

1 THE LAW SOCIETY OF MANITOBA and

2 MICHAEL JOHN LAW

3 REASONS

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PANEL MEMBERS:

D. Bedford (Chair)

7

G. Mitchell, Q.C.

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Ms. M. Morrison

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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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S. Simmonds, Esq.

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Hearing held at The Law Society of Manitoba,

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200-260 St. Mary Avenue, Winnipeg, Manitoba, October 10,

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2018.

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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 CHAIR: Counsel and Mr. Law, we are
2 resolved to accept the joint recommendation that you have
3 placed before us this morning.

4 We would like to observe that we found, on the
5 subject of deterrence, that a one-year suspension was
6 probably a little less than what we would have thought
7 appropriate had we not had before us a joint
8 recommendation.

9 However, of course we do have a joint
10 recommendation, and we certainly understand and respect
11 the authorities that you placed before us, the joint
12 recommendation should never be lightly ignored, and only
13 where circumstances suggest to us that there are very clear
14 and very persuasive reasons to override a joint
15 recommendation, and we do not see such reasons here.

16 We also respect the fact that very experienced
17 and very able counsel have been handling this matter, and
18 we are persuaded that counsel, in developing the joint
19 recommendation, certainly canvassed all of the appropriate
20 concerns.

21 In addition, given the facts that we have
22 before us, there are a number of aspects to this joint
23 recommendation which are impressive and persuasive, and
24 we think certainly address the concerns which we always
25 have at these hearings about protecting the public

1 interest.

2 In balancing that, as both counsel observed, it
3 is necessary to balance that with the member's record and
4 some of the member's interest. So I am not going to read
5 out the entire joint recommendation, it is on the record in
6 Exhibit 1, and there will be no ambiguity, I am sure, as to
7 what we have resolved as an appropriate disposition of the
8 guilty plea to the citation.

9 However, I do note that in addition to the
10 one-year suspension, any practicing certificate issued to
11 Mr. Law at any time after the suspension period will be
12 subject to the condition that he refrain from the use of
13 cocaine, the non-medical use of medications and the use of
14 any like substance as is prohibited by law, including by
15 the *Controlled Drugs and Substances Act*.

16 Should he choose to apply to return to
17 practice, Mr. Law is not entitled to do so initially as a
18 sole practitioner, will not be allowed to handle trust
19 money, is not to sign cheques for a period of two
20 continuous years of practice, to repeat, should he choose
21 to return to practice.

22 In addition, he has offered and agreed during
23 his one-year suspension and in the first year of practice,
24 if he returns to practice, to incur the cost of being under
25 the care of the mental health professional whom you advised

1 would be Dr. Lavallee, or such replacement if there is to
2 be a replacement.

3 He is also to participate at his expense for
4 the period of suspension, and his first year of practice in
5 a monitoring program.

6 Yes, I am sorry, you advised us during the
7 course of the hearing that the monitoring program is done
8 under the umbrella of the Addictions Foundation, the
9 Riverbend --

10 MR. SIMMONDS: Or some other agency as approved
11 by The Law Society of Manitoba.

12 THE CHAIR: Yes. The substantive point being
13 Mr. Law's offer that the Society obviously has accepted to
14 incur the cost of the treatment, and to continue with it
15 for a period of two years, to commence, as you said, as
16 soon as Mr. Law is able to do that.

17 Also, the commitment to pay \$6,000 as a
18 contribution to the Society's costs in this matter. As
19 you have said, the terms, the timing and the payment will
20 be as worked out between Mr. Law and the CEO of The Law
21 Society.

22 We also took note of I think some important
23 factors in this case which to some degree might distinguish
24 it from some of the instances where members of the Society
25 have been disbarred, or been given the option to resign

1 when there has been certain significant violations of trust
2 accounting rules or admitted misappropriation, and in this
3 case it was of some concern of course, I count 57 clients
4 affected on 48 different occasions, approximately \$38,000
5 diverted by Mr. Law from his firm's trust account.

6 Having made note of that, it is certainly a
7 point in Mr. Law's favour that he practiced successfully
8 for some 20 years. His career, to our knowledge, was
9 distinguished, he was widely regarded and widely respected,
10 and given our resolution to accept the joint recommendation
11 I am going to pause and observe that we certainly hope that
12 he will be so again should he choose to resume the practice
13 of law.

14 There is no argument that he made important
15 contributions in law, and I think society generally, with
16 his service that you summarized, Mr. Simmonds, we take note
17 of the fact that the real victim here was indeed the
18 partners of the law firm, and we accept Mr. Simmonds'
19 advice that there has been resolution with the law firm, as
20 summarized by Mr. Simmonds; and, moreover, that the firm
21 wishes Mr. Law well, and holds no grudge with respect to
22 what has occurred here.

23 We take note of the fact that in the case of
24 the clients from whom Mr. Law received the retainers that
25 it seems the vast majority, as has been summarized to us,

1 had their matters completed, presumably satisfactorily to
2 them because there were no complaints made about the
3 quality of the work or the service Mr. Law provided.

4 In the case where the work was not completed,
5 it points in Mr. Law's favour that restitution has been
6 made to those particular clients.

7 So having summarized all of that, I repeat,
8 unless there are questions for the panel, Mr. Law, we
9 sincerely wish you well. We certainly remember you as a
10 successful practicing attorney.

11 The choice to return must obviously lie with
12 you, but we echo Mr. Simmonds' expression of hope that
13 should you make that decision to return, that you will be
14 every bit as successful as you once were.

15 THE MEMBER: Thank you.

16 MR. KRAVETSKY: If I may, Mr. Chair, then of
17 course this will be transcribed in full written reasons. I
18 wonder then if we might append to the reasons, paragraph
19 6.2 that is of the statement of agreed facts which sets out
20 in detail the joint recommendation that you have accepted.

21 THE CHAIR: Yes, please.

22 MR. KRAVETSKY: And we'll fill in the blanks as
23 you have noted as to the mental health care professional
24 and the monitoring program.

25 THE CHAIR: Thank you. I was not quite as

1 thorough as perhaps I ought to have been. You will have
2 both detected that our choice in this circumstance was not
3 to also provide written reasons; however, if either
4 counsel, both of you, would like to see some written
5 reasons, that could be done.

6 MR. SIMMONDS: Not from our perspective, thank
7 you.

8 MR. KRAVETSKY: You have expressed yourself
9 clearly enough, from my perspective, thank you, sir.

10 THE CHAIR: Thank you. Then I thank both
11 counsel for very able and persuasive presentations. Good
12 day.

13 MR. SIMMONDS: Thank you.

14 MR. KRAVETSKY: Thank you.

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16 (REASONS CONCLUDE AT 12:15 P.M.)

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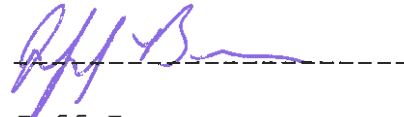
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CERTIFICATE OF REPORTER

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



Jeff Bruce

Court Reporter

APPENDIX TO REASONS FOR DECISION

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3 6.2 The parties jointly submit and request that the
4 Discipline Committee dispose of the matter by making a
5 finding that the conduct of Mr. Law as set out in
6 paragraphs 5.1 through 5.6 of this statement of agreed
7 facts constitutes professional misconduct as alleged in the
8 citation and make an order that:

- 9 1. Mr. Law be suspended from the practice
10 of law for a period of one year
11 commencing October 10, 2018 and ending
12 on October 9, 2019 ("the suspension
13 period");
- 14 2. At the end of the suspension period
15 Mr. Law's status will change from
16 "suspended" to "inactive" until an
17 application for resumption has been
18 approved by the chief executive officer
19 ("CEO"). Mr. Law may apply for
20 resumption of active practicing status
21 provided he has remained free of the
22 substances described in No. 4 below
23 without interruption for at least one
24 year;
- 25 3. Any practicing certificate issued to

1 Mr. Law after the suspension period
2 shall be subject to conditions that
3 until he has completed two continuous
4 years of active practice Mr. Law shall
5 not:

- 6 i. practice as a sole practitioner
7 and may practice only in a law firm
8 or as an employee of a governmental,
9 regulatory or similar agency or a
10 corporation or similar entity;
11 ii. handle trust money as defined by the
12 *Rules of The Law Society of*
13 *Manitoba*, or apply to be authorized
14 to operate a trust bank account or
15 restricted trust account as defined
16 by those Rules;
17 iii. handle funds belonging to the firm
18 or other entity with which he
19 practices, which is to say he shall
20 not sign cheques or cause
21 disbursements of funds of the firm
22 or entity and shall not receive
23 funds belonging to or intended for
24 the credit of the firm or entity.

25 4. In addition to the conditions and

1 restrictions that may be imposed pursuant
2 to Rule 5-28.2, any practicing certificate
3 issued to Mr. Law at any time after the
4 suspension period will be subject to the
5 condition that he refrain from the use of
6 cocaine, the non-medical use of medications
7 and the use of any like substance as is
8 prohibited by law, including by the
9 *Controlled Drugs and Substances Act*. A
10 report of a positive test result for any
11 such substance pursuant to the monitoring
12 program described below shall be sufficient
13 proof of use of that substance.

14 5. Throughout the suspension period Mr. Law

15 shall:

- 16 i. be under the care of Dr. Barry
17 Lavallee, or such replacement mental
18 health care professional as shall be
19 approved by the CEO;
- 20 ii. participate, at his own expense, and
21 comply with a monitoring program
22 administered by Addictions
23 Foundation of Manitoba or Riverbend
24 Counselling & Wellness or such other
25 monitor as shall be approved by the

1 CEO, which monitoring program shall
2 consist, at a minimum, of the
3 features described below;

4 iii. meet the reporting requirements
5 described below.

6 6. Any practicing certificate issued to
7 Mr. Law after the suspension period shall
8 be subject to conditions that until he has
9 completed one year of continuous active
10 practice Mr. Law shall:

11 i. be under the care of Dr. Barry
12 Lavallee or such replacement mental
13 health care professional as shall be
14 approved by the CEO;

15 ii. participate, at his own expense, and
16 comply with a monitoring program
17 administered by Addictions
18 Foundation of Manitoba or Riverbend
19 Counselling & Wellness or such other
20 monitor as shall be approved by the
21 CEO, which monitoring program shall
22 consist, at a minimum, of the
23 features described below;

24 iii. meet the reporting requirements
25 described below.

1 7. The "monitoring program" to which reference
2 is made above shall consist of:

3 i. a period of two years, being the one
4 year suspension period and the first
5 one year of uninterrupted active
6 practicing status thereafter;

7 ii. random testing of urine, hair or
8 blood for substances described in
9 No. 4 above as may be directed by
10 monitoring agency but, in any event,
11 no less than 12 times and no more
12 than 36 times, with a minimum of
13 eight times being in the first year
14 of monitoring;

15 iii. reporting directly to the Society by
16 the administrator of the program of
17 the results of each such test
18 immediately upon completion;

19 iv. full cooperation by Mr. Law with the
20 administrator's requirements.

21 8. The "reporting requirements" to which
22 reference is made above include:

23 i. Mr. Law shall authorize and direct
24 the mental health professional to
25 provide, at Mr. Law's expense,

1 written narrative reports to the
2 Society immediately following the
3 fifth month of the suspension period
4 and at the end of each following
5 six-month period of monitoring,
6 which reports shall contain
7 sufficient information as to
8 Mr. Law's presenting history on each
9 visit with the mental health
10 professional, the observations on
11 each such visit, and specifically
12 whether there is any concern as to
13 the use of substances described in
14 No. 4 above or of circumstances that
15 cause concern that Mr. Law is at
16 imminent risk of such use;

17 ii. Mr. Law shall authorize the mental
18 health professional to provide such
19 additional reports, consultations
20 and records as the Society may
21 request respecting the period of the
22 monitoring;

23 iii. Mr. Law shall provide to the Society
24 the names and address of all of his
25 health care providers involved in

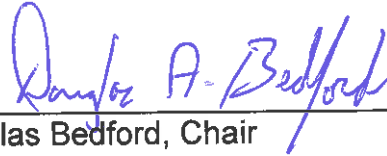
1 treatment of his addiction disorder
2 and general health care and
3 authorization to the Society to
4 obtain information from those
5 providers as to his use or risk of
6 use of substances described in No. 4
7 above, which authorization shall be
8 irrevocable until Mr. Law has
9 completed one year of continuous
10 active practice;

11 iv. reports from the monitor as described
12 above.

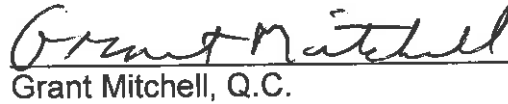
13 9. Mr. Law pay the sum of \$6,000 as a
14 contribution to the Society's costs.
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THE PRECEDING 15 PAGES CONSTITUTE
THE DECISION AND REASONS FOR
DECISION OF THE PANEL OF THE
DISCIPLINE COMMITTEE OF THE LAW
SOCIETY OF MANITOBA RENDERED THE
10th DAY OF OCTOBER, 2018, IN THE
MATTER OF:

MICHAEL JOHN LAW



Douglas Bedford, Chair



Grant Mitchell, Q.C.



Maureen Morrison