2 to pay.

3 MS. BUETI: No issue.

4 MR. MOLLOY: That's fine.

5 THE CHAIRPERSON: In that case we will do as
6 you have suggested, Mr. Kravetsky, and leave it to The Law
7 Society to deal with the collection issue, and the record
8 will indicate that Mr. Baker has asked for that year.

9 MR. KRAVETSKY: And that the Society has agreed
10 to it.

11 THE CHAIRPERSON: And that the Society has
12 agreed, thank you. Are there any other matters you want us
13 to deal with this morning?

14 MR. KRAVETSKY: I have nothing else.

15 MR. BAKER: No.

16 THE CHAIRPERSON: Thank you for all your work
17 in preparing this, and for your organized way in which you
18 have presented the case in a fair and balanced way. So,
19 good morning to all.

20 MR. KRAVETSKY: Good morning.

21 MR. BAKER: Good morning.

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23 (PROCEEDINGS CONCLUDE AT 10:25 A.M.)
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CERTIFICATE OF REPORTER

I, MIKE BRUCE, Court Reporter, do hereby certify that the foregoing pages, numbered 1 to 5, are a true and accurate transcript of the reasons herein as recorded by me to the best of my skill and ability.

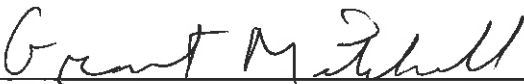
-----M. Bruce-----

Mike Bruce

Court Reporter

THE PRECEDING 6 PAGES CONSTITUTE
THE DECISION AND REASONS FOR
DECISION OF THE DISCIPLINE COMMITTEE
OF THE LAW SOCIETY OF MANITOBA
RENDERED THE 17th DAY OF FEBRUARY,
2017, IN THE MATTER OF:

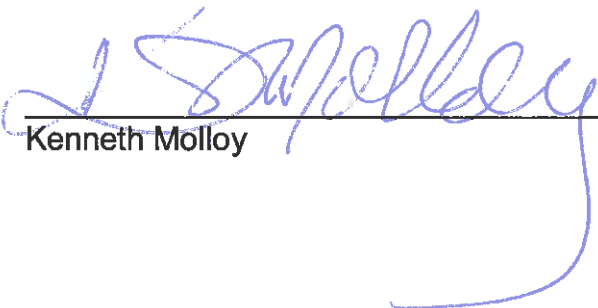
ALLAN PHILLIP BAKER



Grant Mitchell, Q.C., Chair



Katherine Buetti



Kenneth Molloy