

THE LAW SOCIETY OF MANITOBA

IN THE MATTER OF:

ROBERT CRAIG LEE

- and -

IN THE MATTER OF:

THE LEGAL PROFESSION ACT

DECISION

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Hearing: February 24, 2021

Panel: Mr. Donald R. Knight, Q.C.
Ms. Wendy A. Stewart
Ms. Keely Richmond (PR)

Counsel: Rocky Kravetsky for the Law Society of Manitoba
William Haight for the Member

DECISION

Mr. Lee is a member of the Law Society of Manitoba, having been called to the bar on June 22, 1995. Mr. Lee was served on January 29, 2021 with a Citation dated the 19th day of January, 2021. The charges in the Citation included acting for a group of companies and an individual while in a conflict of interest, failing to provide his client with a service that was competent, timely, conscientious, diligent, efficient and civil and for failing to reply completely to communications from the Law Society.

Counsel for the Law Society and for Mr. Lee submitted a joint Statement of Agreed Facts and a joint submission for disposition. In accordance with the Statement of Agreed Facts, Mr. Lee entered a plea admitting to the charge of professional misconduct.

ALLEGATIONS OF PROFESSIONAL MISCONDUCT

In count one of the Citation, Mr. Lee was charged with a conflict of interest in that he acted for a group of companies and Mr. W. while in a conflict of interest.

In count two, Mr. Lee was charged for failing to provide service to his client, the group of companies that was competent, timely, conscientious, diligent, efficient and civil.

In count three, Mr. Lee failed to reply completely to communications from the Law Society during its investigation of the complaint against him involving the group of companies and Mr. W.

AGREED FACTS

In the submission to the panel from both counsel and pursuant to a Statement of Agreed Facts tendered at the hearing,

Mr. Lee and his firm, MLT Aikins, acted for a group of companies, which included a number of separate companies, for approximately 12 years along with Mr. W., who was a partner with the group of companies. Mr. W was the principal instructing officer of the group of companies in respect of its dealings with Mr. Lee. Mr. W was also a client of Mr. Lee for his own personal and corporate legal work.

Mr. W retired from one of the companies in December 2015 and pursuant to the partnership agreement, he had to resign as a director and officer in each of the group of companies. Mr. W attempted to purchase one of the group of companies, Company A, unsuccessfully and submitted his resignation on June 5, 2017 for that company. Mr. Lee was provided with a copy of that resignation. A Mr. S became the principal instructing official for the group of companies in early 2016 replacing Mr. W and Mr. S dealt with the "Aikins" firm including Mr. Lee.

Mr. Lee continued to act for Mr. W for his personal matters.

Soon after delivering his resignation for Company A, Mr. W regretted doing so and called a meeting of Directors for Company A by way of email on June 10, 2015. On that date, Mr. S instructed Mr. Lee to register a Notice of Change of Directors in the Companies Office recording Mr. W's removal as a director of Company A. On June 16, 2017, Mr. S provided a copy of Company A's resolution accepting Mr. W's resignation and Mr. Lee advised his firm was preparing the required Notice and that it would be filed "shortly".

Mr. Lee held off filing the Notice of Change of Directors until instructed to do so by Mr. W. Mr. W finally gave that instruction to do so by email on June 22, 2017.

Between March 25 and 28, 2018 Mr. W consulted Mr. Lee about the validity of his resignation as a director of Company A and Mr. Lee provided advice to him. Mr. W also disclosed to Mr. Lee about his activities and intentions regarding his renewed assertion that he remained a director. Mr. Lee accepted his instruction to keep this information from the group of companies.

On March 27, 2018, Mr. W wrote to Mr. Lee and to the group of companies' directors that he had been advised by Mr. Lee that his resignation was not effective. Mr. S immediately terminated the group of companies' relationship with Aikins. Mr. Lee shared that communication with Mr. W the next day.

On April 10, 2018, without instructions from the group of companies and contrary to their position regarding Mr. W that he had effectively resigned as a director of Company A, Mr. Lee filed a Notice with the Companies Office that Mr. W continued as a director of Company A throughout the period from June 2017.

In 2014, when Mr. W was the principal instructing office of the group of companies, he obtained the Minute Book for Company A from Aikins. No steps were taken by Mr. Lee after that to ensure that the Minute Book was updated or returned. In June 2017, Mr. Lee was instructed by Mr. S to immediately place the record of Mr. W's resignation as a director into the Minute Book. Mr. Lee did not do so, did not advise Mr. S that he did not have possession of the Minute Book nor did he advise Mr. S that Mr. W had the Minute Book.

LAW SOCIETY INVESTIGATION

Mr. S filed a complaint with the Law Society on May 16, 2018 which was assigned to one of the Law Society's complaints resolution counsel for investigation.

Mr. Lee was sent a letter on May 31, 2018 seeking a response to the complaint. Mr. Lee responded on June 12, 2018 indicating he did not agree that there was a conflict of interest between Mr. W and the group of companies despite being aware of the opposing positions as to the status of Mr. W's resignation. Mr. Lee also made it appear that he did not become aware that Mr. S had terminated the retainer of MLT Aikins until April 13, 2018. In fact, Mr. Lee had received a copy of Mr. S's instructions on March 28, 2018 and had forwarded it to Mr. W on that day.

The investigator had to follow up with Mr. Lee on November 22, 2018 for clarification, by asking on what basis did he act for filing a Notice of Change of Director on April 10, 2018. The investigator received a reply dated December 7, 2018 with an explanation from Mr. Lee that he only became aware 3 days after Mr. S requested a return of the Minute Books for the group of companies that MLT Aikins' retainer had been terminated.

A further request was made for file documents and in a reply to the investigator, dated March 5, 2019, Mr. Lee drew the investigator's attention to the email of March 28, 2018 by which he had been notified that MLT Aikins had been discharged.

COMMENTS

The Discipline Committee acknowledges the co-operation of Mr. Lee and his legal counsel in the process of the hearing and having it dealt with in a timely manner. The Statement of Agreed Facts and Joint Submission were very helpful in reaching a conclusion. Three letters of reference were provided to the panel, each of which speak to Mr. Lee's character and competence. The terms honest, professional, conscientious and ethical are used to describe Mr. Lee. His references are of the view that this current problem is out of character for him and is an aberration. His references have known Mr. Lee for many years, and they are respected members of the profession.

Both counsel used the term "confusion of loyalty" when speaking to this matter. Based on the facts, that would appear to what led to what happened here. Mr. Lee should have seen that he was clearly in a conflict and should not have acted for either party in this case once he became aware that there was an issue relating to the resignation of Mr. W and the instructions, he received from Mr. S. Under the circumstances, he should not have preferred instructions from one over the other.

FINDINGS AND DISPOSITION

The Discipline Committee considered the joint submission of counsel and are of the view that it is within the range for this type of matter. Having entered a plea of guilty to the charges and based on the facts, we have no issue with finding Mr. Lee guilty of professional misconduct. Mr. Lee has been practicing for 26 years and has no prior record with the Law Society. Therefore, the Discipline Committee accordingly orders that:

- 1) Mr. Lee be fined \$7,500.00; and
- 2) Mr. Lee pay \$8,000.00 as a contribution to the costs of the investigation and prosecution of these charges.

Mr. Lee and his counsel can make arrangements with the CEO of the Law Society regarding payment of the fine and costs.

There will be publication pursuant to Rule 68(2).

Dated the 19th day of March, 2021.



Donald R. Knight, Q.C., Chair



Wendy A. Stewart



Keely Richmond