

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-

Wayne S. Rideout, a Barrister and Solicitor of
Halifax, Nova Scotia

CONSENT TO REPRIMAND

Wayne S. Rideout, 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. Wayne Rideout was admitted to the Nova Scotia Bar in 1978. Since 1980, he has worked as a sole practitioner in Shelburne, Nova Scotia. Mr. Rideout has had a general practice with a focus on criminal, real estate, and family law. Mr. Rideout has advised that he closed his office and stopped seeing clients in July 2020, but did not apply to change his practicing status to retired until August 2022.

Complaint of DC

2. A complaint was filed with the Nova Scotia Barristers' Society by DC on September 27, 2018.
3. DC's complaint against Mr. Rideout alleged that he had made inappropriate comments to her and charged excessive fees.
4. DC retained Mr. Rideout in July 2017 to represent her in her separation and divorce. She first met with Mr. Rideout on July 11, 2017, accompanied by her mother. DC recalled being emotional during the meeting, which was exacerbated by questions from Mr. Rideout that made her uncomfortable and embarrassed.

5. DC stated that she had a brief conversation with Mr. Rideout about fees during their first meeting, at which time he confirmed that he would be charging her \$350 an hour and that it could cost her up to \$30-35,000 if the matter went to trial. DC did not sign a written retainer agreement.
6. Mr. Rideout asked DC to keep a diary regarding her relationship with her husband, including a history of her life with her husband starting from when they met. DC found this task overwhelming and stressful.
7. DC was told on several occasions that she was not doing enough to assist Mr. Rideout to prepare her file.
8. DC states that she had agreed to put her matter on hold during the holidays in December 2017, but when she learned that Mr. Rideout would be out of the office until mid-February, she decided to terminate his services.
9. DC was advised by Mr. Rideout that she still owed him almost \$9,000 over and above the more than \$7,000 she had already paid him. She had to pay the outstanding amount in order to obtain her file from him.
10. DC had Mr. Rideout's invoices taxed in Small Claims Court on November 8, 2018. The adjudicator found that Mr. Rideout spent many hours conducting work that was no benefit to DC. The adjudicator also found that the invoices provided by Mr. Rideout were incorrectly dated and provided very little explanation as to the services rendered.
11. Mr. Rideout's accounts were taxed and allowed at \$4,025.00 inclusive of HST. He was ordered to reimburse DC \$11,774.00, plus costs of the proceeding for a total of \$11,973.70. Mr. Rideout has not repaid DC.

Section 36(2)(a)

12. On November 17, 2019, the Complaints Investigation Committee resolved to require Mr. Rideout to attend a meeting with them pursuant to section 36(2)(a) of the *Legal Profession Act*. In addition, he was required to provide the Committee with his undertaking not to accept any new female clients, and that if he must meet with any current female clients he will do so only in the presence of a third party. Mr. Rideout provided this undertaking on November 29, 2019.
13. On December 11, 2019, members of the Committee convened a meeting pursuant to section 36(2) with Mr. Rideout. Following this meeting, Mr. Rideout was asked to provide the Committee with a list of his current client matters, noting client gender, type of matter for which he was retained, date the file was opened and a complete copy of DC's file.
14. The Committee was prepared to resolve DC's complaint by entering into a Practice Agreement pursuant to subregulation 9.4.3(h) [now subregulation 9.5.8(e)], on the following terms and conditions:
 1. *Mr. Rideout will agree to cease the practice of law, prepare his trust accounts for closure, and file an application to change status no later than June 30, 2020.*

2. *Undertake to make arrangements with clients to return any incomplete files or facilitate transfer of them pursuant to the clients' wishes, no later than June 30, 2020;*
3. *Undertake to pay DC \$11, 973.70 in accordance with the Order of the Small Claims Court, no later than March 30, 2020;*
4. *Agree to continue to adhere to his undertaking with respect to female clients;*
5. *Agree to not take on any new client matters henceforth; and*
6. *Agree to provide the Society with monthly progress/status reports on his remaining client matters, commencing March 1, 2020.*

15. Mr. Rideout was given an extension to the end of July 2020 to wind up his practice, which he did not meet. Although he filed his application to change status in August 2022, Mr. Rideout has not closed his trust accounts nor repaid DC pursuant to the Small Claims Court Order.

DISPOSITION

The Complaints Investigation Committee reviewed this matter on September 24, 2020, and concluded that the evidence that could reasonably be believed could support a finding of professional misconduct and conduct unbecoming. The Committee agreed that charges against Mr. Rideout could include the following:

1. Mr. Rideout failed to perform all legal services undertaken on a client's behalf to the standard of a competent lawyer and failed in his duty to provide courteous, thorough and prompt service to clients contrary to rules 3.1-2 and 3.2-1 of the *Code of Professional Conduct*. In particular, he:
 - (a) Failed to conduct sufficient or any research relevant to the client's legal matter; and
 - (b) Failed to take reasonable or any steps to move the client's matter forward towards any resolution.
2. Mr. Rideout 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 Rules 2.1-1 and 7.2-1 of the *Code of Professional Conduct*. In particular, he:
 - (a) Failed to recognize the vulnerability of his client, asked her inappropriate and intrusive questions and used sexualized language in his communications with her.
3. Mr. Rideout failed in his duty not to charge or accept a fee or disbursement, including interest, unless it is fair and reasonable and has been disclosed in a timely fashion, to provide a statement of an account that clearly and separately detail the amounts charged as fees and disbursements, and to repay his client following the reduction of his fees following taxation, contrary to section 3.6 of the *Code of Professional Conduct*. In particular, he:
 - (a) Failed to charge fees that were fair and reasonable by billing her for research and consultations that had no value to her legal matter;
 - (b) Knowingly charged his client for work that was not completed including the

- drafting of pleadings; and
(c) Failed to repay his client \$11,774.00 as ordered by the Small Claims Court following taxation proceedings.

Pursuant to s. 36(2)(c) of the *Legal Profession Act*, the Complaints Investigation Committee agrees that Wayne Rideout be issued a Reprimand with Mr. Rideout's consent, and that this Reprimand be contingent on his change of category to the status of retired.

ADMISSIONS

Wayne Rideout admits that he breached the Rules noted above and that his conduct constitutes professional misconduct and conduct unbecoming.

COMPLAINTS HISTORY

Mr. Rideout was suspended for one month in each of 1993 and 2004 for a breach of trust account regulations.

INDEPENDENT LEGAL ADVICE

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

CONSENT TO REPRIMAND

Wayne Rideout hereby:

- i. Consents to a Reprimand,
- ii. Undertakes to apply to change to retired status as of the date of execution of this document or before and
- iii. Acknowledges that in the event he wishes to apply for reinstatement of his practicing certificate that the complete investigation file in this matter will be available to the Executive Director and/or the Credentials Committee, if requested.

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 11th day of October, 2022

WITNESS

(signed)

Wayne S. Rideout

ISSUED BY:

The Complaints Investigation Committee, this 13th day of October, 2022

(signed)

Mark Scott KC
Chair, Complaints Investigation Committee