



The Law Society of Manitoba

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COMPLAINTS RESOLUTION DEPARTMENT

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VIA COURIER AND EMAIL

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February 20, 2019

Christian Sweryda
60 University Crescent
Winnipeg, MB R3T 2N4

PERSONAL & CONFIDENTIAL

Dear Mr. Sweryda:

**Re: Christian Sweryda
Complaint of Manitoba Prosecution Service
File Ref. SWERYDA (UAP)**

Thank you for your correspondence to the Law Society on February 17, 2019 and February 18, 2019, the most recent version of which has been sent to the complainant.

Please be advised that a determination has been made with respect to the captioned matter. After careful consideration of the information obtained in the course of our investigation, we have determined that you are practising law contrary to section 20 of *The Legal Profession Act* (the "**Legal Profession Act**") and, as set out in greater detail below, we request that you cease and desist such activities immediately.

The reasons we have reached this determination include the following:

Unauthorized Practice

Scope of Practice

Some of your responses to the Law Society regarding the scope of your practice were initially misleading. For example, you initially took the position that you were "acting on behalf of friends" on those matters, then subsequently took the position that those individuals were "either directly within my circle of friends, acquaintances, or are individuals that reached out to me through someone I know personally". You later acknowledged representing at least 13 different people on at least 16 different matters, some of whom you had scant relationships with outside of your representation of them on their matters.

You also took the position that your role in Court of Queen's Bench matters was "largely dropping the documents off rather than actually being the one filing the appeals". Despite your representations, the Law Society learned that you drafted the Court of Queen's Bench appeal documents on at least one matter and, in essence, were the one filing and

pursuing the appeal. When confronted with those facts, you acknowledged that you “did fill out the paperwork and brought it to Mr. Lawrence for his signature”. You then took the position that the law has changed and you should be allowed to engage in such practice.

You have acknowledged that you have appeared in Provincial Court on a number of occasions to represent people with respect to violations of *The Highway Traffic Act* (the “**Highway Traffic Act**”). As indicated above, it appears that you have done so on at least 16 different occasions for at least 13 different people, some of whom were neither friends nor family of yours. The information obtained also indicates that you have attempted to represent people before the Court of Queen’s Bench on Highway Traffic Act matters and have prepared documents to further at least one appeal before that Court.

While I do not have to determine the specific complaints about the nature of your representation on those matters, the evidence indicates that there have been issues that, at a minimum, negatively impact the administration of justice. That much was made clear in Judge Krahn’s decision in *R. v. Eisbrenner*, 2019 MBPC 3 and also appears in the transcripts submitted by both yourself and the complainant in the course of this investigation.

Determination

Section 53(1) of *The Provincial Offences Act* (the “**Provincial Offences Act**”) allows a defendant to appear and act personally or by representative in any proceeding. The term “representative” in that legislation is broad in that it includes individuals authorized to practice under the Legal Profession Act as well as those not so authorized. You have acknowledged that you are currently not authorized to practice law under the Legal Profession Act.

You take the position that section 53 of the Provincial Offences Act is an exception to section 20 of the Legal Profession Act which gives you and any other person not authorized to practice law under the Legal Profession Act (a “**Non-Legal Representative**”) an unlimited ability to represent individuals on matters proceeding under the Provincial Offences Act, provided you do not receive compensation for those services. In particular you stated that, “There is no clause in the law that limits the number of times an individual can appear as a representative or the closeness of the relationship”. You also stated that, “Since I have not been compensated for my assistance, there has been no practice of law in this instance”. Those positions are incorrect.

Section 53 of the Provincial Offences Act does not override or act as a general exception to section 20 of the Legal Profession Act. The two pieces of legislation act in conjunction. As you have recognized, section 20 of the Legal Profession Act (together with Part 5 of that Act) places limits on the ability of a Non-Legal Representative to assist a client in exchange for compensation. Although section 53 of the Provincial Offences Act does not explicitly contain a clause that limits a Non-Legal Representative’s ability to be compensated for his or her assistance, that limit is found in the Legal Profession Act.

Subsections 20(2)(a) and (c) of the Legal Profession Act similarly place limits on the frequency with which a Non-Legal Representative may appear pursuant to section 53 of

the Provincial Offences Act. A Non-Legal Representative who appears in court on more than an isolated occasion will be "carry[ing] on the practice of law" and "carry[ing] on or defend[ing] any action or proceeding before a court" contrary to subsections 20(2)(a) and (c) of the Legal Profession Act. See, in particular, *Moss v. NN Life Insurance Co.*, 2004 MBCA 10, paras. 11 to 13 (which continues to remain good law as it relates to interpretation of section 20 of the Legal Profession Act) and *Law Society of Manitoba v. Pollock*, 2008 MBCA 61, paras. 46 and 47.

Non-Legal Representatives may not act for an unlimited number people whenever they choose to do so. That restriction applies even if the Non-Legal Representative is not being paid. Your appearances in court for a number of different individuals on a number of different occasions is in violation of section 20 of the Legal Profession Act.

In light of the foregoing, until you become authorized to act under the Legal Profession Act as a lawyer, articling student, registered student, or agent under Part 5, we request that you immediately cease and desist from representing individuals, corporations, or other entities in court or otherwise acting for them in a legal capacity. In the event that you do not comply with our request, the Law Society of Manitoba will consider further action in accordance with the provisions of the Legal Profession Act. Please be advised that the Law Society may also take a failure to cease and desist such activities into consideration when determining any future applications from you to register as a student, articling student, or lawyer.

We require you to **respond in writing to our office on or before Tuesday, February 26, 2019** confirming that you have discontinued all such activities and that you will not in the future contravene the provisions of section 20 of the Act.

We thank you for your prompt attention to this matter.

Yours truly,



CHRISTOPHER DONALDSON

CD/cp
cc. Michele Jules