

THE LAW SOCIETY OF MANITOBA

IN THE MATTER OF:

JOHN LORING PATRICK SINCLAIR

Reasons for Decision

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Transcript of Proceedings

Taken at the Law Society of Manitoba

219 Kennedy Street, Winnipeg, Manitoba

WEDNESDAY, OCTOBER 4, 2017

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This is a transcript of the reasons for decision in the matter of John Loring Patrick Sinclair, had and taken by Cecelia J. Reid, Official Examiner, Q.B., at the offices of the Law Society of Manitoba, Winnipeg, Manitoba, on the 4th day of October, 2017 at 9:30 in the forenoon.

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APPEARANCES

Panel Members:

Catherine Finnbogason - Chair  
James Shaw - Member  
Marston Grindey - Member  
Rocky Kravetsky,

Appearing for the Law Society

Gavin Wood,

Appearing for Mr. Sinclair

Reporter:

CECELIA J. REID  
Official Examiner, Q.B.

1 WEDNESDAY, OCTOBER 4, 2017  
2 UPON COMMENCING AT 9:00 A.M.

3

4 EXCERPT OF PROCEEDINGS - DECISION

5

6 MS. FINNBOGASON: We are ready to  
7 reconvene this hearing, and we have reached a  
8 decision. The transcript of my comments will  
9 constitute the panel's reasons for decision.

10 John Loring Patrick Sinclair appears  
11 at this hearing -- or appears here by counsel,  
12 Mr. Wood, Wednesday, October 4, 2017. By way of  
13 the statement of agreed facts, Mr. Sinclair admits  
14 that he is a member of the Law Society of  
15 Manitoba, does not hold membership in any other  
16 Law Society. He was validly served with the  
17 citation dated May 23rd, '17. And there is no  
18 objection to any of the panel members on the basis  
19 of bias or conflict.

20 Mr. Sinclair appears on the six count  
21 citation. It is stated in the agreed statement of  
22 facts that the Law Society is not proceeding on  
23 charges 1, 2 and 3 of the citation, nor is it  
24 proceeding on paragraph E of charge 6. And that  
25 was confirmed before us today.

1           So, Mr. Sinclair admits the  
2           allegations in charges 4, 5 and 6, with the  
3           exception of paragraph E in charge 6. We have  
4           therefore only considered the facts as they relate  
5           to those charges. We have reviewed the statement  
6           of agreed facts and the authorities provided, and  
7           we have considered the submissions of counsel.

8           We find that the acts and omissions of  
9           Mr. Sinclair admitted in the statement of agreed  
10          facts are proven. And specifically without  
11          repeating the details provided in the statement of  
12          agreed facts and provided by counsel in oral  
13          submissions, we find that Mr. Sinclair failed to  
14          honour a trust condition, when in August of 2015  
15          Mr. Sinclair was retained to act for Mr. and Mrs.  
16          K to purchase property north of Winnipeg. Trust  
17          conditions were exchanged between Mr. Sinclair and  
18          the vendor's counsel, Mr. Chapman, which  
19          conditions were accepted, though they should not  
20          have been, by Mr. Sinclair. Mr. Sinclair released  
21          the keys to the purchasers on the closing date,  
22          September 1, and they took possession of the  
23          property. But for various reasons, Mr. Sinclair  
24          did not submit registration of the mortgage  
25          documents to the Winnipeg Land Titles office until

1 September 11th. Correction letters had to be sent  
2 to the Land Titles office September 22nd, and  
3 again on September 24th, because of errors in Mr.  
4 Sinclair's documents.

5 By October 5th title had still not  
6 issued, and Mr. Chapman tried to contact Mr.  
7 Sinclair to find out why, and to see if Mr.  
8 Sinclair was holding enough funds to pay interest  
9 beyond 31 days. Mr. Sinclair made some inquiries,  
10 but didn't respond to Mr. Chapman.

11 On October 8 and 9, Mr. Chapman  
12 attempted to get answers from Mr. Sinclair. Mr.  
13 Sinclair finally called Mr. Chapman that  
14 afternoon. He replied that all would be completed  
15 by October 13th, but again it was not. Twice on  
16 October 15th, Mr. Chapman's office tried to reach  
17 Mr. Sinclair with no response. It was only after  
18 Mr. Chapman told Mr. Sinclair's receptionist on  
19 October 16 that he was considering reporting the  
20 matter to the Law Society that Mr. Sinclair took  
21 the phone to speak to Mr. Chapman.

22 Again, Mr. Sinclair promised to  
23 requisition the funds and deliver them to Mr.  
24 Chapman on October 19, and again he didn't. He  
25 required additional information from his clients,

1 which he received October 20th. October 20th, Mr.  
2 Sinclair sent the required documents to the  
3 banking institution. A cheque was issued  
4 October 21st, and on the same day Mr. Sinclair  
5 issued the cheque, including interest, to Mr.  
6 Chapman. Mr. Sinclair's clients executed their  
7 declaration as to possession and order to pay  
8 October 22, 2015, over seven weeks after they had  
9 taken possession of the property.

10 In these acts and omissions, Mr.  
11 Sinclair failed to answer, with reasonable  
12 promptness, communications from Mr. Chapman. And  
13 Mr. Sinclair was not civil and courteous in his  
14 dealings with Mr. Chapman.

15 In doing, and in failing to do these  
16 things, Mr. Sinclair acted contrary to rule 7.2-1,  
17 7.2-5 and 7.2-11 of the Code of Professional  
18 Conduct. We therefore find that Mr. Sinclair is  
19 guilty of professional misconduct.

20 We are aware that, as a discipline  
21 panel, our responsibility in imposing penalty is  
22 to protect the public interest, maintain the high  
23 standard of the profession, and preserve the  
24 public confidence in the profession.

25 We have reviewed the cases regarding

1 joint recommendations, particularly the Anthony-Cook  
2 case from the Supreme Court of Canada in  
3 2016, as well as the Soper decision. And we are  
4 aware that while we have the discretion to depart  
5 from a joint recommendation, we should not do so  
6 unless the proposed sentence would bring the  
7 administration of justice into disrepute or would  
8 otherwise be contrary to the public interest. We  
9 are also aware that joint recommendations  
10 contribute to a fair and efficient system. We  
11 take into account the extent of the injury caused  
12 in this case.

13           It should be noted that the vendors  
14 were forced to carry two mortgages for a period of  
15 time with a higher than normal rate of loan  
16 interest. Although, the financial part was  
17 resolved, it should be stated that there was  
18 anxiety to the vendors and to their counsel. And  
19 it was suggested by a member of the panel that an  
20 apology to the vendors would be appropriate. It  
21 is not something that we would order, but it would  
22 be appropriate.

23           We have, of course, taken into account  
24 Mr. Sinclair's very extensive discipline record,  
25 the extensive record of prior infractions and

1 penalties. He has a long history of failing to  
2 comply with Law Society rules. By my count Mr.  
3 Sinclair has now been found guilty of 20 counts of  
4 professional misconduct, including those today.  
5 Over a period of about 33 years he has been  
6 reprimanded, fined, supervised and suspended. He  
7 has given undertakings to the Law Society, and he  
8 has taken remedial courses. It is the issue that  
9 gives us, as a panel, the most concern. Of course  
10 he is not being sentenced for his prior  
11 infractions, but they are relevant factors to  
12 consider when imposing sentence today.

13           We are also aware that there is an  
14 element of aggravation in the third charge pointed  
15 out by Mr. Kravetsky; the failure to be fully  
16 candid with Mr. Chapman, which lead Mr. Chapman to  
17 believe that things were ready to go when they  
18 were not.

19           We have looked at the cases involving  
20 failures to follow trust conditions and failures  
21 to respond to communications. And we have noted  
22 the penalties imposed in the cases like Walsh,  
23 Petryshyn, Ross and Bargaen, and we are aware of  
24 applying the factors set out in those decisions.

25           We also accept the mitigating factors



1 that Mr. Sinclair has entered guilty pleas and he  
2 is therefore accepting responsibility for his  
3 actions. We do consider the significant  
4 contributions to the community that Mr. Sinclair  
5 has made over the years, though we do see that as  
6 a double edged sword that has perhaps resulted in  
7 inability to handle both parts of his life; his  
8 contributions to the community and his heavy work  
9 load. But he is to be commended for those  
10 contributions.

11 We do take comfort from the fact that  
12 there is a young lawyer assisting Mr. Michael  
13 Sinclair in his supervision of John Sinclair at  
14 this time, and that the process is going well. We  
15 do note that his past offences have not been of a  
16 dishonest nature. And we do acknowledge that this  
17 offence is not of the most serious nature, except  
18 perhaps the misleading of Mr. Chapman. And we do  
19 note the apology to Mr. Chapman made through his  
20 counsel today.

21 We are aware that Mr. Sinclair is  
22 currently suspended from the practice of law from  
23 August 23rd, 2017 to November 22nd, 2017. We are  
24 aware that he is ordered to practice under  
25 supervision and under strict and specific

1 conditions, and that supervisory order is in place  
2 as long as Mr. Sinclair practices law or until the  
3 order is varied. We do take a great deal of  
4 comfort in that in imposing sentence.

5 We are also aware that the charges to  
6 which Mr. Sinclair has pleaded guilty to today  
7 preceded the date of the last decision on  
8 sentencing, which the supervisory order was placed  
9 and the suspension order was placed.

10 So for all of these reasons, we do  
11 accept the joint recommendation by experienced and  
12 able counsel. And we thank you for your  
13 submissions.

14 The penalty will be as follows: Mr.  
15 Sinclair will be suspended from practice for a  
16 period of 15 days commencing on November 23rd,  
17 2017. And I believe that Mr. Wood is correct,  
18 that will end on December 8, 2017. We do order  
19 costs towards the investigation and prosecution of  
20 this matter in the amount of \$3,500. And we are  
21 prepared to leave arrangements of the matter of  
22 the time to pay the costs to the discretion of the  
23 CEO of the Law Society.

24 We would like to say that had Mr.  
25 Sinclair been here in person, we would have said

1 to him -- we would have asked him, maybe  
2 rhetorically not expecting an answer, whether he  
3 can in fact follow the rules that are in place to  
4 protect the public. And we would have said that  
5 we think we can say with some certainty that he  
6 has reached his last chance, and that we can not  
7 imagine another panel allowing him to continue to  
8 practice law should he violate any further rules  
9 of the Law Society. And we would have wished him  
10 good luck. So perhaps you can pass that on to  
11 him.

12 MR. WOOD: I was just going to  
13 undertake, I'll advise him of those last things  
14 that you have said.

15 MS. FINNBOGASON: Thank you. Anything  
16 further counsel?

17 MR. KRAVETSKY: Nothing for me.

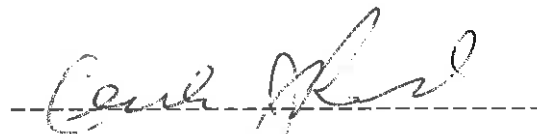
18 MS. FINNBOGASON: Panel members?  
19 Thank you very much for your assistance in this,  
20 and we are adjourned.

21 (Adjourned at 10:50 a.m.)  
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OFFICIAL EXAMINER'S CERTIFICATE

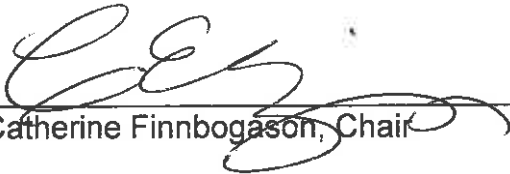
I, CECELIA J. REID, a duly appointed Official Examiner in the Province of Manitoba, do hereby certify the foregoing pages are a true and correct transcript of my Stenotype notes as taken by me at the time and place hereinbefore stated.



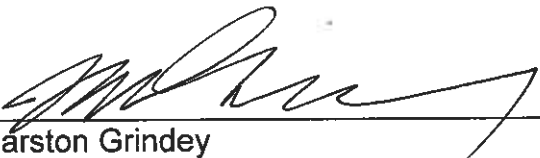
Cecelia J. Reid  
Official Examiner, Q.B.

THE PRECEDING 12 PAGES CONSTITUTE  
THE DECISION AND REASONS FOR  
DECISION OF THE DISCIPLINE COMMITTEE  
OF THE LAW SOCIETY OF MANITOBA  
RENDERED THE 4<sup>th</sup> DAY OF OCTOBER,  
2017, IN THE MATTER OF:

**JOHN LORING PATRICK SINCLAIR**

  
Catherine Finnbogason, Chair

  
James Shaw

  
Marston Grindey