

**Society of Notaries Public of British Columbia**

**Taxation Committee**

**Reasons for Decision**

Note to readers:  
The Rules of the Society provide a right to appeal within thirty days (Rule 19.05).

Date: January 16, 2025

Committee members: Hassan El Masri - President;  
Jonathan Wong- Chair, Finance Committee;  
Vicki Van As, Chair, Discipline Committee; and

John Mayr - Executive Director, SNPBC

The Taxation Committee is a Committee of the Society of Notaries Public of BC bylaws. Section 8.17 establishes the composition of the Committee and provides for the Committee to investigate complaints of excessive fees charged by members.

{ }  
{Complainant – Redacted }  
{Notary Public – Redacted }  
{ }



## **Complaint received**

The Society of Notaries Public of British Columbia ('SNPBC') received a complaint regarding an allegation of excessive fees charged by a Notary.

The complainant and his mother had retained the Notary to assist with a cash purchase. The allegation is that the Notary charged excessive fees for a 'simple transaction' and failed to adequately explain the fees charged and the reason for those fees.

The matter was determined to fall within the jurisdiction of the Taxation Committee.

## **Authority of the Taxation Committee**

Section 8.17 of the Bylaws of the SNPBC state:

*The Taxation Committee shall consist of the President, and the Chairpersons of the Finance Committee and Discipline Committee. The Taxation Committee shall investigate complaints of excessive notarial fees charged by members. The decisions of the Taxation Committee shall be final and binding upon all members.*

Further, section 3.03 of the Bylaws state:

*Every Member shall comply with the following, as amended from time to time:*

- (a) The Notaries Act;*
- (b) Any regulations made pursuant to the Act;*
- (c) These Bylaws;*
- (d) The Rules of the Society; and*
- (e) The Principles for Ethical and Professional Conduct of the Society.*

## **Analysis**

The first step in any consideration of a taxation request starts with an understanding of the terms. The bylaws and mandate of the Committee say that the Committee shall investigate the charging of “excessive” notarial fees.

Black’s Law Dictionary defines “excessive” as:

*Greater than what is usual or proper; over much; a general term for what goes beyond just measure or amount.*

The Principles for Ethical & Professional Conduct Guidelines (the ‘Principles’) also include specific information about fees and, in part, say the following:

### **8. Fees and Disbursements**

*8-P2 A Member should not ask for, negotiate, charge, or accept any fee that is not fully disclosed, fair, and reasonable including any justifiable disbursements.*

#### Commentary

- 8.1 A Member is entitled to reasonable compensation for services.  
The Member should, however, avoid charges which either over-estimate or under-value services rendered. The client’s ability to pay cannot justify a charge in excess of the value of the service, though circumstances may suggest that a lesser charge or even none at all is warranted.
- 8.2 A Member should avoid controversies with client regarding compensation. Fees should always be readily justifiable as fair and reasonable for services rendered. A Member should take care to ensure that no client suffers any financial loss or is put to any trouble or inconvenience as a result of careless or incompetent work on the part of the Member.

- 8.3 A fair and reasonable fee will depend upon and reflect such factors as:
- a. the time and effort required and spent;
  - b. the difficulty and importance of the matter;
  - c. whether special skill or service has been required and provided.
  - d. the customary charges of other Members of equal standing in the locality in like matters and circumstance;
  - e. the amount involved or the value of the subject matter;
  - f. other special circumstances such as loss of other employment and urgency;
  - g. any relevant agreement between the Member and the client.

The Principles are guidelines to practice and as such have limited use in regulatory administrative proceedings. The limitation in the guidelines originates in the use of the term “should”. The commentary adds substance to expand on what “should” means in a particular context.

The Principle 8-P2 establishes three contextual aspects to the consideration of a fee regardless of whether it is negotiated, charged, or accepted. The contextual aspects are:

- fully disclosed,
- fair, and
- reasonable.

With the test for the Committee being that the fee must meet all three by virtue of the “and” provision.

The question for the Committee to consider is:

Did the Notary charge an excessive fee for this cash purchase that was not fully disclosed, unfair and not reasonable?

## **Competitions Act**

As a statutory regulator, the SNPBC cannot and must not be seen to be enforcing or establishing a fee for any particular service. It has been long held that price fixing violates the federal laws on competition and that such practices are detrimental to the market. The SNPBC accepts the principles of competition and must therefore consider the matter from a broad perspective.

The framework of the Principles originates from a time at which the Society of Notaries Public acted as both the professional advocacy organization and regulatory body. The *Notaries Act* also contains provisions which, in current times, are not considered modern or effective professional regulatory provisions. With the creation of the BC Notaries Association, an advocacy organization, the Society focuses on acting in the public interest while constrained by the *Notaries Act* and administrative law practices.

## **Position of the Parties**

### **The Complainant**

The Complainant's mother contacted the Notary for the completion of a cash purchase and received a quote of \$2,500. When they both met with the Notary to sign all documents, the Complainant noticed that the legal fees were \$3,500.

The Complainant alleges that the Notary misrepresented the scope of work and the time he spent. He also billed for work that the clients did not ask for. When the Notary was asked for a record of the work he did, he was not able to produce this.

Based on information the Complainant received from other sources, the Complainant believes that the Notary should not have charged more than \$1,000 for this 'simple transaction'.

Additionally, the Complainant alleges that the Notary performed work, and billed for it, that was not the Notary's responsibility but the responsibility of the seller's legal representative. Neither the Complainant, nor his mother, asked the Notary to perform this extra work.

The Complainant requests reimbursement of \$2,500.

### **The Notary**

In his response, the Notary explained that had a preliminary conversation with the Complainant's mother about her and her son's upcoming cash purchase. He provided a quote of \$2,500 for his legal fees, plus taxes and disbursements.

The Notary was subsequently retained to complete the transaction.

The Notary had to prepare the seller's documents, on the request of the seller's legal representative, on an expedited basis as the seller would be signing outside Canada.

The Notary also had to spent extra time on this file as he had to make additional arrangements to remove a Certificate of Pending Litigation from the title to the property.

He also had to follow up multiple times with the Complainant to collect his proper identification documents.

The Notary advised that the Complainant and his mother rescheduled their signing appointment with the Notary three times. They eventually came to sign without notice on the day before the completion day of the purchase.

This meeting took about 45 minutes and included a detailed explanation of all documents. This included the statement of adjustments and the Notary's invoice. The Complainant and his mother approved, initialed and signed all of the documents.

The Notary further advised that, on the completion date, the Notary had to make additional inquiries with the seller's legal representative as to the residency status of the sellers. The sellers had not signed the relevant statutory declarations in accordance with legal requirements as they were signed by the sellers during a video-conference.

Further arrangements to revise these seller documents as well as new undertakings had to be negotiated and put in place to allow the transaction to proceed.

The Notary confirmed that on the completion date he had another conversation with the Complainant with regards to his legal fees. He explained all the work he had performed to complete the transaction.

The Notary shared in his response that he felt harassed by the Complainant because the Complainant kept calling and emailing the Notary's office several times after the completion date, using strong language and insisting on receiving a \$2,500 reimbursement.

### **Discussion**

From the documents and notes on file, it appears that the Notary had disclosed his fees of \$2,500 plus taxes and disbursements in a preliminary discussion with the Complainant's mother. The Notary was aware at that time that he would have to attend to the removal of a Certificate of Pending Litigation and that he would have to prepare all documents on an expedited basis.

The Complainant's mother accepted the Notary's quote and retained his services.

The Complainant and his mother scheduled and rescheduled their signing meeting with the Notary several times and then finally reviewed, approved, initialed and signed all the documents. These documents included the buyer's statement of adjustments and the Notary's invoice.

The Notary's invoice came to a total amount of \$3,505.96 for his legal fees, disbursements and taxes. The legal fees were \$2,500 as quoted and disclosed in the preliminary meeting.

On the day of completion, there arose an issue as to whether the residency declaration of the sellers was correctly executed. The Notary required more time to investigate and explained this issue to the Complainant's mother. She approved that the Notary take all necessary steps to protect their interests.

This additional work took a significant time and eventually an arrangement satisfactory to both the Notary and the sellers' legal representative was made and the transaction completed as scheduled. The Notary did not charge the clients for this extra work.

On review of the documents on file, it is clear that this transaction was not a 'simple' transaction as alleged. The Notary represented the scope of his work and the time he spent correctly. He did not bill for work that was not asked for.

The legal fees charged to the clients were \$2,500 as quoted, disclosed, documented and approved by the Notary's clients.

### **Findings**

After considering all the information in the file, whether it is specifically referenced in these reasons or not, the Committee finds that:

1. The legal fees charged by the Notary did not meet the standard of being excessive.
2. The fees were fully disclosed to the clients, early in the engagement.
3. The final legal fees charged by the Notary were consistent with the quote given.

The Committee makes no order against the Notary to reimburse the clients.



---

John Mayr – Executive Director