

LAW SOCIETY OF NEW BRUNSWICK

UNDER SECTION 56 OF THE *LAW SOCIETY ACT*, 1996, S.N.B. 1996, c. 89

IN THE MATTER OF A HEARING BY A PANEL OF THE DISCIPLINE COMMITTEE
INTO THE CONDUCT OF CLERMONT RICHARD, RESPONDENT

DECISION

Date of hearing:	December 9, 2009
Place of hearing:	Delta Hotel, Moncton, N.B.
Date of decision:	January 12, 2010
Members of Panel:	Claude Poirier, chairperson Gilles J. Godbout, Q.C. Paul Léger, public representative
Counsel for the parties:	Marc-Antoine Chiasson, counsel for the respondent Joel Michaud, counsel for the Law Society of New Brunswick

Exhibits:

P-1: Summary of Facts – bound document containing

Tab 1: Agreement of purchase and sale

Tab 2: Agreement of purchase and sale

Tab 3: Notice of Complaint

Tab 4: Statement of Defence

Tab 5: Transfer

Tab 6: Amended Notice of Complaint dated
December 8, 2009

P-2: Agreement between Clermont Richard and the Law Society
of New Brunswick dated December 9, 2009 – bound
document containing:

Tab 1: Amended Notice of Complaint in the matter
between Clermont Richard and the Law Society of New
Brunswick dated December 8, 2009 (identical to Tab 6 of
Exhibit P-1).

Decision

[TRANSLATION]

Panel

The panel was constituted in accordance with Part 10 of the *Law Society Act, 1996*, S.N.B. 1996, c. 89, to inquire into the charges set out in the Notice of Complaint, dated September 1, 2009, against Clermont Richard, respondent.

The hearing was open to the public in accordance with subsection 62.2(1) of the *Law Society Act, 1996*, and no objections were raised with regard to the composition of the panel or its jurisdiction to hold the hearing.

Hearing

Counsel for the Law Society, with the consent of the respondent's counsel, submitted to the panel a mutual agreement between the parties and an amended Notice of Complaint (Exhibit P-2). The agreement contains a set of mutually agreed sanctions in response to the amended Notice of Complaint. The Law Society's counsel also brought the decision of the Saskatchewan Court of Appeal in *Rault v. Law Society of Saskatchewan*, 2009 SKCA 81 (CanLII) to the panel's attention. That decision pertains to the responsibilities of a disciplinary panel where the parties, under circumstances similar to those involved in this matter, make a joint submission.

The hearing was adjourned to enable the panel to deliberate with regard to the agreement, the Summary of Facts, and the other exhibits that were adduced.

When the hearing resumed, the chairperson asked counsel for the respondent whether the agreement signed by the respondent was in fact an admission that the respondent was guilty of the charges contained in the amended Notice of Complaint. Counsel confirmed that it was such an admission.

Panel's findings

1. After reviewing the exhibits and the respondent's admission to the charges contained in the amended Notice of Complaint, the panel accepted the respondent Clermont Richard's admission of guilt and determined that the respondent engaged in conduct deserving sanction and was guilty of the charges as listed in the amended Notice of Complaint (Exhibit P-1, tab 6).
2. The disciplinary panel determined that the parties' mutual agreement with regard to sanctions was appropriate, reasonable and fitting in view of the range of sanctions imposed in similar circumstances, and that the agreement was not contrary to the public interest.

Order

The panel orders as follows:

1. A reprimand is imposed under paragraph 60(1)(a) of the *Law Society Act, 1996*.
2. A fine of \$1,000 is to be paid to the Law Society of New Brunswick under paragraph 60(1)(b) of the *Law Society Act, 1996*.
3. The costs of the inquiry before the Discipline Committee, in the amount of \$5,000, are to be paid to the Law Society of New Brunswick under paragraph 60(1)(e) of the *Law Society Act, 1996*.

This fine and these costs are to be paid to the Law Society of New Brunswick within two months following the date of this decision.

Dated this 12th day of January, 2010.

[S] _____
Claude Poirier, Q.C.
Chairman
For the Panel

Panel members:

Claude Poirier, Q.C., Chairman
Gilles J. Godbout, Q.C.
Paul Léger, public representative