

THE LAW SOCIETY OF MANITOBA

IN THE MATTER OF:

**BRIAN ATTWOOD LANGFORD**

- and -

**THE LEGAL PROFESSION ACT**

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**REASONS FOR DECISION**  
**Hearing date: September 18, 2019**

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**BRIAN ATTWOOD LANGFORD**

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**THE LEGAL PROFESSION ACT****REASONS FOR DECISION**

Member (LSM):	Brian Attwood Langford
Hearing date:	September 18, 2019
Counsel (LSM):	Rocky Kravetsky
Counsel (Member)	Self Represented
Panel:	Jon van der Krabben (Chair) Paul Grower Sandra Oakley (PR)

This matter proceeded pursuant to a Citation issued by the Chief Executive Officer of the Law Society of Manitoba (hereinafter LSM) dated July 10, 2017. Counsel for the LSM and Mr. Langford submitted a Statement of Agreed Facts. Pursuant to this Statement of Agreed Facts there were no issues with respect to Mr. Langford's membership in the LSM, service of the Citation or any objections to any of the Panel members on the basis of bias or conflict.

At all times material to this proceeding Mr. Langford was carrying on the practice of law as an associate of the law firm of Sims and Company (Sims) and based at the firm's office in Birtle, Manitoba. Mr. Langford continues to practice with Sims at present.

### **INCOME TAX RELATED FACTS**

Pursuant to the provisions of the *Income Tax Act* (Canada) (the ITA), Mr. Langford was required each year to file with Canada Revenue Agency ("CRA") a return reporting on his income for that year, his allowable deductions and tax payable. Pursuant to those provisions, he was required in each year to pay tax on his taxable income as properly calculated in accordance with the return for that year.

Despite having earned income in each of the years 2002 through 2010 Mr. Langford signed and filed an income tax return for each of those years declaring no income.

Each of the income tax returns submitted by Mr. Langford for the years 2002 through 2010 was, to his knowledge at the time, false in that it did not disclose his income for the year.

On subsequent audit by CRA it was determined that Mr. Langford earned income from his law practice in the years 2002 through 2010 totaling \$622,820.00 on which there was income tax that, pursuant to the ITA, ought to have been paid in the amount of \$99,053.00.

Mr. Langford was thereafter charged under the ITA with making false and deceptive statements in his income tax returns and with evading income taxes for each of the years 2002 through 2010.

In the prosecution of the ITA charges Mr. Langford admitted that he filed tax returns showing no income when he had income in each year. He admitted the amount of tax that would be due on the unreported income.

Mr. Langford did not, however, admit guilt. He made a Constitutional Challenge to the ITA, arguing that the Government of Canada has no authority to levy an income tax. His challenge was unsuccessful before a Provincial Court Judge.

Prior to being charged, and particularly in the years 2002 through 2011, Mr. Langford took no steps to challenge the constitutional validity of the ITA, either by court proceedings, by political activities or otherwise.

Mr. Langford was found guilty of the ITA charges. Convictions were entered to the charges of evading income taxes. Conditional stays were entered to the charges of making false and deceptive statements in his income tax returns on the basis that the same facts apply to both sets of charges.

Mr. Langford was fined \$99,053.00, being 100% of the taxes held to have been evaded and was sentenced to a 15 month jail sentence, to be served in the community as a conditional sentence.

Mr. Langford's application for a stay of the sentence pending appeal was dismissed by Hanssen J. who considered the appeal to be frivolous. Mr. Langford has now served his 15 month sentence. He was given six years to pay the fine and at the date of the hearing he had not yet paid any part of that fine or the assessed income taxes and statutory penalties.

The appeal of Mr. Langford's conviction was originally scheduled to be heard in The Court of Queen's Bench on June 23, 2017 but was twice adjourned at Mr. Langford's request and was heard on May 31, 2019. The appeal was dismissed.

All of the foregoing paragraphs setting out facts have been excerpted from the Agreed Statement of Facts filed by the parties.

Mr. Langford's stated intention was to continue to appeal until all available appeals were exhausted. At the time of the hearing he had applied to the Court of Appeal for leave to appeal the decision from The Court of Queen's Bench. Although that application was originally scheduled to be heard on August 15, 2019 it was adjourned and heard on October 3, 2019, after this discipline hearing. Not long after this hearing the Panel was provided with a copy of an Order of the Court of Appeal, dated October 3, 2019, which Order dismissed Mr. Langford's application for leave to appeal the decision of The Court of Queen's Bench dismissing the appeal of his conviction and sentence imposed by the Provincial Court. In theory the only further avenue of appeal for Mr. Langford would be

to the Supreme Court of Canada. This Panel had not been made aware of any intention by Mr. Langford to appeal to the Supreme Court of Canada.

Although Mr. Langford admits the facts set out above, at the hearing he maintained the position taken in the ITA prosecutions, namely that:

- he was not required to pay income tax;
- he was not required to submit to the ITA as it is unconstitutional;
- he was not required to pay taxes in the amount calculated under the provisions of the ITA and was not required to pay the assessed penalties because they are illegal.

### **Summary of charges**

Mr. Langford was called to the Bar on September 3, 1980. A Citation dated July 10, 2017 was served upon Mr. Langford by the Society. Mr. Langford entered not guilty pleas to all of the charges framed in the Citation. The charges can be summarized as follows:

- Pursuant to Rule 2.1-1 of the *Code of Professional Conduct*, failure to discharge his responsibilities to the public and other members of the profession honourably and with integrity by filing false income tax returns.
- Pursuant to Rule 2.1-1 of the *Code of Professional Conduct*, failing to discharge his responsibilities to the public and other members of the profession honourably

and with integrity by evading or attempting to evade the payment of taxes contrary to the ITA.

- Pursuant to Rule 5.6-1 of the *Code of Professional Conduct*, failing to encourage and in fact discouraging public respect for the Administration of Justice while representing himself in the Court of Queen's Bench on an Appeal from his Provincial Court conviction on charges under the ITA and, furthermore, by failing to comply with his duties under the ITA.
- Pursuant to Rule 2.1-1 of the *Code of Professional Conduct*, failing to discharge his responsibilities to the public and other members of the profession honourably and with integrity by failing to file returns or reporting truthfully on the GST collected or collectible and paid and by failing to remit the amount of GST collected or collectible as required by the *Excise Tax Act*.

Mr. Langford pled not guilty to all of the charges

### **GST RELATED FACTS**

Mr. Langford's arrangements with Sims through the year 2009 included that the firm would issue bills to clients for services rendered and disbursements advanced, which bills included Goods and Services Tax (GST) collectible on those bills. Sims would then pay Mr. Langford as an independent contractor. Mr. Langford did not, other than in 2004, collect or remit GST on fees received.

Pursuant to the *Excise Tax Act*, Mr. Langford was required in each year to submit GST returns reporting on the GST collected or collectible from Sims and on the GST input credits paid out by Mr. Langford. Where the GST collected or collectible exceeded the GST paid out on inputs, the difference was to be remitted to CRA.

Mr. Langford signed and filed a GST Return for the year 2004 in which he reported some GST collected and some input credits but there was additional GST collectible such that after all inputs properly deductible the amount of GST remitted was short by \$4,363.00.

For the years 2005, 2006, 2007 and 2009 Mr. Langford signed and filed returns reporting zero dollars of GST collectible and zero dollars of GST input credits paid. These returns were not accurate. There was GST collectible in each of those years and there were GST input credits to be claimed in each of those years. Mr. Langford did not charge GST and did not claim input credits.

Mr. Langford did not collect GST for the year 2008 and did not file a GST return for the year 2008 even though there was GST collectible and he had paid out GST during that year.

Upon subsequent audit by CRA it was determined that Mr. Langford had failed to report and remit net GST for the years 2004 through 2009 of \$39,647.00.



Mr. Langford was, following that audit, charged with offences under the *Excise Tax Act* of filing false GST returns and failing to remit net GST.

Mr. Langford reached a civil settlement with counsel for the Federal Crown on behalf of CRA by which he accepted that he had not filed accurate returns and that he had not remitted net GST of \$39,647.00. The *Excise Tax Act* charges were then stayed.

## **POSITION OF THE LSM**

### **Charge No. 1 - Rule 2.1-1 of the *Code of Professional Conduct* – Breach of Integrity – Filing False Income Tax Returns**

The LSM argues that Mr. Langford lied on multiple occasions in filing nine false income tax returns and the LSM maintains that he willingly did so. The LSM points out that Mr. Langford was found guilty of tax evasion and that the public purse was deprived of the sum of \$99,053.00 in income tax that should have been paid. Perhaps not theft, at the very least, the LSM points out that Mr. Langford held back monies from the Crown for his own benefit. This was an act serious enough to attract a 15-month conditional jail sentence. The LSM further points out that this misconduct has nothing to do with constitutional issues, but rather has to do with a requirement to tell the truth. Mr. Langford did not challenge the validity of the income tax owing for many years until relatively recently. The LSM also points out that he is not trying to correct a wrong for the benefit of the public. The LSM is of the position that the late constitutional challenge brought forth by Mr. Langford does not redeem his breach of integrity.

**Charge No. 2 - Rule 2.1-1 of the *Code of Professional Conduct* – Breach of Integrity – Attempting to Evade Income Tax**

The argument of the LSM under the heading of this charge is mostly similar to the argument in support of conviction upon the first charge set out above. Once again, in essence, the LSM points out that Mr. Langford intentionally did not pay his taxes while never seeking to legally challenge the validity of the ITA for many years, thereby being guilty of evading or attempting to evade the payment of income tax.

**Charge No. 3 - RULE 5.6-1 – Discouraging Public Respect for the Administration of Justice**

Although not set out in the agreed Statement of Facts, it is alleged that Mr. Langford equated the governance of Canadians and Manitobans with capricious fascist dictatorship as opposed to the Rule of Law, by way of the following statements:

- “It’s either Rule of Law or Adolph Hitler”
- “No more Rule of Law”
- “Adolph Hitler is smiling in hell today, he lost the battle but won the war”
- This crazy world needs Rule of Law. There’s too much Adolph Hitler”

The LSM further stated that Mr. Langford accused the governments of Canada and the Provinces of conspiracy to breach the Constitution and of criminal activity.

Counsel for the LSM advised that he was unable to find a case where comments such as the ones made by Mr. Langford equating the governance of Canadians and Manitobans with a capricious fascist dictatorship opposed to the Rule of Law had been made in court. In this case these statements were included in Mr. Langford's factum of the appellant dated October 26, 2016 and filed in the court on October 27, 2016.

Counsel for the LSM also argues that in addition to there being no basis for these statements, there was also no basis for the accusations against the governments of Canada and the Provinces of conspiracy to breach the Constitution and of criminal activity and therefore there was no basis or reason for those accusations in the context of the matters before the court, they should not have been made and making them constitutes professional misconduct. The LSM argued that if Mr. Langford believed he had a case, and while he certainly had the right to object, this did not excuse the language he used or the false accusations he made. The level of disrespect inherent in his statements is not permitted and is a contravention of the professional code of conduct. The LSM further argued that while Mr. Langford was entitled to say that the governments he accused had breached the law, he was not entitled to suggest that people in the administration of justice had abandoned the Rule of Law, with the suggestion being that they do not care about the Constitution and that we are living in anarchy.

**Charge No. 4 - Rule 2.1-1 of the Code of Professional Conduct – Breach of Integrity – Failing to File GST Returns and Report Truthfully on GST Returns and Failing to Remit the Net Amount of GST Collected or Collectable as Required by the *Excise Tax Act (Canada)* (the ETA)**

Although ultimately corrected and paid, Mr. Langford's failure to properly submit GST returns and pay GST resulted in \$39,647.00 of GST owing to the government. Counsel for the LSM argues that these acts and omissions violate the integrity rules of the *Code of Professional Conduct*. The LSM further took the position that the failure to file tax returns, particularly with respect to the GST returns, was a strict liability offence and that Mr. Langford had the obligation to ask himself whether all tax forms were being filled out truthfully rather than filling them out falsely or recklessly.

**POSITION OF MR. LANGFORD**

**Charges No. 1 and 2** - Mr. Langford's argument on the charges was essentially based on a Brief filed in the Court of Queen's Bench on October 27, 2016 and his Affidavit and Factum filed in the Court of Appeal. The only document filed in support of his position at this hearing was a one page excerpt from discussion in the Parliament of Canada's Committee of Ways and Means regarding income tax, circa 1917.

Mr. Langford's argument essentially is that Parliament is not permitted to make laws coming within the classes of subjects assigned exclusively to the legislatures of the Provinces. He further states that the federal government has admitted that income tax is

direct taxation and that the federal government is imposing direct taxation within a Province in order to raise revenue. He specifically noted that Part VI of the British North America Act setting out the distribution of legislative powers and Sections 91 and 92, dealing with the powers of Parliament and the powers of Provincial legislatures, respectively. The Panel notes that these arguments by Mr. Langford failed at every level of court he was involved in.

**Charge No. 3** - Mr. Langford offered minimal arguments in defence of this charge. He took the position that his use of the term "Hitler" in his comparisons of the government to Adolph Hitler was simply his way of describing the Rule of Law as being non-existent and were also made in support of his conspiracy and money laundering theories. It appeared that Mr. Langford equated taxation by the federal government as being a form of money laundering and stated that it was being done in secret.

**Charge No. 4** - Mr. Langford admitted he made an error with respect to reporting and remitting GST. He stated that the issue of submitting GST was not discussed between his employer and himself and urged the Panel to accept that his failure to remit and pay GST was essentially negligent, rather than conduct unbecoming of a lawyer and therefore the charges against him should not be supported under a "strict liability offence". He pointed out that he made a civil settlement and paid the GST owing and that he is now filing and remitting GST on a regular basis and is up to date.

## DECISION OF THE PANEL

We have carefully reviewed the arguments made by both the LSM and Mr. Langford, both in writing and orally. We have also reviewed the authorities submitted by counsel for the LSM, all documentation provided by Mr. Langford, including, in addition to the documents mentioned previously, the decisions of Provincial Court Judge Carlson dated December 2, 2015, February 11, 2016 and May 11, 2016 and the reasons for Judgment of the Honourable Mr. Justice Abra dated May 31, 2019. We find it unnecessary to repeat the findings against Mr. Langford in all of the decisions made, every one of which dismissed essentially the same arguments he made in front of this Panel. We also relied heavily on the agreed statement of facts summarizing the conduct of Mr. Langford.

The Panel unanimously finds Mr. Langford guilty of all of the charges against him and is of the opinion that the LSM has provided ample evidence in support of all of the charges.

It should be noted that at the end of the hearing an issue with respect to whether Mr. Langford should be convicted of the charges relating to GST as a result of it being a "strict liability" offence was raised. As a result the Panel invited both counsel for the LSM and Mr. Langford to make further submissions after the hearing on that point in particular. After receiving those we accept the position of the LSM that disciplinary offences are regulatory in nature and are properly categorized as "strict liability" offences, unless the charges or the nature of the offence imputes an aspect of knowledge or intent as part of the offence itself. We agree with counsel for the LSM that the charges in this case do not use language of knowledge or intent and that an offence of failure to act with integrity does not by itself imply that *mens rea* is an element of the

offence. We further accept the LSM argument that in the case of a “strict liability” offence that the LSM’s onus is to prove the act or omission constituting the charge. In this case it has done so. Once the offence has been proven, the member can only be acquitted if he or she establishes a reasonable excuse for the acts or omissions, such as taking a reasonable step to avoid misconduct by exercising all due diligence or reasonable care or has a reasonable belief in a mistaken set of facts. We find that this does not apply to Mr. Langford.

It was agreed at the hearing that the Panel would render its decision with respect to conviction after the submission of the supplementary material and that after receiving this decision that both the LSM and Mr. Langford would make further submissions with respect to penalty only, after which this Panel would provide a further decision on the issue of penalty. We invite counsel for the LSM to submit his position on penalty within a reasonable period of time and Mr. Langford to respond with his position within a reasonable period of time thereafter. We invite both counsel for the LSM and Mr. Langford to communicate with the chair of this Panel to establish reasonable timelines for the submission of the material relating to penalty.

Dated this 9<sup>th</sup> day of ~~May~~ June, 2020




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Jon van der Krabben



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Paul Grower



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Sandra Oakley