

**THE LAW SOCIETY OF BRITISH COLUMBIA**

IN THE MATTER OF THE *LEGAL PROFESSION ACT*, SBC 1998, C. 9

AND

**MARY ELLEN TURPEL-LAFOND**

(a member of the Law Society of British Columbia)

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**RULE 3-7.1 CONSENT AGREEMENT SUMMARY**

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1. On July 16, 2024, the Chair of the Discipline Committee approved a consent agreement proposal submitted by Mary Ellen Turpel-Lafond (the “Lawyer”) under Rule 3-7.1 of the Law Society Rules (“Rules”).
2. Under the proposal, the Lawyer admitted that she committed the following misconduct and that it amounted to professional misconduct:
  - i. In October 2018, in the course of testifying at the National Inquiry into Missing and Murdered Indigenous Women and Girls (the “Inquiry”), and in a *curriculum vitae* that she provided to the Inquiry, she made representations that she knew or ought to have known were false or inaccurate, contrary to rules 2.1-2 and 2.2-1 of the *Code of Professional Conduct for British Columbia*.
  - ii. In March 2018, she submitted an application for admission to the Law Society of British Columbia that contained representations that she knew or ought to have known were false or inaccurate, contrary to rule 2.2-1 of the *Code of Professional Conduct for British Columbia*.
3. Under the proposal, the Lawyer agreed to a reprimand and an order that she pay \$10,000 by August 31, 2024, to an organization that supports Indigenous justice initiatives.
4. In making the decision, the Chair of the Discipline Committee considered an Agreed Statement of Facts dated July 10, 2024, including six letters of support, and a letter from the Lawyer to the Chair of the Discipline Committee. The Chair also considered that the Lawyer does not have a prior professional conduct record.

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5. This consent agreement will now form part of the Lawyer's professional conduct record. Pursuant to Rule 3-7.1(5) of the Rules, and subject to Rule 3-7.2 of the Rules, the Law Society is bound by an effective consent agreement, and no further action may be taken on the complaint that gave rise to the agreement.
6. The admitted facts set out in the Agreed Statement of Facts are below.

### **Member Background**

7. The Lawyer graduated from Carleton University with a Bachelor of Arts degree in 1982, and a Bachelor of Laws degree from Osgoode Hall Law School at York University in 1985.
8. In 1989, the Lawyer received a post-graduate Diploma of International Law from the University of Cambridge. The University of Cambridge has confirmed that its Diploma and Masters degrees are of equal standing.
9. By 1993, the Lawyer had completed her coursework and thesis for a Doctor of Juridical Science ("SJD") degree from Harvard Law School. However, she was unable to officially graduate until 1997, after she cleared her student debt. An SJD is Harvard Law School's most advanced law degree, and may be considered to be of the same level as a doctorate or PhD at other institutions.
10. In 1989, while still enrolled at Harvard University, the Lawyer accepted an academic appointment at the Faculty of Law at Dalhousie University. While teaching at Dalhousie University, in April 1990, she also began her articles at a law firm in Halifax, Nova Scotia. She subsequently worked at that firm as an associate from June 1991 to January 1993.
11. On June 14, 1991, the Lawyer became a member of the Nova Scotia Barristers' Society.
12. In or around 1992 or 1993, the Lawyer took leave from Dalhousie University.
13. On November 16, 1994, the Lawyer became a member of the Law Society of Saskatchewan.
14. In 1991, the Lawyer met her husband, George Lafond, a member of the Muskeg Lake Cree Nation ("MLCN"). The two were married in August 1995. Prior to her marriage, and in an independent process, the Lawyer was accepted into a kinship group of the MLCN by the

group's matriarch, and according to MLCN laws and customs. She has been a member of MLCN for approximately 30 years.

15. Between May 1995 and March 1998, the Lawyer worked as a sole practitioner with an office on MLCN lands. While working as a lawyer in Nova Scotia and Saskatchewan, the Lawyer received national attention for her work on behalf of First Nations individuals and organizations.
16. On March 5, 1998, the Lawyer was appointed as a judge of the Provincial Court of Saskatchewan. As of January 1, 2007, she took leave from the Provincial Court of Saskatchewan in order to accept a position as an independent officer of the Legislative Assembly of British Columbia, as the Representative for Children and Youth. In this capacity, the Lawyer oversaw more than 17,000 child advocacy cases over the span of approximately one decade.
17. On November 26, 2016, the Lawyer returned to sit full-time as a judge of the Provincial Court of Saskatchewan. She retired from the bench on March 5, 2018.
18. In March 2018, the Lawyer was re-admitted as a member of the Law Society of Saskatchewan.
19. On May 10, 2018, the Lawyer became a member of the Law Society of British Columbia (the "Law Society"). The Law Society may only discipline the Lawyer for conduct issues that occurred while she has been a member of the Law Society.
20. In early 2018, the Lawyer began to work in an academic position at the University of British Columbia's ("UBC") Peter A. Allard School of Law. She was granted tenure on July 1, 2018. Beginning in 2018, the Lawyer also practised law part-time through a personal law corporation.
21. During her academic tenure at UBC, the Lawyer became the inaugural director of its Indian Residential School History and Dialogue Centre (the "UBC Dialogue Centre"). She ended her term of service on June 30, 2022.
22. In October 2022, the Canadian Broadcasting Corporation (the "CBC") published a series of articles which challenged the Lawyer's family history, her identity as an Indigenous person,

and many of her credentials. These themes were subsequently echoed in reports by other media outlets.

23. Between 2003 and 2019, the Lawyer had been awarded eleven honorary doctorates for advancing public policy for children, youth, and families, and Indigenous peoples. Subsequent to the media reports, all of her honorary degrees were either rescinded or voluntarily relinquished.
24. The Lawyer had been appointed as a member of the Order of Canada for her ongoing commitment to improve the child welfare system and support for Indigenous peoples in British Columbia in 2021. In September 2023, she asked to be removed from the Order of Canada, subsequent to the media articles.
25. The Lawyer resigned from her academic position at UBC as of December 12, 2022, and elected to become a non-practising member of the Law Society as of February 6, 2023.
26. The Lawyer identifies as Indigenous. Her understanding is that her late father was Cree from Norway House, Manitoba.
27. The Lawyer recognizes that Indigeneity is to be determined by the laws, customs, practices and traditions of Indigenous peoples. Nevertheless, in August 2023, the Lawyer voluntarily took a DNA test, and the DNA test results indicated that genomic markers known to be disproportionately present in Indigenous populations were present in the Lawyer's DNA sequencing results. The Lawyer's DNA test results were provided to a human geneticist with expertise in the area of population genomics, including genetic ancestry and admixture. The geneticist opined that "the individual whose DNA was analyzed most likely has very recent ancestors with substantial indigenous DNA."
28. The Lawyer remains a member of MLCN. In a letter dated November 28, 2022, Chief Kelly Wolfe of MLCN confirmed that the Lawyer has been a member of MLCN for nearly 30 years and further explained:

[MLCN] membership is decided by us, and not by the media, government or Indigenous peoples from outside our Nation. Determining membership is an internal matter within our inherent right to self-government, recognized and confirmed by the Crown when we entered into Treaty 6 in 1876.

[MLCN's] inherent right over membership is affirmed in Section 35 of the *Constitution Act, 1982*, and in the *United Nations Declaration on the Rights of Indigenous Peoples*. Article 9 of the *Declaration* states:

Indigenous peoples and individuals have the right to belong to an Indigenous community or nation, in accordance with the traditions and customs of the community or nation concerned. No discrimination of any kind may arise from the exercise of such a right.

29. In a letter dated October 12, 2022, Tribal Chief Mark Arcand of the Saskatoon Tribal Council explained that First Nations kinship is defined by First Nations and not by the media or Canadian government. First Nations alone must decide these matters, and “if outsiders act as the arbiters of who belongs or who is Indigenous, it will remain colonial, oppressive and culturally unsafe for [their] peoples to determine [their] identity”.

### **Factual Circumstances**

#### *National Inquiry into Missing and Murdered Indigenous Women and Girls*

30. On October 4, 2018, the Lawyer testified as an expert for the National Inquiry into Missing and Murdered Indigenous Women and Girls (the “MMIWG”). The Lawyer also provided a *curriculum vitae* to the MMIWG, and it was entered as Exhibit 34 (“Exhibit 34”).

31. Under affirmation at the MMIWG, the Lawyer stated:

...So, I got my law degree in 1985 at Osgoode Hall Law School, and then went on to do a master's in Cambridge, England, and a Ph.D. in Harvard Law School. And, I was a member of the Saskatchewan, Nova Scotia and New Brunswick bars.

...

I married my husband, George Lafond, from the Muskeg Lake Cree Nation, and transferred my membership there.

...

And then I was appointed to the Provincial Court of Saskatchewan in 1998 as the first treaty Indian to be appointed to the court...

32. Although the Lawyer's Diploma in International Law from the University of Cambridge is a post-graduate degree, it was technically inaccurate to describe it as a “master's” rather than a master's level degree.

33. The Lawyer has never been called to the bar of New Brunswick and her statement to that effect was in error.
34. As the Lawyer was not a registered “member” of Norway House, it was inaccurate to say that she had “transferred” her membership to MLCN.
35. The Lawyer acknowledges that many people define “treaty Indian” as a person with status under the *Indian Act*. She explains that she referred to herself as a “treaty Indian” because she identifies as Cree, and the Cree peoples from Norway House were signatories of Treaty 5. Not all “status Indians” or “registered Indians” are “treaty Indians”, as many Indigenous groups in Canada did not sign a treaty.
36. Exhibit 34 contained the following misrepresentations [in underline]:
- Harvard Law School SJD 1990
  - University of Strasbourg Certificate Human Rights 1984
  - University of Cambridge LLM International Law 1988
  - Member, Law Society of Saskatchewan 1992-1998
  - Member, Nova Scotia Barristers Society 1990-1998
  - Honorary degrees: 2001 LLD (*honoris causa*) from First Nations University of Canada
  - Book authored: “Indigenous Customary Adoption and Reconciliation”, co-authored with Professor Grant Charles, Dawn Thomas (2017)
37. The Lawyer was enrolled as a full-time student at Harvard University from September 2, 1988 to May 30, 1997. From 1988-1989, she attended classes and wrote her comprehensive examinations. From 1990 to 1992, she completed her thesis. She was not awarded an SJD until 1997.
38. In 1984, the Lawyer attended a summer program held at the University of Strasbourg, in Strasbourg, France, on Indigenous Peoples in International Law. The program was administered by the International Institute of Human Rights and not the University of Strasbourg.
39. The Lawyer received a Diploma in International Law from Cambridge University, which is a master’s-level degree but not an LLM.

40. The Lawyer was not called to the Saskatchewan bar until November 1994, and was not called to the Nova Scotia bar until June 1991.
41. In 2001, the First Nations University of Canada was known as the Saskatchewan Indian Federated College. Its degrees were issued by the University of Regina, and it has never awarded an honorary degree.
42. In 2017 and 2018, the Lawyer and Dawn Thomas wrote a manuscript for an article about kinship care titled “Indigenous Customary Adoption and Reconciliation”, which Grant Charles was responsible for editing, finalizing, and submitting to a journal for review. At the same time, the parties were discussing writing a book on kinship care. After being peer reviewed, the manuscript was accepted by a journal with minor revisions to be made, but due to a personal matter, Dr. Charles did not make the revisions and the final version of the manuscript was not submitted for publication. The Lawyer did not co-author a book in 2017 titled “Indigenous Customary Adoption and Reconciliation”.
43. In approximately February 2022, the Lawyer realized that Exhibit 34 contained errors. She contacted the Inquiry to replace it with a corrected *curriculum vitae*, but was informed that because the Inquiry was closed, the replacement was not possible.
44. The Lawyer acknowledges that lawyers have a duty to be accurate and truthful, particularly when under affirmation or oath. She explains that her errors were a product of poor recordkeeping and were not directed at enhancing her status.

*Application for Admission to the Law Society of British Columbia*

45. The Lawyer’s application for admission to the Law Society, dated March 12, 2018, contained the following misrepresentations [in underline]:
- MA from Cambridge
  - held a position as a tenured professor at Dalhousie Law School from 1989 to 2004
  - joined the Nova Scotia Bar in 1990
  - joined the Saskatchewan bar in 1992
  - was employed at Buchan Derrick and Ring from 1990 to 1998
  - was self-employed on the Muskeg Lake Indian Reserve from 1992 to 1998

46. The Lawyer has a Diploma in International Law from Cambridge University, which is a master's level degree but not an MA. She was hired by Dalhousie Law School on July 1, 1989, became a tenured professor in 1994, and resigned effective July 1, 1996.
47. The Lawyer was not called to the Nova Scotia bar until June 1991, and was not called to the Saskatchewan bar until November 1994.
48. The Lawyer worked at Buchan Derrick and Ring from 1991 to 1993, and commenced working as a sole practitioner on MLCN lands in 1995.
49. The Lawyer acknowledges that lawyers have a duty to be accurate and truthful, and that she ought to have taken greater care to provide accurate information in her application for admission to the Law Society.

### **Mitigating Factors**

50. The Lawyer is remorseful and has admitted her misconduct. At all times during the consent agreement resolution process, the Lawyer was cooperative with Law Society counsel and made all appropriate admissions.
51. The Lawyer was first called to the bar approximately 33 years ago, and does not have a prior professional conduct record.
52. The media articles led to a prolonged period of significant stress for the Lawyer. The articles caused extensive damage to the Lawyer's reputation, as well as mental distress to her family.
53. The Lawyer has provided six letters of support from members of the community.
54. In a letter dated June 26, 2024, Dr. Val Napoleon, IPC, a Professor in the Faculty of Law at the University of Victoria, the Law Foundation Chair in Indigenous Justice and Governance, and a Director of the Indigenous Law Research Unit wrote "to provide support for [the Lawyer], and to strongly encourage recognition of her as a leader and an outstanding Indigenous legal scholar":

I cannot state strongly enough that [the Lawyer] is an exemplar for Indigenous peoples, for Indigenous women, and future generations. Her entire career has been devoted to tackling colonial oppressions ranging from *Indian Act* discrimination, racism, health disparities and conditions, and the protection of Indigenous children. She has tirelessly and strongly advocated at every turn for the self-determination for



Indigenous peoples and for building self-government at federal, provincial, and local levels.

My first introduction to [the Lawyer] was when she was a provincial court judge in Saskatoon. I was very impressed by how she created a place of safety and respect for the young Indigenous teenagers on trial, and for their mothers. She managed to convey fairness and kindness, and she invited the mothers to speak to the Court – which they did, overcoming nervousness and likely previous negative experiences with the justice system. [The Lawyer] listened carefully, and she transformed her courtroom into a place where real justice for Indigenous people was possible.

Over the years, [the Lawyer] has contributed hugely to legal scholarship as a critical legal thinker, as an Indigenous woman, and a leader. She has been fearless in her research and writing, and in her public speaking. Her skilled advocacy on behalf of disadvantaged children and Indigenous peoples in the health care system resulted in real policy changes and increased public awareness. She fulfilled these roles as a teacher, and as someone who took her roles and commitments seriously. [The Lawyer] has always supported other Indigenous peoples, and she always held up other Indigenous women in the work she did....

55. In a letter dated July 2, 2024, Merle Alexander, KC, wrote as a colleague, friend, and First Nations lawyer. Mr. Alexander is a citizen of the Kitasoo Xai'xais First Nation and holds the Hereditary Chief's name of Lag'Niitsk. He will commence his Chiefmanship upon following Tsimshian legal orders.

56. Mr. Alexander described how he and the Lawyer worked for over five years together on the furtherance of the UN *Declaration on the Rights of Indigenous Peoples*, on the co-development of the BC and Canadian statutes, and then on the implementation of the *Declaration on the Rights of Indigenous Peoples Act* in British Columbia. The Lawyer brought “a brilliance of intellect, a ferocious sense of human rights justice, and a personal empathy to her advocacy”. Mr. Alexander has “experienced a void in her absence since the CBC stories damaged her career”, and notes that her “absence is felt in the Indigenous Bar and certainly in all of the work [they have] carried on”.

57. In addition, Mr. Alexander wrote:

During the time we worked together, [the Lawyer] also took on in the independent investigation into the Indigenous-specific discrimination in the BC health care and produced the In Plain Site Report. Although I was not directly involved in this work, I witnessed the tremendous sacrifice and incredible empowerment of BC Indigenous citizens brought by the truth-telling of this great work.

This work shone a light on institutional racism in our health care system that will forever change the way we are treated by doctors, nurses and other health professionals. [The Lawyer's] work there will make hospitals and clinics the place of healing that should have always been, the place of caregiving that other British Columbians assume and receive.

In this work and personal experience with [the Lawyer], I witnessed and assessed her to have extraordinary integrity. She fights for Indigenous Peoples, her own people, because she has an innate sense of truth, justice and fundamental sense of equality and equity.

I believe that the advocacy of Indigenous Peoples rights was injured and dealt a blow in BC and Canada with the withdrawal of [the Lawyer]. I truly believe there has been an injustice in the trial by media that forced many to disregard a life's work and contribution. [The Lawyer] is a living icon and hero and I will always stand by her, because I know she has made a difference. Few of us in life, in career and in reality can proudly say, we truly made a difference.

58. Dr. Wilton Littlechild, IPC, CC, FP, KC, whose Cree name is Mahigan Pimoteyw (Walking Wolf), provided a letter dated July 5, 2024. In traditional ceremonies, Dr. Littlechild was named the International Chief for Treaties 6, 7, and 8. He has been a lawyer in Alberta since 1977.

59. Dr. Littlechild has worked with the Lawyer for over three decades. In his letter, Dr. Littlechild wrote as follows:

Whether it was working on the Rights of Indigenous Peoples at a First Nations level, a Treaty Territory, National or International level, [the Lawyer] was and is a true Professional in her advocacy, always putting clients' interest first. As an academic, she was very thorough in her research [and] consequently, this combined expertise is a tremendous asset in advancing Human Rights. As a Member of Parliament I was able to witness her work, listen to her interventions and appreciated her respectful expertise while I was a member of Joint Senate House Committees on the Canadian Constitution.

Amid all the demands of her work, as a mother she took time to ensure their children had culturally relevant opportunities and mainstream participation. I was always eager to hear how the family was doing.

I am truly blessed to have been associated with [the Lawyer] in our common interests and have no hesitation in recommending her for consideration in different capacities. As a Chief I would not hesitate in relying on her expert advice; as a colleague in the legal profession, I admire her expertise gained from true efforts, hard work and experience. Her foundation of Indigenous ways and wisdom from Elders serves her well to make things better for all our relations.

To be told she may have misstated her credentials at some point, I find that to be out of character as I have always known her to be honest and truthful.

60. In a letter dated June 28, 2024, Douglas McArthur, Professor Emeritus of the School of Public Policy at Simon Fraser University, former Deputy Minister of Agriculture, Deputy Minister of Northern, and Minister of Education in Saskatchewan, and former Deputy Minister of Aboriginal Affairs in British Columbia wrote, *inter alia*:

In my work and involvement with [the Lawyer] I never had reason to doubt her commitment, her honesty, her conviction and the value of her work. The contributions that she has made over the years have been first rate and undeniably of the highest professional standards. When I saw and heard the attacks on her, I was shocked. The first thing that I could think of after the shock was that her professional destruction would be a terrible loss to indigenous people and communities. I believed and continue to believe that is unthinkable that her work should be so discounted and undermined after all of the first-rate contributions made by her over many years....

The evidence in support of her work is well known. Starting as a young lawyer not long out of law school she played an amazing leadership role in supporting First Nations and Metis leaders during the complex and long drawn out proceedings surrounding the repatriation of the Constitution and the inclusion of Indigenous people's identity in law and social relations. And that kind of contribution was just the start. It has not let up. I can honestly say from the first I worked with her that I was blown away by her work and the quality of it. And I have never changed that viewed....

61. In a letter dated July 2, 2024, Kenneth Young, a lawyer from Manitoba, explained how the highlight of his involvement with the Lawyer was her performance during the Charlottetown Constitutional negotiations, during which she represented the Assembly of First Nations. Mr. Young noted that although the national referendum which followed the conclusion of the negotiations failed to support the Charlottetown Accord, "the First Nation representation during the negotiations will be one of [the Lawyer's] lasting legacies".

62. In a letter dated June 26, 2024, the Honourable Ian Binnie, CC, KC, spoke of the Lawyer's many professional accomplishments, including how:

In the 1990s, [the Lawyer] was an effective advocate for the rights of Indigenous peoples. Her scholarly work (including collaborations with the late Professor Peter Hogg, the outstanding constitutional scholar of his era) were much respected. Her subsequent work as a Saskatchewan judge (deeply concerned with the consequences of fetal alcohol syndrome) and as British Columbia Representative for Children and Youth was applauded for its quality not because of her personal history.