

2022

**NOVA SCOTIA BARRISTERS' SOCIETY**

**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-

**Patrick J. Eagan**, a Barrister and Solicitor of  
Halifax, Nova Scotia

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**CONSENT TO REPRIMAND**

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Patrick J. Eagan, a member of the Nova Scotia Barristers' Society, hereby agrees and consents to the following in accordance with the *Legal Profession Act* S.N.S. 2004, c. 28, as amended by S.N.S. 2010, c. 56, and the Regulations made thereunder, and the *Code of Professional Conduct*.

**STATEMENT OF FACTS**

1. Patrick J. Eagan was called to the Nova Scotia Bar in 2001 after being called to the Bar in New Brunswick and British Columbia in 1997. He practiced with Newton and Associates and Robert Cragg and Associates before joining Landry MacGillivray in 2004. He continues to be associated with this firm.

Complaint of J.T.

2. J.T. filed a complaint on May 23, 2019 alleging that Mr. Eagan had failed to comply with a Consent Order. Mr. Eagan was representing J.T.'s ex-husband, G.T., in a family law matter.
3. The Consent Order dated January 16, 2018 provided in part:

*Upon the closing of the sale of D..., G.T. shall direct the Proceeds to be paid into his lawyer's trust account, and the Proceeds shall immediately be disbursed as follows: ...*

- a) *\$25,000.00 shall be paid to D... in Trust, representing an advance, made without prejudice, on J.T.'s share of the value of the parties' matrimonial home;*
  - b) *\$6,000.00 shall be paid to D... in Trust, representing payment of 12 months of child support to J.T. in the amount of \$500.00 per month. This amount is provided to J.T. without prejudice to either party's ability to take a different position on the amount of child support payable at a final hearing;*
  - c) *\$30,000.00 shall be retained in the trust account of G.T.'s lawyer. These funds shall only be used to immediately pay off the mortgage arrears for the matrimonial home and make ongoing payments for the mortgage, property tax, and property insurance for the matrimonial home as they become due; and*
  - d) *After the above steps are taken, the remainder of the Proceeds shall be disbursed to G.T.*
4. The funds noted in paragraph a of the Consent Order were not transferred.
  5. G.T.'s business sold in January 2018 and Mr. Eagan had access to the proceeds of sale from February 2018. Mr. Eagan continued to hold whatever proceeds of sale remained in his firm's trust account.
  6. On February 8, 2018, Mr. Eagan wrote to J.T.'s lawyer indicating that due to the large amount of matrimonial debt, he did "not intend to pay [J.T.] \$25,000 as an advance on her 'share of the value' of the matrimonial home".
  7. J.T.'s lawyer responded by requesting payment and reminding Mr. Eagan of the terms of the Consent Order. She followed up again on March 23, 2018 and March 28, 2018.
  8. Mr. Eagan notified the Court by correspondence dated August 17, 2018 in advance of a pre-trial conference that the money had not been paid. He explained the nonpayment on the basis the parties were mistaken as to the value of the house when they consented to the Order. The Court did not address the issue at the pre-trial conference August 20, 2018.
  9. J.T.'s lawyer followed up requesting payment again on September 5, 2018 and September 10, 2018.
  10. On September 27, 2018, believing J.T. to be unrepresented, Mr. Eagan approached J.T. directly requesting that she consent to him disbursing \$5,000 to her and \$5,000 to GT. J.T. directed Mr. Eagan to contact her lawyer.
  11. An Execution Order was issued on January 31, 2019 and provided to the Sheriff's Office on February 4, 2019. The Execution Order was served on Mr. Eagan on March 26, 2019, but no funds were paid.
  12. Mr. Eagan acknowledged that he received the Execution Order and told the Sheriff that his firm would not pay the \$25,000.00 "as we do not believe that the Execution Order is applicable under the circumstances".

13. As noted, J.T. complained to the Society in May 2019. Mr. Eagan was in correspondence with the Society thereafter.
14. A January 6, 2020 pre-trial conference was adjourned at the request of J.T., and no new date set. A conference scheduled for March 27, 2020 did not occur because of the pandemic. Mr. Eagan advised the Society in May 2020 that the issue would be addressed at a settlement conference.
15. The settlement conference took place August 20, 2020 and following further judicial direction, the money was paid over to J.T.'s new lawyer.
16. Thirty months had elapsed between the date Mr. Eagan received the funds and their payment.
17. Apart from his August 17, 2018 correspondence with the Court, Mr. Eagan had not taken steps to comply with the terms of the Consent Order or to have the matter reviewed by the court despite communications from the Society between October 2019 and May 2020 requesting that he do so.

#### Complaint of RC

18. R.C. filed a complaint on March 12, 2020 alleging that Mr. Eagan, who had taken over representing her ex-husband, R.I.C. in a family law matter, had "misrepresented the state of affairs between R.C. and myself".
19. Prior counsel had acted for R.I.C. in obtaining a Corollary Relief Order, dated November 20, 2017, which provided:

#### ***Pensions***

*23. Neither this corollary relief order nor a divorce order issued with it, is intended to affect a statutory entitlement to seek a division of credits or benefits under the Canada Pension Act.*

*24. The Petitioner shall receive one half of the value of the Respondent's Canadian Forces Pension earned between July 19, 1996, the date of cohabitation, and the date of separation on January 8, 2011.*

20. On November 19, 2019 after taking over carriage of the file, Mr. Eagan wrote to the Government of Canada Pension Centre in part as follows:

*This is to confirm that I represent R.I.C. in an ongoing divorce action before the Supreme Court of Nova Scotia at Kentville involving R.C.. Although certain aspects of the parties' separation have been addressed in Court prior to my retainer, there still exists numerous property issues that are unresolved, including the division of the parties' respective interest in the matrimonial home, and a claim by R.I.C. for compensation to be paid him by R.C. for his assumption of certain matrimonial debts, including debts for business(es) the parties operated together, as well as compensation for other debts arising from the marriage which have not previously been litigated. Given that there is not a significant*

*amount of equity in the matrimonial home in consideration of the amount of matrimonial debts which are outstanding, R.I.C. has a claim for an unequal division of his military pension. We, therefore, ask that no action be taken on any application to divide R.I.C.'s military pension until the matter is finalized in Court, which I would expect to be in or about the spring of next year...*

21. As a result of Mr. Eagan's letter, the pension centre delayed the division of the pension. At the time of Mr. Eagan's letter, although some issues had not been resolved between the parties there was in fact no divorce action ongoing, and the Corollary Relief Order had not been appealed and the deadline to do so had expired.
22. Following the intervention of the Society, Mr. Eagan corrected the information in correspondence to the Government of Canada Pension Centre.
23. Mr. Eagan's statements to the Government of Canada Pension Centre were inaccurate and misleading.

#### Section 37(1) hearing

24. On July 23, 2020, the Complaints Investigation Committee resolved to hold a hearing under Section 37(1) of the *Legal Profession Act* to determine whether it would be in the public interest to suspend Mr. Eagan's practicing certificate or impose conditions or restrictions on his practice. The hearing took place on August 28, 2020.
25. Following the hearing, the Complaints Investigation Committee issued an Order imposing the following conditions on Mr. Eagan's practice:
  - a. *That he provide evidence of payment of the \$25,000 to J.T.'s lawyer, an indication of whether there were any conditions on the funds and evidence of the lawyer's receipt of the funds by September 9, 2020;*
  - b. *That he write to R.I.C.'s pension provider stating: "There has been no challenge by R.I.C. to paragraph 24 of the Corollary Relief Order" by September 9, 2020;*
  - c. *That he comply fully with the review of his practice ordered by the Complaints Investigation Committee.*
26. Mr. Eagan complied with the conditions imposed by the Complaints Investigation Committee.

#### **DISPOSITION**

The Complaints Investigation Committee reviewed this matter on January 27, 2022, and concluded that the evidence on file that could reasonably be believed supported a finding of professional misconduct. The Committee agreed that charges against Mr. Eagan could include the following:

1. Mr. Eagan failed to carry on the practice of law and discharge all responsibilities to clients, tribunals, the public and other members of the profession honourably and with integrity, contrary to Rule 2.1-1 of the *Code of Professional Conduct*, and failed to act in a manner that encourages respect for the administration of justice, contrary to Rule 5.6-1 of the *Code of Professional Conduct*. In particular, he:
  - (a) Failed to comply with the terms of a Consent Order and an Execution Order specifically directing him to provide funds to be held in trust by J.T.'s lawyer; and
  - (b) Knowingly provided inaccurate and misleading information to a government agency regarding the status of R.C. and R.I.C.'s legal matter;
  
2. Patrick J. Eagan failed to be courteous and civil and act in good faith with all persons with whom he had dealings in the course of his practice, contrary to Rule 7.2-1 of the *Code of Professional Conduct*, and failed to answer with reasonable promptness all professional letters and communications from other lawyers that require an answer, and be punctual in fulfilling all commitments contrary to Rule 7.2-5 of the *Code of Professional Conduct*. In particular, he:
  - (a) Failed to provide funds in trust to J.T.'s lawyer as stipulated under the terms of the Consent Order despite numerous communications from J.T.'s lawyer requesting that he do so; and
  - (b) Failed to meaningfully respond to communications from J.T.'s lawyer between February and September 2018.

Pursuant to s. 36(2)(c) of the *Legal Profession Act*, the Complaints Investigation Committee agrees that Mr. Eagan be issued a Reprimand with his consent.

## **ADMISSIONS**

Mr. Eagan admits that he breached the Rules in the manner set out above, and that his conduct constitutes professional misconduct.

## **DISCIPLINE HISTORY**

Mr. Eagan has no formal prior discipline history.

## **INDEPENDENT LEGAL ADVICE**

Mr. Eagan confirms that he has had independent legal advice regarding the terms of this Reprimand, prior to its execution.

**CONSENT TO REPRIMAND**

Mr. Eagan hereby consents to a Reprimand.

**EFFECTIVE DATE**

This Reprimand shall only become effective upon its acceptance by the Complaints Investigation Committee.

This **CONSENT TO REPRIMAND** is made as of the 28<sup>th</sup> day of July, 2022.

(signed) \_\_\_\_\_  
WITNESS

(signed) \_\_\_\_\_  
Patrick J. Eagan

**ISSUED BY:**

The Complaints Investigation Committee, this 29<sup>th</sup> day of July, 2022.

(signed) \_\_\_\_\_  
Mark Scott QC  
Chair, Complaints Investigation Committee