

2023

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-

Roseanne Skoke, a Barrister and Solicitor of
Stellarton, Nova Scotia

CONSENT TO REPRIMAND

Roseanne Skoke, 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. Roseanne Skoke was admitted to the Nova Scotia Bar in 1976. She has predominantly worked as a sole practitioner in Stellarton, Nova Scotia during the course of her career. Roseanne Skoke has had a general practice with a focus on family, real estate, wills and estates and criminal law.

Complaint of GC

2. A complaint was filed with the Nova Scotia Barristers' Society by GC on October 19, 2021.
3. GC represented the opposing party, LC, in a family matter before the Alberta Court. Roseanne Skoke represented JC in the matter.
4. GC brought an urgent application for a preservation order to the court after her client, LC, learned from a friend that JC was in the process of selling a property in his name and was planning to relocate to another country. The application was heard on May 7, 2021, but no order was made by the court on the basis that counsel were in communication.

5. On May 7, 2021, Roseanne Skoke wrote to GC indicating that JC would voluntarily consent to have the proceeds from the sale of the home held in trust by his property lawyer, pending further direction.
6. On May 12, 2021, GC wrote to Roseanne Skoke to confirm that LC was accepting JC's offer to have the proceeds of sale held in trust by his property lawyer and that she would be preparing a consent order to that effect.
7. On May 12, 2021, Roseanne Skoke's office sent an email to JC's property lawyer requesting confirmation of an authorization and direction to have the net sale proceeds held in trust.
8. On May 12, 2021, Roseanne Skoke's office received an email from JC's property lawyer advising that JC had decided not to provide a direction to have the net sale proceeds held in trust.
9. Roseanne Skoke indicated that she did not believe she had been made aware of the May 12, 2021 email from JC's property lawyer when it was received, but would have become aware that the net sale proceeds had been disbursed to JC sometime between then and early June 2021.
10. On May 14, 2021, Roseanne Skoke wrote to GC indicating that she did not have instructions to enter into a consent order, only a voluntary authorization to JC's property lawyer to have the sale proceeds held in trust.
11. On May 20, 2021, the transaction involving JC's property closed.
12. On May 31, 2021 GC wrote to Roseanne Skoke and indicated in part that "the parties must enter into a Consent Order, or an agreement providing that the sale proceeds will not be released until court order or further agreement. Please advise as to your preference".
13. On July 8, 2021, GC wrote to Roseanne Skoke confirming that the Notice to Attend Family Docket Court had been adjourned to July 14, 2021 and requesting a statement confirming that the net proceeds of sale were being held in trust. She asked that this be provided to avoid the need to schedule a further date for the application for a preservation order.
14. On July 14, 2021, Roseanne Skoke wrote to GC stating that "JC maintains the position that an application to preserve assets is not necessary as he has voluntarily without the Necessity of a court order undertakes to preserve the assets".
15. On July 16, 2021, GC and Roseanne Skoke attended Family Docket Court and an Endorsement was issued requiring that the following disclosure be provided by August 16, 2021:
 - A trust statement confirming the amount held in trust from the sale of JC's property;
 - The particulars of that property including the purchase price and the sale price;
 - List of any exemptions that JC is claiming including the amounts of those exemptions, as well as any tracing that would substantiate those exemptions;

- Both parties to provide updated financial disclosure, items 1-16 of Notice to Disclose.
16. On August 17, 2021, GC wrote to Roseanne Skoke regarding the disclosure required by the Family Docket Court Endorsement, having not received it by August 16, 2021. She noted that if she did not receive it by August 18, 2021, her instructions were to return the matter to Family Docket Court to have JC held in contempt.
 17. On August 18, 2021, GC received some disclosure from Roseanne Skoke, including a Statement of Disbursements showing what the net proceeds from the sale of the property were, but she did not receive a trust statement.
 18. On August 26, 2021, GC wrote to Roseanne Skoke pointing out the deficiencies in the disclosure provided and requesting once again a trust statement. She noted that in light of the significant deficiencies in the disclosure, her instructions were to return to Family Docket Court to seek a date for a contempt application in September 2021.
 19. On August 30, 2021, Roseanne Skoke wrote to GC indicating that she had requested information from JC and was waiting for a response from him.
 20. On September 2, 2021, GC wrote to Roseanne Skoke and provided her the Notice to Attend Family Docket Court on September 8, 2021.
 21. On September 7, 2021, Roseanne Skoke wrote to GC advising that she was unavailable the entire month of September 2021 and would be available only in October 2021.
 22. On September 18, 2021, LC received a call from JC indicating that he had moved to another country and had cancelled his Canadian phone plan.
 23. On September 20, 2021, GC wrote to Roseanne Skoke asking whether JC had relocated to Panama and once again requested the trust statement.
 24. On September 21, 2021, Roseanne Skoke replied to GC that she was no longer representing JC.
 25. On September 23, 2021, GC sent a final request for the trust statement to Roseanne Skoke. She did not receive a response.
 26. On September 23, 2021, GC wrote to JC's property lawyer who replied on September 27, 2021 that he had advised Roseanne Skoke by email on May 12, 2021 that he had no direction or authorization from JC to hold funds in trust from the sale of the property.
 27. On October 8, 2021, the court approved Roseanne Skoke's removal as JC's solicitor of record.
 28. At no point between when she became aware that the proceeds of sale would not be held in trust by JC's property lawyer, which occurred sometime between May 12, 2021 and early June 2021, and when she was allowed to withdraw as solicitor of record for JC, did Roseanne Skoke advise GC or the court that the funds were not being held in trust. Roseanne Skoke believed that GC was aware that the funds were not being held in trust.

29. Roseanne Skoke believed during her representation of JC that there was no agreement between the parties and no obligation to preserve the proceeds of sale. She also believed that JC was preserving the proceeds of sale himself after they were disbursed to him.

DISPOSITION

The Complaints Investigation Committee reviewed this matter on November 24, 2022, and concluded that the evidence that could reasonably be believed could support a finding of professional misconduct. The Committee agreed that charges against Roseanne Skoke could include the following:

1. Roseanne Skoke 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, and failed to be courteous and act in good faith contrary to Rules 2.1-1, 5.1-5 and 7.2-1 of the *Code of Professional Conduct*. In particular, she:
 - (a) Failed to advise opposing counsel of a material change in circumstances which was relevant to the issues between the parties when she knew or ought to have known that opposing counsel had been relying on this representation as evidenced by opposing counsel's multiple requests for a trust statement confirming the amount being held in trust from the sale of the property.

Pursuant to s. 36(2)(c) of the *Legal Profession Act*, the Complaints Investigation Committee agrees that Roseanne Skoke should be issued a Reprimand with her consent.

ADMISSIONS

Roseanne Skoke admits that she breached the Rules in the manner set out above, and that her conduct constitutes professional misconduct.

COMPLAINTS HISTORY

Roseanne Skoke has no formal prior discipline history.

INDEPENDENT LEGAL ADVICE

Roseanne Skoke confirms that she has had independent legal advice regarding the terms of this Reprimand, prior to its execution.

CONSENT TO REPRIMAND

Roseanne Skoke 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 17th day of October, 2023.

(signed) _____
WITNESS

(signed) _____
Roseanne Marie Skoke

ISSUED BY:

The Complaints Investigation Committee, this 17 day of October, 2023

(signed) _____
Scott Campbell
Chair, Complaints Investigation Committee