

2006 LSBC 24

Report issued: June 15, 2006

Oral Reasons: June 7, 2006

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

**Paul Christian Nigol**

Applicant

**Decision of the Hearing Panel  
on Application for Call and Admission**

Hearing date: June 7, 2006

Panel: **Majority Decision:** William Jackson, Chair, June Preston

**Dissenting Decision:** Dirk Sigalet, Q.C.

Counsel for the Law Society: Herman Van Ommen

Counsel for the Respondent: Patrick Lewis

## Background

[1] The Applicant is a member in good standing of the Law Society of Alberta. His August 31, 2005 application for admission to the Law society of British Columbia properly disclosed two matters. The first was a 1999 *Criminal Code* conviction for driving with a blood alcohol level over .08. The second matter was pending at the time of his August, 2005 application to the Law Society of B.C. That involved a charge of driving with a blood alcohol level over .08 on July 19, 2005. This charge has since been resolved by a guilty plea for the offences of careless driving and speeding under Alberta Provincial legislation.

[2] Pursuant to the *Legal Profession Act* section 19(1), a hearing was directed for the purposes of inquiring into the following circumstances of the Applicant:

- (a) his driving while under the influence of alcohol in 1998 and his 1999 conviction of that offence;
- (b) his driving while under the influence of alcohol on July 19, 2005, and his 2006 conviction of related driving offences;
- (c) his treatment for depression in 1997 and 1998; and
- (d) his current condition and treatment relating to abuse of alcohol.

## Reasons

[3] To be called to the bar in British Columbia an applicant must satisfy the Law Society that he or

she is a person of good character and repute and fit to be a barrister and a solicitor of the Supreme Court. This statutory test is set out in section 19(1) of the *Legal Profession Act*. The meaning of that section has been interpreted by the Benchers and confirmed by the B.C. Court of Appeal in *McOuat v. Law Society of BC* [1993] B.C.J. No. 807.

[4] Under Law Society Rule 2-67, the onus is upon the Applicant to satisfy this Panel on a balance of probabilities that he is of good character and repute and is fit to be admitted as a barrister and a solicitor of the Supreme Court.

[5] Both Mr. Van Ommen, counsel for the Law Society, and Mr. Patrick Lewis, counsel for the Applicant, agreed that the Applicant's circumstances do not give rise to issues of character or reputation. Instead, the issue is one of fitness to practise law. The Panel has the medical evidence of two addiction specialists - Dr. Marsh's oral evidence (in addition to his December 22, 2005 written opinion, Tab 18 of Exhibit 2 "Application and Related Documents" ) and Dr. Hedges' February 18, 2006 written opinion (Tab 20 of Exhibit 2). Both Dr. Marsh and Dr. Hedges are of the opinion that the Applicant does not meet the criteria for alcohol dependence as described in the *Diagnostic and Statistical Manual of Mental Disorders - IV* ("DSM-IV"). Dr. Marsh testified that the Applicant meets none of the diagnostic criteria.

[6] The Applicant gave evidence and his evidence was thoroughly tested by Mr. Van Ommen in cross-examination. The Panel finds the Applicant's evidence establishes the fact that his use of alcohol has, on at least two occasions, been irresponsible and showed impaired judgment. However, by applying the intellectual discipline evidenced by his high academic achievements (a combined PhD and Law degree) and his self-motivated and effective use, from time to time, of counseling services, these problems have not escalated to alcohol dependency. The Applicant's use of alcohol has had no effect on his fitness to practise law.

[7] The Panel has considered the circumstances of the offences, the Applicant's effective and successful use of counseling services, his own rigorous self-examination and his favourable work record as a Calgary lawyer. We find that both counsel, Mr. Van Ommen and Mr. Lewis, were correct in their submissions that character and reputation are not in issue. We further find that the Applicant is fit to practise law in British Columbia subject to conditions.

## Decision

[8] The Panel hereby orders as set out below.

1. The Applicant be immediately admitted as a member to the Law Society of British Columbia, subject to the following two conditions for one year, starting June 7, 2006:

(a) that the Applicant obtains counselling for alcohol use monthly from either LAP or Interlock; and

(b) that the Applicant obtain counselling at intervals of no less than once every three months from Dr. Ladd, who shall forward written progress reports to the Law Society of B.C. at six month intervals.

2. The Applicant pay costs of \$500. Security for costs in the amount of \$1,000 was posted by the Applicant. The remaining \$500 will be returned to the Applicant.

## **Dissenting Decision of Dirk Sigalet, Q.C.**

[9] I agree with the majority on the issue of costs and that the Applicant be immediately admitted to the Law Society of B.C. I disagree with the imposition of any conditions. Further counselling should not be required of this Applicant. His evidence demonstrates that, at crucial times in his life, he has readily recognized the need for counselling and has been an effective and intelligent consumer of this service. A direction by this Panel to obtain more counselling and report the counselling outcomes is unnecessary in the Applicant's circumstances. Mr. Nigol clearly and remorsefully understands the consequences of his actions. The stark reality of the above two convictions is that there has been two strikes. This, of itself, is a blunt form of lasting and cost-effective counselling.