

THE LAW SOCIETY OF MANITOBA

IN THE MATTER OF:

JOHN SLAWKO PETRYSHYN

- and -

IN THE MATTER OF:

THE LEGAL PROFESSION ACT

DECISION

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HEARING DATE: October 16, 2017

PANEL MEMBERS: William S. Gange (Chair)
Donald R. Knight, Q.C.
Keely Richmond (Public Representative)

APPEARANCES: Counsel for The Law Society of Manitoba
Rocky Kravetsky
John Slawko Petryshyn on his own behalf

DECISION

1. John Slawko Petryshyn was called to the bar of the Province of Manitoba on June 29, 1971. The Complaints Investigation Committee of The Law Society of Manitoba suspended Mr. Petryshyn on an interim basis effective October 28, 2015. The Law Society of Manitoba then issued two citations, one dated July 18, 2016 and the second dated March 27, 2017, with

respect to Mr. Petryshyn's activities. In total, Mr. Petryshyn faces 28 charges of professional misconduct.

2. Mr. Petryshyn entered a plea of guilty to the charges he faced. Counsel for The Law Society of Manitoba and Mr. Petryshyn on his own behalf made a joint recommendation as to disposition and filed a Statement of Agreed Facts. The joint recommendation was that Mr. Petryshyn would be permitted to resign his membership in the Society. Further, upon such resignation, Mr. Petryshyn's name would be struck from the Rolls.
3. The Panel accepts the joint recommendation. Pursuant to Rule 72(2)(I), the Panel orders:
 - a. that Mr. Petryshyn be permitted to resign his membership in The Law Society of Manitoba, on the condition that the resignation be received by the Chief Executive Officer of The Law Society of Manitoba by October 26, 2017;
 - b. that Mr. Petryshyn's name be struck from the Rolls; and
 - c. that Mr. Petryshyn pay costs to The Law Society of Manitoba in the amount of \$29,030.28.

Statement of Facts

1. Mr. Petryshyn has been a member of The Law Society of Manitoba since 1971. Prior to these charges, he had one previous appearance before the Discipline Committee for breaching a trust condition and failing to respond to communications from another lawyer.

2. It would appear that at some point in approximately 2013, Mr. Petryshyn's conduct as a lawyer unravelled. The Statement of Agreed Facts submitted at the hearing discloses that Mr. Petryshyn adopted a misappropriation scheme whereby he maintained unofficial receipt books, from which he provided receipts to clients for payments made to him as retainers or payments on account. These receipts were not recorded in his trust account or his general account. At the same time, Mr. Petryshyn maintained an official receipt book for payments that were entered into his general or trust accounts. This scheme was designed to ensure that The Law Society was not able to review the receipt of all funds by Mr. Petryshyn.

3. Mr. Petryshyn entered a guilty plea to numerous charges of appropriating money received as retainers without issuing accounts. Mr. Petryshyn pled guilty to charges of breach of trust conditions. Mr. Petryshyn misled clients and failed to respond to client inquiries. He failed to follow the instructions of clients. Mr. Petryshyn entered a guilty plea to charges that he was abusive to clients and that he had failed to respond to The Law Society. Further, Mr. Petryshyn pled guilty to charges of incompetence on the handling of client files. He pled guilty to meeting with clients while intoxicated.

Joint Recommendation

4. The Panel accepts that it is bound by *R. v. Anthony-Cook* 2016 SCC 43 to accept a joint recommendation on sentence unless the proposed sentence would bring the administration of justice into disrepute or is otherwise contrary to the public interest. It is only in situations where a reasonable and informed person would believe that the proper functioning of the regulatory system had broken down that a joint recommendation can be rejected.


5. Counsel for The Law Society provided numerous cases of misappropriation decided by Panels of the Discipline Committee that have found that in cases of acts of fraud and theft on the part of a lawyer, the penalty of disbarment will be imposed unless there are exceptional extenuating circumstances. Counsel for The Law Society also provided a number of cases to the Panel in which a penalty less than disbarment was imposed for misappropriation.
6. The joint recommendation provides that Mr. Petryshyn be granted permission to resign his membership in the Society, provided that his resignation would be submitted within ten (10) days.
7. The question for the Panel to decide is whether or not it is appropriate to permit Mr. Petryshyn to resign his membership in The Law Society of Manitoba as opposed to imposing a penalty of disbarment.
8. In *MacIver* (August 26, 2003), a Panel considered the question of when is it appropriate to permit a lawyer to resign rather than be disbarred. The Panel found that if the facts underlying the offence fall short of a strong *prima facie* case for disbarment such that disbarment is one of a variety of appropriate sentences and there are significant mitigating circumstances that are consequential or incidental to the offence, then a Panel may consider allowing resignation rather than imposing the penalty of disbarment.
9. Mr. Petryshyn made a submission on his own behalf. Mr. Petryshyn acknowledged that he had acted improperly. He spoke of the significant number of committees that he had been

on during his legal career that provided advice and oversight to foreign countries attempting to set up democratic structures. Mr. Petryshyn also discussed the significant involvement that he had had in his community during his time period as a lawyer. The Panel accepted that Mr. Petryshyn's apology for his inappropriate behaviour was sincere and heartfelt.


10. Counsel for The Law Society of Manitoba acknowledged that it was not entirely clear that disbarment would result if the charges had been contested. Counsel advised that there were mitigating factors that could have resulted in a penalty of suspension rather than disbarment. Mr. Petryshyn suffered from addiction issues late in his career. He spoke in his submission of the efforts he has undergone to deal with the addiction problems he has faced. Counsel for The Law Society of Manitoba also acknowledged the significant contribution Mr. Petryshyn has made over the course of his legal career to his community and to the larger community as a whole. These are factors that the Panel has taken into consideration in its deliberations.
11. The Panel accepts that disbarment is the usual outcome in cases that involve misappropriation. Given the circumstances however, disbarment was not a certainty had this matter been contested. The Panel was satisfied that there could have been appropriate sentences short of disbarment had this matter proceeded to a full hearing.
12. For these reasons, the Panel is satisfied that the joint recommendation would not bring the administration into disrepute and is not contrary to the public interest. The Panel therefore accepts the joint recommendation proposed and imposes the penalty set out earlier in these Reasons.

13. The Panel would like to thank Mr. Petryshyn for his presentation. Further, the Panel acknowledges the fair, balanced and thorough presentation of Mr. Kravetsky on behalf of The Law Society.

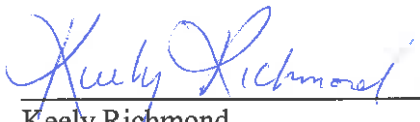
DATED this 24th day of November, 2017.



William S. Gange



Donald R. Knight, Q.C.



Keely Richmond