

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

Graeme Joesbury

Applicant

**Decision of the Hearing Panel
on Application for Reinstatement**

Hearing date: April 9, 2009

Panel: Gavin Hume, QC, Chair, Joost Blom, QC, Stacy Kuiack

Counsel for the Law Society: Henry Wood, QC

Counsel for the Respondent: Richard B. Lindsay, QC

Background

[1] The Applicant was born in England in 1950 and came to Canada as a teenager in 1964. He is currently 59 years of age. He completed his high school education in 1968 and subsequently obtained a degree from Simon Fraser University. He then graduated from the University of British Columbia Law School in 1983. He was called to the Bar in British Columbia on September 11, 1984.

[2] Subsequent to his call, he engaged for a number of years in a successful criminal law practice, initially with Jackson & Westlake in Vancouver, then as a sole practitioner from 1985 until 1989. Commencing late in 1989 until August of 1992, he was Crown Counsel, returning to practice as a sole practitioner until 1995 when he commenced practising with Ridge Meadows Legal Services until 2002. He returned to practice as a sole practitioner out of his residence.

[3] In the latter years of his practice he encountered significant personal difficulties, including depression, alcoholism and other drug addictions. On November 8, 2004, the Applicant provided an undertaking to the Law Society to cease the practice of law. This was given pending the disposition of a citation that had been issued. On January 1, 2005, he became a former member of the Law Society for the non-payment of fees and has not practised since then.

[4] Subsequent to ceasing practice, the Applicant continued to experience drug, alcohol and depression problems. Eventually the Applicant was able to come to grips with these issues and, to quote him, he has "been sober since June 5, 2006."

[5] Since then he has held a position with the False Creek Yacht Club and a teaching position with the Jiangnan University ? Lambton College in China. At the time of the hearing he was working as a case-worker at Harbour Lights.

[6] He has also taken treatment for his dependencies and depression. He has received assistance from Mr. Lacroix of the Lawyers Assistance Program. He has volunteered at the Vancouver Museum in the Anthropology Department as well as for the Salvation Army. He exercises regularly.

[7] As a result of his personal difficulties, the Applicant went into bankruptcy in August 2006. He was discharged in May of 2007.

[8] We also heard from his sponsor at Alcoholics Anonymous where he regularly attends. He meets regularly with his sponsor.

[9] We received a number of letters of recommendation, which we have reviewed. A number of them were from lawyers who interacted with the Applicant when he was in active practice. They described him as diligent and conscientious counsel prior to the onset of the difficulties discussed above. Those lawyers indicated that they supported his application for reinstatement, assuming he has come to grips with his personal difficulties.

[10] We also received other letters of recommendation from a variety of sources, which we reviewed.

[11] In addition, we were provided with, and reviewed, a number of medical reports. The most recent report, dated October 26, 2008, indicated that the Applicant was doing very well. It further indicated that he was attending group therapy almost daily with Alcoholics Anonymous. The report discussed the fact that the Applicant understands that he cannot drink and that his health has improved considerably. The report expressed the opinion that, with the Applicant's continued effort, he would continue to do quite well.

[12] The Applicant indicated in his evidence that he is now attending Alcoholics Anonymous on a weekly basis as well as meeting regularly with his sponsor. He continues to take medication under the guidance of his personal physician for his depression.

Decision

[13] At the conclusion of the evidence, and after submissions from counsel and a review of the materials described briefly above, this Panel indicated that it was prepared to see the Applicant reinstated if appropriate conditions could be developed. Having reviewed the letters of reference and the evidence, we were satisfied that the Applicant met the requirement of Section 19(1) of the *Legal Profession Act* in that he was a person of good character and repute and was fit, again, to become a barrister and solicitor. However, we wanted to ensure that he remained fit. Counsel very helpfully provided us with some proposed conditions and a suggested Monitoring Agreement.

[14] We have had the opportunity to review the proposed conditions and Monitoring Agreement. We attach as Appendix A the conditions that we recommend be entered into by the Applicant in order to be reinstated as a member. One of the conditions requires that the Applicant enter into a Monitoring Agreement with his attending physician. We attach, as Appendix B, the Monitoring Agreement that the Applicant should enter into in order to be reinstated as a member. In our view, the conditions and Monitoring Agreement (Appendices A and B) are consistent with the medical recommendations which we have reviewed.

[15] We have concluded that if the Applicant enters into the conditions (attached as Appendix A) and the Monitoring Agreement (attached as Appendix B), he should be reinstated as a member of the Law Society of British Columbia and be permitted to practice as outlined in the conditions.

[16] We did not receive any submissions on costs and, as a result, are not in a position to make an order with respect to costs. If counsel are unable to resolve the issue of costs, we will deal with this matter at a later date.

-- page break --

APPENDIX A

PROPOSED CONDITIONS

1. Abstain from alcohol and cocaine and any other illicit substances.
2. Attend regularly at AA, maintaining regular contact with your AA sponsor.
3. Take anti-depressant medication as directed by your family physician or psychiatrist.
4. For the first 12 months after reinstatement, attend upon your family physician once each month and authorize him/her to communicate promptly to the Law Society (Attention: Manager, Member Services and Credentials) and to the Lawyers Assistance Program (LAP) any slip in substance abuse or apparent depression. After the first 12 months, and if recommended or approved by your family physician, your attendance upon your family physician can be reduced to a quarterly attendance. The attendance upon your family physician can end after two years if recommended or approved by your family physician. You must provide to the Law Society confirmation of those instructions to your doctor.
5. Advise the Law Society promptly of the identity and contact information for your new family physician should you stop dealing with Dr. Horricks. Any such change will require fresh instructions in accordance with condition #4.
6. Enter into a monitoring agreement at your expense, if necessary, with Dr. Horricks or any other doctor acceptable to the Credentials Committee of the Law Society in a form of agreement substantially similar to the form attached hereto, or as otherwise agreed to by the Credentials Committee.
7. Do not engage in any area of legal practice other than criminal law, except with the permission of the Credentials Committee.
8. Arrange for five lawyers who carry on active practice in criminal law within the same geographic area in which you practise who will commit in writing to notify the Credentials Committee if your behaviour raises any concerns for them related to:
 - (a) your professional conduct; or
 - (b) any apparent depression or substance abuse.
9. Upon a request from Mr. Joesbury, supported by his family physician, the conditions may be modified by the Credentials Committee as it sees fit. If such modification is requested by Mr. Joesbury and supported by his family physician, the Credentials Committee, in considering such a request, may select a doctor of its choice to provide independent advice to the Credentials Committee in order to assist it in its consideration of the request.

-- page break --

APPENDIX B

MONITORING AGREEMENT

This is a Monitoring Agreement between Graeme Joesbury and Dr. _____. By my signature below, I, Graeme Joesbury, confirm that I am entering into this Agreement for two years and commit to the following:

1. Complete abstinence from alcohol and all other mood altering drugs. I agree to take no prescription medications unless they are previously approved by my family physician.
2. Regular attendance at Alcoholics Anonymous (AA) meetings, including a home group.
3. Regular, meaningful contact with my AA sponsor.
4. Attend upon Dr. _____ at least once monthly and otherwise as directed for the first 12 months of this Agreement and, if recommended by Dr. _____, at least quarterly thereafter and otherwise as directed.
5. Submission of blood and/or urine specimens for random testing for the presence of mood-altering substances and/or alcohol induced elevation of liver enzymes within 24 hours of request. To facilitate this, I agree to check my telephone messages and e-mail regularly and to keep Dr. _____ informed of my current contact information.
6. I authorize Dr. _____ to communicate periodically and/or as requested with the Law Society of British Columbia (Attention: Manager, Member Services and Credentials) regarding my compliance with this Agreement.

Dated: _____, 2009