

The Law Society of British Columbia
In the matter of the *Legal Profession Act*, SBC 1998, c.9
and a hearing concerning

Stephen Neville Suntok

Respondent

Decision of the Hearing Panel

Hearing date: May 27, 2005

Panel: Patricia L. Schmit, Q.C., Single Bencher Panel

Counsel for the Law Society: Brian McKinley

Counsel for the Respondent: Dennis Murray, Q.C.

Background

[1] On September 1, 2004, a citation was issued against Stephen Neville Suntok ("the Respondent") pursuant to Section 36 of the *Legal Profession Act* S.B.C. 1998, c. 9 and Rule 4-13 of the Law Society Rules by the Executive Director of the Law Society of British Columbia pursuant to the direction of the Chair of the Discipline Committee. One count in the citation was rescinded by the Discipline Committee leaving the remaining count as follows:

(a) assaulted K.H. on May 12, 2003.

[2] The Respondent was present at the hearing and on his behalf Mr. Murray waived the requirements of Rule 4-15 with respect to formal service of the citation. The citation was marked as Exhibit 1.

Admissions

[3] Counsel submitted an Agreed Statement of Fact ("ASOF") which was filed as Exhibit 2. The ASOF contains the following admissions:

- a) Stephen Neville Suntok was called to the Bar in British Columbia on May 19, 1995.
- b) From his date of call, Mr. Suntok practised at D. Mayland McKimm Law Corporation until September 3, 1996 when he commenced practice at Bulmer, Worobec & Company. From October 1, 1998 to June 1, 2000 he practised as a sole practitioner. From June 1, 2000 to October 1, 2003 he was employed as Crown Counsel in Victoria. From October 14, 2003 to July 14, 2004 he again practised as a sole practitioner, and on July 15, 2004 he commenced practice at Tait Suntok, where he currently practices.
- c) By letter dated May 22, 2003 [Tab 1 - Book of Documents] then counsel for Mr. Sandwich reported to the Law Society that Mr. Suntok had been charged with assault pursuant to Section 266 of the Criminal Code. The charge is contained in Information No. 41900K [Tab 2] sworn May 13, 2003, and formulated as follows:

i) "Stephen Neville SUNTOK, on or about the 12 th day of May, 2003, at or near North Vancouver, in the Province of British Columbia, did commit assault of another person, [K.H.], contrary to Section 266 of the Criminal Code."

d) Information No. 41900K was replaced with a 2-count Information 41900KC2, sworn June 4, 2003. It added a second count of uttering a threat [Tab 3].

e) The Report to Crown Counsel [Tab 4] contains a detailed narrative in which the events surrounding the assault charge are described.

f) On May 12, 2005, shortly after the incident which resulted in the charge against Mr. Suntok, K.H. made a statement [Tab 5] to a R.C.M.P. officer in which she described Mr. Suntok's assault on her. A statement was also taken from O.D., an eyewitness to the assault [Tab 6].

g) Mr. Suntok and K.H. were in a romantic and physical relationship from 2001 until May 2, 2003. They did not reside together but lived in separate suites in the same apartment building in Victoria.

h) On May 3, 2003, K.H. advised Mr. Suntok that the romantic and physical part of their relationship was over. She left Victoria for a short holiday and then to stay alone at her father's residence in North Vancouver. Mr. Suntok was aware that she was staying alone at her father's residence. Mr. Suntok spoke with K.H. daily by telephone between May 3 and May 12, 2003.

i) Mr. Suntok was away from work between May 4 and May 8 on a previously scheduled vacation.

j) On May 4, Mr. Suntok attended a walk-in clinic to be assessed for depression. The doctor prescribed Valium to help him sleep.

k) On May 5, Mr. Suntok attended his family doctor. On May 8 he attended an appointment with a psychologist and on May 9 he attended a counselling session with a counsellor made available through his employer.

l) On the morning of May 12, 2003, Mr. Suntok went into work at the Crown Counsel office but left shortly after he arrived and returned home. He contacted K.H. by telephone from home and they argued. K.H. recalled that Mr. Suntok sounded very angry and he said that he wanted her to tell him to never call her again. She recalled that he told her that she was an alcoholic like him and that a horrible life awaits her. She recalled that he became very upset when she told him she was not coming back to Victoria that day or the next day. She recalled that she told him that she would call him and hung up.

m) Mr. Suntok left his residence in Victoria and travelled by helicopter to Vancouver, and then by taxi to K.H.'s father's residence in North Vancouver. He arrived around noon, approximately 1.5 to 2 hours after the telephone conversation.

n) K.H. had left the windows and doors open to air out her father's residence. Mr. Suntok entered without knocking and was standing in the living room with the telephone in one hand and the cradle of the telephone in the other, having just unplugged it from the wall when K.H. entered from the kitchen.

o) K.H. said to Mr. Suntok "Steve", he started moving toward her and she backed away from him towards an open tall window leading to the outside. She leaned out the window and called for help from the next-door neighbour O.D.

p) Mr. Suntok grabbed K.H. around the neck with his right hand with enough force to leave a mark on her neck. She pulled away and threw herself towards the open window, managing to take one step outside. She yelled again for the neighbour O.D.

- q) Mr. Suntok grabbed K.H. by her ponytail, threw her down to the ground just outside the window and kicked her once in the head. He said "Today you die" and then punched her approximately four times around the head area with a closed fist.
- r) O.D., the next-door neighbour, heard screaming from inside her residence through the open door. She looked out her kitchen window and saw K.H. flat on her back with Mr. Suntok punching her. She ran towards them and yelled at Mr. Suntok.
- s) Mr. Suntok stopped the assault and ran away from K.H., around the residence toward the street.
- t) Mr. Suntok ran back into the residence through another open door, picked up a small coffee table and threw it at a grandfather clock, doing minor damage to both pieces of furniture. He then fled the residence.
- u) K.H. received marks on her face and neck and abrasions on her right shoulder from the assault. Her psychological injuries are set out in the victim impact statement which was filed at the sentencing hearing [Tab 7].
- v) At 1:30 p.m. Mr. Suntok turned himself in to Vancouver police in the 100 block of East Hastings Street. The circumstances of his arrest are set out in the statement of VPD Cst. Hinton [Tab 8]. He was transferred to the custody of North Vancouver RCMP Cst. Baker. Tab 9 of the Book of Documents contains a copy of the statement of Cst. Baker.
- w) Mr. Suntok was released from custody on May 13, 2003 on an undertaking with conditions, including conditions that he, inter alia:
- i) Not contact or communicate directly or indirectly with K.H.;
 - ii) Not attend her apartment building in Victoria or her father's residence in North Vancouver;
 - iii) Not consume alcohol; and
 - iv) Not possess any knives or other specified weapons.
- x) Immediately following his release, Mr. Suntok travelled to Victoria and was hospitalized at the Eric Martin Pavilion at the Royal Jubilee Hospital until his release on May 21, 2003. Tab 10 of the Book of Documents contains a copy of a discharge summary prepared after his release. At page 2, Dr. Miller advised that "on the Monday prior to admission, Mr. Suntok reports that he drank three beers and went to Vancouver to see his ex-girlfriend."
- y) On May 21, 2003, Mr. Suntok's undertaking was amended in court to allow him to return to his residence as K.H. had moved from her apartment.
- z) On May 23, 2003, Mr. Suntok started counselling with Dr. Randy Wong at the Vancouver Island Health Authority's Urgent and Short Term Assessment and Treatment Services (U.S.T.A.T.) program. He attended 11 sessions between May 23 and December 18, 2003. Tab 11 of the Book of Documents is a copy of the discharge summary from Dr. Wong.
- aa) On June 4, 2003, Mr. Suntok attended his first meeting of Alcoholics Anonymous. He has continued to attend regularly from then until now.
- bb) On June 5, 2003, Mr. Suntok attended Convocation at the University of Victoria where K.H. was receiving her degree. Although he claimed that his intentions were to sit quietly in the back and observe her proud moment, she was alerted by others of his presence there. She referred to the effect on her in her victim impact statement [Tab 7].

cc) On October 20, 2003, Mr. Suntok wrote a letter of apology to K.H., through Crown Counsel [Tab 12].

dd) On January 14, 2004, Mr. Suntok entered a plea of guilty to count 1 on Information 41900KC2 in the Provincial Court of British Columbia for the assault of K.H., and on February 13, 2004, Mr. Suntok received a conditional discharge with a three-year probation order on the following conditions:

- i) Keep the peace and be of good behaviour.
- ii) You will report to probation by 4:00 p.m., Tuesday, February 17, 2004 and thereafter as directed.
- iii) You will provide an address and not change that address without first advising your probation officer in writing and receiving their approval.
- iv) You will take such counselling and/or treatment as recommended by your probation officer or designate and satisfactorily complete same to the satisfaction of the probation officer or their designate. That is in addition to whatever you may be doing now and when you consult with them and explain what you are doing that may be sufficient. I do not know.
- v) You are to have no direct or indirect contact with the complainant, K.H.
- vi) You are to complete 200 hours of community work service within a period of one year from today's date.
- vii) There will be an absolute prohibition on alcohol and any peace officer who thinks you may have offended this order can demand from you a breathalyser test through an approved screening device.

ee) **Tab 13** of the Book of Documents contains the Reasons for Sentence of The Honourable Judge W.J. Diebolt.

ff) Included in the materials filed at the sentencing hearing was a report prepared by Dr. A.T. Malcolm dated December 16, 2003 [Tab 14]. A follow-up letter dated January 15, 2004 from Dr. Malcolm was also filed [Tab 15].

gg) Copies of the following materials were also filed at the sentencing hearing:

1. Memo to file from Crown Counsel Glen Orris, Q.C. outlining the circumstances of the assault [Tab 16];
2. Letter from DS to Dennis Murray dated September 10, 2003 [Tab 17];
3. Letter from DS to the court dated January 13, 2004 [Tab 18];
4. Email from Mr. Suntok to Dennis Murray dated September 8, 2003 [Tab 19];
5. Mental Health Services/Vancouver Island Health Authority (South Island) Assessment Summary dated May 26, 2003 [Tab 20];
6. Email from Bill Phelan to Dennis Murray dated September 11, 2003 [Tab 21];
7. Notes of telephone conversation with Bill Phelan dated September 16, 2003 at 11:30 a.m. [Tab 22];
8. Letter from Randy Wong, U.S.T.A.T. Clinician dated September 10, 2003 [Tab 23];
9. V.I.H.A. Mental Health Authority Discharge Summary dated December 18, 2003 [Tab 24];
10. Letter from Stephen Suntok to Christine Lowe, Crown Counsel (undated) [Tab 25];

11. 13 letters of reference from various sources [Tab 26]; and

12. Letter from Dennis F., member of Alcoholics Anonymous dated January 19, 2004 [Tab 27].

hh) The Crown appealed the sentence and on July 29, 2004 The Honourable Mr. Justice Sigurdson gave oral reasons [Tab 28] overturning the conditional discharge and substituting a suspended sentence with 3 years probation, stating as follows at paragraphs 52 to 54:

[52] I have concluded that in the circumstances a conditional discharge is not a fit sentence. I think that the nature of the assault, one akin to a spousal assault, the seriousness of the assault, and the fact of a previous conditional discharge for an assault, the terms of which were not taken seriously by the accused, are all aggravating factors.

[53] The fact that it is an application for a second conditional discharge for assault is a significant factor: see *Regina v. Brown*, 2004 BCSC 151, [2004] B.C.J. No. 269 (Q.L.).

[54] The granting of a conditional discharge is not in the public interest given those considerations, in particular as they relate to general deterrence and denunciation.

ii) After the sentence appeal was heard, but prior to the ruling, an article appeared in the Victoria Times Colonist. Following the decision, an article appeared in The Vancouver Sun [Tab 29].

jj) The conditions of probation imposed were set out at paragraphs 67-71 of the Reasons. They are substantially the same as those imposed under the conditional discharge.

kk) On June 9, 2004, the Discipline Committee resolved that there be a direction to issue a citation against Mr. Suntok. Tab 30 of the Book of Documents contains the citation and schedule.

ll) The hearing into the citation against Mr. Suntok was initially set for January 11 and 12, 2004. At the pre-hearing conference on December 7, 2004 the hearing was adjourned, and subsequently set for April 15, 2005. At the pre-hearing conference on March 16, 2005, the hearing was adjourned, and subsequently set for May 27, 2005.

mm) On March 3, 2005, the Discipline Committee resolved that count 1 of the citation issued September 1, 2004, be rescinded.

nn) Mr. Suntok admits that on May 12, 2003 he assaulted K.H., and that this conduct is dishonourable conduct which reflects adversely on the integrity of the legal profession, contrary to Chapter 2, Ruling 1 of the *Professional Conduct Handbook*.

oo) Mr. Suntok admits that his conduct, as described in the schedule to the citation and admitted to in this Agreed Statement of Facts, constitutes conduct unbecoming a lawyer.

pp) Mr. Suntok received his first conditional discharge on April 29, 1992 in Kingston, Ontario for assaulting his then girlfriend on March 22, 1991. Tab 31 of the Book of Documents contains a copy of the transcript of those proceedings.

qq) In applying for temporary articles, Mr. Suntok wrote a letter to the Law Society on February 3, 1993 in which he stated that:

"I have taken full responsibility for my actions and have taken steps to address what I perceive to be the root of the problem." [Tab 32]

rr) On March 3, 1993, Mr. Suntok appeared before the Credentials Committee of the Law Society at the

Committee's request. The Committee resolved to enroll Mr. Suntok as a temporary articulated student.

ss) On April 27, 1994, the Credentials Committee reviewed Mr. Suntok's application for enrollment in temporary and permanent articles. The Committee resolved that prior to enrollment, Mr. Suntok would undergo a psychiatric assessment by a psychiatrist chosen by the Law Society.

tt) Dr. Maelor Vallance assessed Mr. Suntok and provided a report dated July 27, 1994. He concluded, at page 6:

"Although I doubt that this man is entirely out of the woods in terms of his relationship with women, I do accept that he has made considerable progress and there is no indication that there will be a recurrence of his abusive behaviour in the short term. I also believe however that he still has some work to do if he is to thoroughly consolidate the gains that he has made and I would recommend that even though he has made considerable progress and even though he appears to be in a very stable relationship with his girlfriend, he would benefit from further sessions that will hopefully take his insights to another level. He was able to establish a good relationship with Dr. Drinkwater and while I believe it can safely wait for some time, I believe that as soon as he can marginally afford it he should return for further sessions." [Tab 33]

uu) On July 27, 1994, the Credentials Committee resolved to approve Mr. Suntok's enrollment in articles on conditions that he:

1. consent to continue with counselling sessions with Mr. Drinkwater or a counsellor approved by the Committee;
2. complete at least one session per month for the continuation of his enrolment or until this condition is removed by this Committee; and
3. provide a letter from his counsellor two months prior to his call and admission to confirm that he has attended counselling session (sic) and to summarize the issues addressed in the sessions."

[Tab 34]

vv) On March 16, 1995, James Drinkwater wrote to the Credentials Committee to report on Mr. Suntok's counselling. Tab 35 of the Book of Documents contains a copy of his letter. He concluded:

"In my opinion, Steve has used the counselling opportunity well. I have found him to be honest, interested and teachable throughout. He has gained good stress and anger management skills and is confident that he can live successfully without being verbally or physically aggressive. I firmly believe that with regular support to maintain these skills Steve will continue to succeed with them."

[4] The Law Society filed a Book of Documents as Exhibit 3 containing material regarding facts and verdict and material concerning penalty.

[5] The Panel accepts the admission made by the Respondent that his conduct described in the citation amounted to conduct unbecoming a lawyer.

[6] By consent of both Counsel the Panel moved on to the penalty stage prior to written reasons being rendered on verdict.

Penalty

[7] As noted above, Counsel for the Law Society filed a Book of Documents as Exhibit 3 containing material

regarding both facts and verdict and material concerning penalty. Counsel for the Law Society filed additional Exhibits as follows:

a) as Exhibit 4 a transcript containing the assault victim's comments at sentencing in relation to her Victim Impact Statement, and as Exhibit 5, an email from the victim regarding the impact of the assault on her.

[8] The Respondent's Counsel filed the following exhibits:

a) as Exhibit 6, the Respondent's 7 page document headed "Community Work Service Hours and Counselling" ;

b) as Exhibit 7, a letter directed to "Whom it may concern" from JS dated May 9, 2005 (3 pages) Ms. S is the Respondent's current common law partner's mother;

c) as Exhibit 8, a one page letter from DS dated May 12, 2005;

d) as Exhibit 9, a one page letter from Anthony T. Dugbartey Ph.D. Registered Psychologist dated May 19, 2005;

e) as Exhibit 10, submissions from Counsel for the Law Society regarding the suggested penalty including suggested conditions on Respondent's practice.

[9] The Panel asked the Respondent several questions and the Respondent provided the following information which is useful in analysing this situation:

a. The Respondent and DS entered into a separation agreement where Respondent agreed to pay \$2,400.00 per month in child maintenance for his 2 children.

b. The Respondent carries on business through a "virtual office" operated out of his rented apartment. He and his partner utilize the services of a telephone receptionist, and use cell phones to maintain contact with clients, in a criminal law, mostly legal aid, practice. He has no practice debts. He practices in the Greater Victoria area, with no plans to move from that locale. His former wife and children reside in the area.

c. He is not currently a member of any professional help organization and the Panel concludes he does not believe this is necessary to his rehabilitation.

d. He acknowledges that he told Dr. Maelor Vallance in 1994 that he did not have an alcohol or drug problem, and that at the time, he believed that to be true. He now acknowledges that he has a major problem with alcohol and that it has been an extremely destructive force in his life.

e. Currently the only help he is receiving is for cognitive behavioural psychology through Forensic Psychiatric Services in Victoria. This service is made available to him pursuant to his Probation Order as part of the criminal sentencing process.

f. Contrary to the ASOF, the Respondent was not, as of the date of this Hearing, regularly attending Alcoholics Anonymous meetings, but only when he perceives the need to do so.

[10] The Law Society is seeking a penalty including a substantial period of suspension from the practice of law, and practice conditions upon his return. The Law Society also seeks costs in the range of \$10,000.00.

[11] Counsel for the Respondent opposes a suspension. Rather, Counsel suggests that a fine be imposed, with time to pay, and in an amount designed not to crush the Respondent. He agrees to conditions on the

Respondent's practice similar to those suggested by Law Society counsel in Exhibit 10. He opposes any order that costs be paid by the Respondent.

[12] The Law Society's position is that while the Respondent has acknowledged responsibility for his behaviour and is making efforts in pursuing counselling, the public interest demands that such reprehensible behaviour be sanctioned.

[13] Counsel for the Respondent emphasizes the positive steps the Respondent has taken to acknowledge and accept full responsibility for his behaviour and emphasizes the efforts he has made to rehabilitate himself.

[14] The penalty to be imposed in this case is for behaviour amounting to conduct unbecoming a lawyer. "Conduct Unbecoming" is classically defined as conduct that occurs outside the core practice of law. It is defined in Section 3(1) of the *Legal Profession Act*, SBC 1998 c.9, which states "conduct unbecoming a lawyer" includes a matter conduct or thing that is considered, in the judgment of the benchers or a panel,

- a) to be contrary to the best interest of the public or the legal profession, or
- b) to harm the standing of the legal profession;

[15] The Law Society is given the authority to regulate a lawyer's behaviour outside of the court room and the office, by virtue of Section 38(4)(b)(ii) of the *Legal Profession Act*. The mandate to regulate this non-practice related behaviour flows from Section 3, which is the core section of the *Legal Profession Act*.

[16] This Panel concludes that the duty to regulate lawyers even when they are not engaged in practice is fundamentally because being a lawyer involves more than the practice of a profession. The raison d'etre of the Law Society is to regulate the profession in the public interest. The Legislature must have concluded that lawyers cannot engage in the practice of law with all the responsibilities that that entails without them being responsible members of the community. To be a lawyer is to be granted a rare and not easily achieved privilege. Along with being a lawyer comes many advantages, both within the profession and in the wider community. They include prestige in the community, respect in most right thinking quarters, the right to audience before the courts and the right to self regulation.

[17] Section 38(5) of the *Act* sets out the extent of penalties available to this Panel, from reprimand to disbarment. No distinction is made in the *Act* in regard to penalties for the various offenses defined in Section 38(4).

[18] Any penalty to be imposed on the Respondent must ensure that the public is protected. Protection of the public includes the need to maintain confidence in the integrity and honour of the profession. This includes the need for reprehensible conduct to be denounced, and for general deterrence.

[19] The touchstone case on penalty, is *LSBC v. Ogilvie* Penalty Reasons [1999] LSBC 17. This Panel finds that the methodology described in *Ogilvie* encompasses considerations for disciplinary dispositions which should be applied in the instant case. *Ogilvie* sets out a non-exhaustive but thorough list of the factors that can be taken into account in imposing penalty under the *Legal Profession Act*.

[20] The most useful considerations taken from *Ogilvie* that are applicable to this case are:

- the nature and gravity of the Respondent's proven conduct.
- whether the Respondent acknowledged the misconduct and has taken steps to disclose and redress the wrong and the presence or absence of other mitigating circumstances;
- the need for specific and general deterrence;

- the need to ensure the public's confidence in the integrity of the profession;
- the range of penalties imposed in similar cases;
- the impact of the proposed penalty on the Respondent;
- the impact on the victim.

[21] This Panel finds that many of the *Olgivie* considerations overlap to some extent.

[22] The Respondent's behaviour was reprehensible conduct of a grave nature. The Respondent's behaviour was not a spur of the moment decision but involved a conscious, albeit alcohol clouded, decision to travel from Victoria to Vancouver, take a taxi to a residence in North Vancouver where he entered the house through an open door, unplugged the telephone and assaulted and threatened his former girlfriend. A neighbour intervened to stop the assault at which time the Respondent ran away.

[23] This was repeat behaviour by the Respondent. His previous history is an aggravating factor. He had pled guilty to common assault on a former girlfriend while at law school in Ontario in 1992. The circumstances then were similar to the circumstances that resulted in the Respondent's criminal charges in 2003. Both instances involve assaults on women with whom the Respondent had been emotionally involved, both involved a pre-offence period during which the Respondent was emotionally agitated, and a post offence pattern of emotional breakdown. Of note, however, is that the 1992 offence did not appear to involve any consumption of alcohol at the time of the offence.

[24] Prior to being admitted to articles in British Columbia in 1994, the Respondent was obligated to report to the Law Society the fact of the 1992 conviction. He did so. As a result, the Credentials Committee required that the Respondent attend for an interview with Dr. Maelor Vallance, psychiatrist.

[25] As noted in the ASOF, Dr. Vallance interviewed the Respondent on July 19, 1994. The Respondent told Dr. Vallance that he had never had any problem with alcohol or other chemical dependancies. Dr. Vallance noted that the Respondent's pattern with girlfriends was quite clear, in that the Respondent would become more involved than his partner and that when the relationships ended he would promptly vent his ire. He found that the Respondent had entered into group counselling, which had provided the Respondent with 'at least superficial insight into his conduct" . One of the Respondent's counsellors was concerned that the Respondent's compliance was only lip service to therapy and that his participation in the group program was unmotivated. Apparently individual counselling was more productive. In the final assessment however, Dr. Vallance could be described as being only lukewarm about the Respondent's chances of avoiding repetition of the impugned behaviour. He presciently opined that the Respondent was "likely in considerable denial and paying only lip service to therapy" but that it was "unlikely that his behaviour towards women will cause further embarrassment at least in the foreseeable future" .

[26] The Law Society admitted the Respondent to the articling program on conditions including to continue with counselling sessions until relieved of the condition. In due course he became a lawyer entitled to practice in B.C.

[27] The Respondent apparently did not continue with counselling. This Panel finds he did not resolve the underlying problem that exhibited itself in assaults upon women, and lead inexorably to the 2003 assault.

[28] After the 2003 assault charges were laid and the Respondent was placed on an undertaking to have no contact with the victim, he breached that undertaking by attending the victim's convocation ceremony. An event that should have been a moment of triumph for K.H. became one of fear and anxiety. The Respondent was not charged with breach of his undertaking, but this Panel finds that this incident indicates an arrogant attitude on the part of the Respondent in satisfying his own needs, even when faced with the prospect of breach of a Court Order.

[29] A mitigating circumstance is that the Respondent pled guilty to the charges of assault in both 2003, and 1992, thus sparing the victims the pain of testifying. However K.H. has been traumatized and remains fearful of the Respondent.

[30] Dr. Dugbartey is currently providing court mandated one on one counselling which will continue at least until the Respondent's probation expires in 2007. This is counselling that is provided by the Province, at no expense to Respondent.

[31] The Respondent asserts that the court ordered, one on one counselling that he is attending with Dr. Dugbartey is sufficient and that he has now learned his lesson. He pled guilty, has apparently accepted responsibility for his actions, expressed remorse and sent a letter of apology to his victim and his employer. He has taken steps to deal with the underlying issues.

[32] He is a substantial supporter of his former wife and children, well in excess of the Federal Child Support Guidelines.

[33] A review of Exhibit 6, the Respondent's "Community Work Service Hours" and "Counselling" indicates that he is reaching out to help others. He is using his legal skills to perform pro bono work for indigent clients.

[34] The Respondent appears to prefer one on one counselling rather than to subject himself to what must often be a demeaning experience of group counselling.

[35] The Respondent appears to prefer the role of helping others in a professional capacity. This indicates a certain paternalism. He appears to have failed to develop the kind of support system that can intervene to prevent recidivism and relapse. He says that he continues to be a participant in AA, but acknowledges that he attends less frequently and doesn't have a regular group at this time. He notes in Exhibit 6, that the Law Society expects an explanation as to why he is not a regular attendee, but then he does not provide any explanation. This Panel finds that his excuses for why he doesn't regularly attend and appears not to have a regular group, coupled with his failure to access LAP is troubling. It discloses an emotional arrogance, a sense that the Respondent can go it alone, can be the helper rather than an active participant. This failure is an aggravating circumstance. It inclines this Panel to emphasize the need for personal deterrence that can be accomplished by an appropriate penalty.

[36] This Panel remains concerned that the Respondent continues to be manipulatively compliant. The safety valve of peer counselling and support has not been accessed by the Respondent. This Panel sincerely hopes he will reconsider and take advantage of the services of LAP and of the help that other lawyers and professionals in the numerous AA groups in and around Victoria who face the same challenges can provide.

[37] As always, only very general guidance can be gleaned from previously decided cases. Of the cases cited to the Panel, *LSBC v. Watt* involves a member who was abusing himself rather than others. The facts of the case *LSBC v. Carr-Harris* are so different as to not be of assistance because the member had signed a settlement agreement obligating him to pay significant compensation to his victims and therefore in order to meet that obligation he had to practice law. The case of *LSBC v. Ranspot* involves the rendering of false accounts and accounting and insurance irregularities and is therefore not on point.

[38] What can be gleaned is that there is a wide range of penalty options, which must be tailored to the circumstances.

[39] The single paramount consideration of the Law Society is the public interest. The public must remain confident in the integrity of the profession. This requires a penalty that recognizes that despite the efforts

toward rehabilitation that the Respondent has accomplished, this is still his second criminal offence, committed in aggravated circumstances, when he was a Crown Counsel whose stock in trade is spousal assault charges, and where he breached his bail conditions thereafter, even though not charged. His behaviour shattered his professional integrity and placed the reputation of the legal profession at great risk because the public must see that such conduct is punished.

[40] As noted by Mr. Justice Sigurdson on the sentence appeal, general deterrence and denunciation is in the public interest in this case.

[41] However this Panel is mindful that the Respondent should not be crippled financially or professionally if he is at some point to be allowed to continue to practice. This Panel is also mindful of the impact that this penalty will have on those dependent on him, but notes that the public interest outweighs the Respondent's personal interests and, after all, he is not prevented from working outside the practise during this suspension to be imposed.

[42] Therefore this Panel orders that the Respondent:

1. be reprimanded;
2. be suspended from the practice of law for a period of 90 days, commencing November 1, 2005;
3. Prior to returning to practice, Respondent will enter into an undertaking containing the following terms:
 - a) Enter into a Monitored Recovery Program agreement for a period of two years in a form satisfactory to the Practice Standards Committee to include:
 - i) the usual terms;
 - ii) in addition, terms that the Respondent will attend for peer accountability, counselling and/or support with either the Lawyers'Assistance Program or Alcoholics Anonymous or a combination thereof, for such duration of time as required by the Practice Standards Committee, and on not fewer than 3 occasions per week, and authorize the facilitators of these groups to provide such reports as shall be directed by the Practice Standards Committee, to that Committee, regarding the Respondent's attendance and participation;
 - iii) to keep the Practice Standards Committee apprised of the addresses and contact information for the facilitators of such groups;
 - iv) to contact Derek LaCroix of the Lawyers'Assistance Program at least once per month or as he directs, and authorize Derek LaCroix to keep the Practice Standards Committee apprised of Respondent's progress.
4. For such period of time as required by the Practice Standards Committee, and until relieved of this condition by that Committee, provide quarterly reports from a registered psychologist, psychiatrist or addiction counsellor who is acceptable to the Law Society as to the Respondent's compliance with ongoing treatment/counselling and participation in counselling and support groups;
5. Abstain absolutely from the consumption of alcohol;
6. For such period of time as required by the Practice Standards Committee and until relieved of this condition by that Committee, provide to the Law Society quarterly reports from Respondent's physician as to his fitness to practice law and confirmation of alcohol absentia, including regular urine testing for

alcohol presence and annual testing for liver function to detect any alcohol consumption;

7. Pay the costs of this hearing in the sum of \$8,000.00, within 2 years from returning to practice.