

LAW SOCIETY OF BRITISH COLUMBIA TRIBUNAL  
HEARING DIVISION

BETWEEN:

**LAW SOCIETY OF BRITISH COLUMBIA**

AND:

**DAVID LESLIE SCHAEFER**

RESPONDENT

**CITATION**

**TO:** **David Leslie Schaefer**  
David L. Schaefer Law Corporation  
#102, 2901 - 32nd Street  
Vernon, BC V1T 5M2

**TAKE NOTICE THAT** by direction of the Discipline Committee of the Law Society of British Columbia, a Hearing Panel of the Law Society will, at a date and time to be set, conduct a hearing to inquire into your conduct or competence as a member of the Law Society of British Columbia, in accordance with section 38 of the *Legal Profession Act*. Parts 4 and 5 of the Law Society Rules outline the procedures to be followed at the hearing. Your appearance before the Hearing Panel may be your only opportunity to present evidence, call witnesses or make submissions.

**The allegations against you are:**

1. Between approximately November and December 2007, you acted in a conflict of interest by providing legal services to RM in relation to a real estate transaction for a property located in British Columbia (the “Property”) when you had a personal interest and/or a direct or indirect financial interest in the Property, contrary to one or more of Chapter 1, Rule 3(2), Chapter 2, Rule 1, and Chapter 7, Rules 1 and 7, of the *Professional Conduct Handbook* then in force.

This conduct constitutes professional misconduct, pursuant to s. 38(4) of the *Legal Profession Act*.

2. Between approximately April 2013 and July 2013, in relation to a mortgage investment from your Canadian Western Trust Self-Directed RRSP Account, you ~~represented~~ made one or more of the following representations to Canadian Western Trust that you knew or ought to have known were false or misleading, contrary to one or both of rules 2.1-1(a) and 2.2-1 of the *Code of Professional Conduct for British Columbia*: that RM was a party with whom you dealt at arm's length (as defined in the *Income Tax Act*), when you knew or ought to have known that was false or misleading.

- (a) RM was a party with whom you dealt at arm's length (as defined in the *Income Tax Act*);
- (b) you would not obtain any advantage from the Mortgage, other than advantages specifically permitted under applicable tax legislation; and
- (c) the Mortgage was a *bona fide* mortgage.

This conduct constitutes professional misconduct or conduct unbecoming the profession, pursuant to s. 38(4) of the *Legal Profession Act*.

3. Between approximately April 2013 and December 2021, in relation to a mortgage investment from your Canadian Western Trust Self-Directed RRSP Account (the "Mortgage") to your client RM, which you registered or caused to be registered against real property owned by RM in British Columbia (the "Property"), you did one or more of the following:

- (a) acted in a conflict of interest by failing to ensure RM had independent legal representation with respect to the Mortgage, contrary to one or more of rules 3.4-1, 3.4-28, and 3.4-34 of the *Code of Professional Conduct for British Columbia* and your fiduciary duties to your client;
- (b) acted in a conflict of interest by performing legal services when there was a substantial risk that your loyalty to or representation of RM would be materially and

adversely affected by your interest in the Mortgage and/or the Property, contrary to one or more of rules 3.4-1 and 3.4-26.1 of the *Code of Professional Conduct for British Columbia* and your fiduciary duties to your client;

- (c) borrowed some or all of the Mortgage funds back from RM, contrary to one or more of rules 3.4-28 and 3.4-31 of the *Code of Professional Conduct for British Columbia* and your fiduciary duties to your client;
- (d) on or about June 21, 2013, filed or caused to be filed a Form B with the Land Title Office that you knew or ought to have known contained false or misleading information, contrary to one or both of rules 2.1-1(a) and 2.2-1 of the *Code of Professional Conduct for British Columbia*; and
- (e) in approximately December 2021, represented to Canadian Western Trust that the funds for the repayment of the Mortgage to Canadian Western Trust came from RM, when you knew or ought to have known that was false or misleading, contrary to one or both of rules 2.1-1(a) and 2.2-1 of the *Code of Professional Conduct for British Columbia*.

This conduct constitutes professional misconduct, pursuant to s. 38(4) of the *Legal Profession Act*.

- 4. Between approximately June 2015 and September 2017, you acted in a conflict of interest when you purchased real property located in British Columbia (the “Property”) from your client RM and you did one or more of the following, contrary to one or more of rules 3.4-1, 3.4-26.1 and 3.4-28 of the *Code of Professional Conduct for British Columbia* and your fiduciary duties to your client:
  - (a) performed legal services when there was a substantial risk that your loyalty to or representation of RM would be materially and adversely affected by your interest in the Property;
  - (b) failed to ensure the transaction was *fair* and reasonable to RM; and
  - (c) failed to ensure RM had independent legal representation.

This conduct constitutes professional misconduct, pursuant to s. 38(4) of the *Legal Profession Act*.

**If you fail to appear at the hearing, the Hearing Panel may proceed with the hearing in your absence** and make any order that it could have made had you been present.

THIS CITATION AMENDED September 26, 2024 pursuant to Rule 5-4.2 of the Law Society Rules.