

2020

Hfx No.

IN THE MATTER OF: The Legal Profession Act, S.N.S. 2004, c. 28. and the Regulations of the
Nova Scotia Barristers' Society, as amended

BETWEEN:

The Nova Scotia Barristers' Society

- and -

R. Blois Colpitts, of Halifax, Nova Scotia

Panel: Gail Rudderham Chernin, Q.C., Chair
Celia Melanson
Paul Goodman – Public Representative

Appearances: Chris Robinson, Counsel for Mr. Colpitts
Bernadine MacAulay, Counsel for the Nova Scotia Barristers' Society

**Decision on the Motion
To Postpone/Adjourn the Formal Hearing**

1. This is the written decision of the Hearing Panel following a verbal decision dated June 25, 2020 to grant an adjournment of a scheduled hearing to consider a proposed Settlement Agreement. The background facts, arguments and reasons for the Hearing Panel's decision are set out below.
2. R. Blois Colpitts was found guilty and convicted of criminal charges by Justice Kevin Coady in a Decision dated March 9, 2018.
3. Mr. Colpitts voluntarily withdrew from the practice of law effective April 6, 2018, pending the outcome of a criminal appeal of the above.
4. On November 27, 2018, a formal complaint was laid against Mr. R. Blois Colpitts by the Nova Scotia Barristers' Society. More specifically, the complaint read as follows:

*The Nova Scotia Barristers' Society charges R. Blois Colpitts, of Halifax, Nova Scotia with professional misconduct and conduct unbecoming in that he breached provisions of the **Legal Ethics***

and Professional Conduct: A Handbook for Lawyers in Nova Scotia, 2nd ed. (Halifax.: Nova Scotia Barristers' Society,1998), (the "Handbook"), the Legal Profession Act and the Regulations made thereunder.

Specifically:

1. *R. Blois Colpitts failed to discharge with integrity duties he owed to other lawyers, his clients, the court, the profession, and the general public, and conducted himself in a way that reflected adversely on the integrity of the profession, the legal system and the administration of justice, contrary to Chapter 1 of the Handbook. In particular:*
 - a. *Mr. Colpitts was found guilty and convicted of the following charges by Justice Kevin Coady in a decision dated March 9, 2018:*
 1. *Conspiracy to commit market fraud contrary to Section 380(2) of the Criminal Code;*
 2. *Conspiracy to commit fraud contrary to Section 380(1)(a) of the Criminal Code;*
 3. *Market fraud contrary to Section 380(2) of the Criminal Code;*
 4. *Fraud to the public over \$5,000 contrary to Section 380(1)(a) of the Criminal Code;*
 5. *Fraud on persons both known and unknown over \$5,000 contrary to Section 380(1)(a) of the Criminal Code.*
 - b. *Although Mr. Colpitts was found guilty on all five charges of the indictment, in accordance with Keinapple principle, Justice Coady entered convictions on the first two counts noted above.*

c. *Mr. Colpitts was sentenced on July 25, 2018 to 4.5 years of incarceration on each count to be served concurrently.*

d. *Mr. Colpitts engaged in the conduct as set out in the above charges and his subsequent convictions.*

2. *R. Blois Colpitts breached his duty to avoid engaging in questionable conduct, contrary to Chapter 23 of the Handbook, in that as a result of the conduct set out in the above charges and his subsequent convictions, he failed at all times to observe a standard of conduct that reflected credit on the profession and the system and the administration of justice generally, and which inspired the confidence, respect and trust of clients, those with whom he worked and the community, and acted in a manner which demonstrated a significant departure from what is expected of an honest lawyer.*

And that in relation to the charges set out above, R. Blois Colpitts has been guilty of professional misconduct and conduct unbecoming.

5. Mr. Colpitts accepted service of the charges and the Notice of Referral to Hearing effective December 4, 2018.
6. The Notice of Referral to Hearing was posted to the Nova Scotia Barristers' Society website on July 26, 2019.
7. At the request of Mr. Colpitts' counsel, the Formal Hearing of the Professional Responsibility Hearing Panel was adjourned, without date, awaiting the outcome of the criminal appeal.
8. On February 5, 2020, the Chair of the Hearing Committee was advised that the Court of Appeal had released their decision dismissing the Colpitts appeal. As such, Pre-Hearing Conferences were held with the Hearing Committee Chair to manage any Pre-Hearing issues and then to proceed to Formal Hearing.
9. The Panel of the Professional Responsibility Hearing Committee was constituted as:

Gail Rudderham Chernin, Q.C., Chair
Celia Melanson
Paul Goodman – Public Representative

10. All parties agreed to a Formal Hearing date to be scheduled for Thursday, June 25, 2020 at 2:00 in the afternoon for purposes of considering a proposed Settlement Agreement. A Zoom Hearing was required due to restrictions based on the COVID-19 pandemic. On the evening prior to the Hearing of June 25, 2020, the Panel Chair received an email request from Chris Robinson, on behalf of R. Blois Colpitts, requesting an adjournment of the Hearing. The Society objected to this postponement. A voluminous amount of information was forwarded from the Society's legal counsel by email at approximately 12:00 noon prior to the 2:00 p.m. scheduled time for the Formal Hearing to begin.

Arguments by the Parties

Arguments by Mr. Robinson on behalf of Mr. R. Blois Colpitts

11. R. Blois Colpitts was not in attendance at the Hearing. His counsel advised that he was incarcerated on the scheduled hearing date of June 25 and unable to make a personal appearance. Mr. Robinson advised that R. Blois Colpitts was requesting the opportunity to appear in person and be heard by the Professional Responsibility Hearing Panel. He submitted that it is a principle of fundamental justice to allow an accused person to give a statement. Mr. Robinson asserted that there was no concern about protection of the public as Mr. Colpitts has not been practicing law since April 2018 and, in fact, has been incarcerated for the past number of months. He further asserted that any further delay will not impair the role of the Nova Scotia Barristers' Society with regard to protection of the public.

Argument by Ms. MacAulay on behalf of the Nova Scotia Barristers' Society

12. Ms. MacAulay made reference to the *Legal Profession Act* and, in particular, Section 4(1) which states as follows:

4 (1) The purpose of the Society is to uphold and protect the public interest in the practice of law.

Ms. MacAulay noted that the public interest involves not only the protection of the public, but also ensuring the confidence of the public in the regulation of the practice of law. She advised that Mr. Colpitts agreed to not practice law but continued to have a law corporation, namely RBC Inc., of which he is sole shareholder.

13. Ms. MacAulay provided information that a draft Settlement Agreement had been tentatively agreed upon February 24, 2020. By June 1, final changes were made to said Agreement which were accepted by both parties. She submitted that Mr. Colpitts had many opportunities to advise the Panel that he wanted to be heard prior to the eve of the Hearing. She suggested that there was no evidence provided by Mr. Colpitts in support of this motion.

14. Ms. MacAulay cited cases of law societies within Canada wherein there have been last minute motions that were denied. Ms. MacAulay referred the Panel to the following cases:

1. *Law Society of Upper Canada v. Abrahams* 2014 ONLSTH 64;
2. *Law Society of British Columbia v. Welder* 2014 LSBC 53;
3. *Law Society of Upper Canada v. Khan* 2014 ONLSTH 233.

Ms. MacAulay outlined the principles espoused throughout these cases as being the following:

- a. There is no right to an adjournment merely on request;
- b. A Panel decision must tilt in favour of moving forward;
- c. Last minute motions should be denied unless absolutely necessary;
- d. Professional Responsibility Hearing Panels should work in a timely and expeditious manner;
- e. Adjournments should be minimized;
- f. There had been ample time to contest previously.

Conclusion of the Panel

15. The Panel considered the cases cited and the points raised by both parties in oral submissions. The Panel agrees that the purpose of the Society is to uphold and protect the public interest in the practice of law. This purpose also means that the public must have confidence in the regulation of the practice of law. Mr. Colpitts has been suspended from the practice of law and incarcerated and will continue to be suspended during the period of any postponement.

16. A Settlement Agreement has been received by the Panel that has been executed by both parties. Mr. Colpitts' lawyer has assured the Panel that the Settlement Agreement will not be contested at a later hearing. Rather, the postponement is strictly to allow Mr. Colpitts the opportunity to present a statement.

17. Although Mr. Colpitts remains the sole shareholder of RBC Inc., a law corporation, he does not provide any legal services. Another lawyer does all of the legal work at RBC Inc. Also, this is not an issue that was addressed in the Complaint put before this Hearing Panel. It is incumbent upon the Nova Scotia Barristers' Society to deal with this issue separately. It is our understanding that the Nova Scotia Barristers' Society was fully aware that Mr. Colpitts continued to be the sole shareholder of this corporation during his suspension. Therefore, this Panel will not deal with this issue any further.

18. The Panel felt it was important to allow Mr. Colpitts the opportunity to make a statement, if he so wished. Providing a reasonable opportunity to be heard is a

fundamental tenet of natural justice, and this continues even in the context of a hearing to consider a Settlement Agreement. In the context of upholding the Society's purpose, the public remains protected by the fact that Mr. Colpitts is suspended from the practice of law during the period of the adjournment. Further, the public's confidence in the Society's ability to regulate the practice of law is not jeopardized by a brief adjournment that permits a respondent to personally address the Hearing Panel, prior to the rendering of a decision that involves the determination of his ability to engage in the practice of law in the future.

19. This is not a case where witnesses were lined up for a formal hearing who would be inconvenienced by a last minute adjournment. While it would have been clearly preferable for Mr. Colpitts to have advanced his request at an earlier time, the fact that it occurred on the eve of the hearing where no witnesses were involved and where the public was already protected, persuaded the Panel to grant the short adjournment in order to allow Mr. Colpitts his final opportunity to address the Panel. While there would be some inconvenience to the Society and the Hearing Panel to meet on a separate occasion, this was not sufficient to offset the importance of giving Mr. Colpitts his final opportunity to address the Panel. As a result, the Panel granted the motion and adjourned the hearing until July 30, 2020.

Order

20. It is ordered that this Hearing will reconvene on Thursday, July 30, at 2:00 in the afternoon, in person. This will give everyone enough time to prepare and allow publication of the Hearing. **(NOTE – This date was subsequently changed to July 20, at 2:00 p.m.)**
21. Mr. Colpitts will be permitted to make a statement at the Hearing on that day. If he is unable to attend in person or by video or by telephone, his statement must be read into the record by someone of his choosing. It may be a family member or his legal counsel but it is expected to happen on that day because the reason for the adjournment is for that statement and for no other reason.
22. The Settlement Agreement that has been executed by both parties shall be presented and reviewed at the Hearing on that day and the Panel has taken note of the fact that both parties have advised that they are not contesting the Settlement Agreement.

X


Gail Rudderham Chernin, Q.C.
Panel Chair

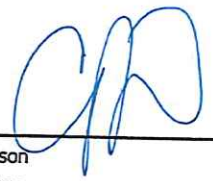
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Celia Melanson
Panel Member

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Paul Goodman
Public Representative

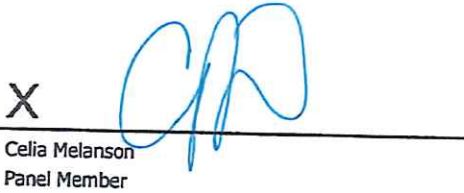
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Gail Rudderham Chernin, Q.C.
Panel Chair

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Panel Member

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Paul Goodman
Public Representative



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Panel Chair



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Panel Member



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Paul Goodman
Public Representative