



The Law Society of
Upper Canada

Barreau
du Haut-Canada

April 30, 2010

Osgoode Hall
130 Queen Street West
Toronto, Ontario
M5H 2N6

Private & Confidential

Gana Kiritharan
307 - 10 Stonehill Court
Scarborough, Ontario M1W 2X8

Professional Regulation
Division
Intake Department

Dear Mr. Kiritharan:

Re: Subject: Peter John Connelly
Complainant: Gana Kiritharan
Case No.: 2010-85718

I acknowledge receipt of your complaint, which was received by the Intake Department on April 15, 2010, together with the following documents:

- Your earlier letter of complaint, dated February 19, 2010;
- A copy of the law Society's letter to you in reply, dated March 11, 2010;
- Affidavit of Document 3 Civil, sworn December 14, 2007;
- CB Associates & Consultants Invoice No. R1112, dated September 7, 2007;
- Fax cover sheet from Angel Want at TD Canada Trust, dated October 12, 2007, indicating 51 pages;
- Deposit Account History Financial Enquiry, pages 1 of 10, and 52 and 53 of 53;
- Letter to CB Associates and Consultants, dated October 18, 2007;
- October 17, 2007 fax cover sheet and enclosed letter to CB Associates and Consultants of the same date;
- Letter to CB Associate and Consultants, October 28, 2007;
- Affidavit of Document 10 Civil, sworn September 26, 2008;
- Letter from T. Sooriabalan, dated June 4, 2008;
- Letter to Barbara Jackman, dated September 23, 2008;
- Letter to CB Associate and Consultants, dated September 24, 2008;
- Document entitled "Contents of this document – Attachments to Cover Letter" to which is attached:
 1. Letter to Attorney General of Ontario, dated February 19, 2010;
 2. Letter to Canadian and Ontario Judicial Council, dated February 19, 2010;
 3. Letter to Toronto Police Services – Fraud Squad, dated February 19, 2010;
 4. Letter to OPP, RCMP and Ottawa Police Services, dated February 19, 2010;
 5. Letter to Canadian Psychiatric Association, dated February 19, 2010;
 6. Tab 1 Immunity from Cross-Examination;
 7. Tab 2 Reasons and Evidences for Gana Kiritharan's Suspicion;
 8. Tab 3 Misleading Information and Edited Evidences Submitted by the Bank;

9. Tab 4 Police Experience, Police Report and Correspondence with Police;
10. Tab 5 Civil claim and Counterclaim at Toronto Civil Court;
11. Tab 6 Telephone Case Conference asking bank to produce the documents;
12. Tab 7 Motion at Civil court by Gana Kiritharan on 12th of November, 2008;
13. Tab 8 Motion for Summary Judgment by the Bank of 14th July, 2009;
14. Tab 9 Other Documents.

Based on my review of the documents provided, and for the reasons set out below, I have concluded that there is insufficient evidence of professional misconduct to warrant a request for an investigation pursuant to section 49.3 of the *Law Society Act*. Consequently, I have closed the file.

Summary of Complaint

As I understand your complaint, you retained a paralegal named Ramesh Henricus Nicholas of CB Associates and Consultants, on September 7, 2007, to communicate with TD Canada Trust (the “Bank”) regarding your Line of Credit. The paralegal told you that a lawyer associated with his firm, whose first name was Peter, might take your case on a contingency fee basis and that it was best to communicate with the Bank through the lawyer. You advise that the paralegal was working with this lawyer and that the lawyer was communicating with the Bank directly on your behalf. However, I note that all of the correspondence that you provided from the Bank is addressed to the paralegal and there is no mention of Peter Connelly.

You advise that you obtained the lawyer’s last name, which you say is Connelly, during a communication with the paralegal at his office but that the paralegal refused to confirm this. You advise that you never met with or spoke to Mr. Connelly and were never provided with his contact information. You never gave Mr. Connelly a retainer or signed a retainer agreement with him.

You allege that Mr. Connelly failed to communicate with you and failed to provide you with copies of his correspondence with the Bank. You also allege that Mr. Connelly participated in the Bank’s delay of proceedings and that he may have obtained, from the Bank or some other party, details of your psychiatric diagnosis, and may have disclosed those details to third parties.

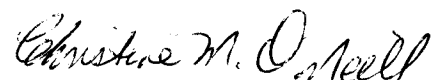
Reasons for Closing

In order to commence an investigation into the conduct of a lawyer, under s. 49.3 of the *Law Society Act*, the Law Society must have a reasonable suspicion that the lawyer complained about engaged in professional misconduct. The information that you have provided does not raise a reasonable suspicion of professional misconduct on the part of Mr. Connelly.

It appears that your retainer was with the paralegal and not with Mr. Connelly and no evidence has been provided that there is a relationship between Mr. Connelly and the paralegal. Based on the fact that there is insufficient evidence that you retained Mr. Connelly to act on your behalf and in the absence of proof that a solicitor-client relationship was established, we cannot investigate your allegations against Mr. Connelly.

Unless I receive a request from you to the contrary by **May 7, 2010**, a copy of this letter will be sent to Peter John Connelly.

Yours truly,

A handwritten signature in cursive script that reads "Christine M. O'Neill".

Christine O'Neill

Intake Counsel

Telephone: (416) 947-3300, ext. 2247

Facsimile: (416) 947-3382

Email: coneill@lsuc.on.ca



The Law Society of
Upper Canada

Barreau
du Haut-Canada

March 8, 2011

Private & Confidential

Gana Kiritharan
307 - 10 Stonehill Court
Scarborough, Ontario M1W 2X8

Dear Mr. Kiritharan:

Re: Licensed Paralegal: Ramesh Nicholas
Complainant: Gana Kiritharan
Case No.: 2010-85717

Osgoode Hall
130 Queen Street West
Toronto, Ontario
M5H 2N6

Tel: (416)947-3359
Fax: (416)947-5256

Complaints Resolution
Department
Professional Regulation

Danielle Wilson
Complaints Resolution
Counsel

dwilson@lsuc.on.ca

The Law Society has completed a review of the Licensed Paralegal's professional conduct in this matter. The review was conducted to determine if there is sufficient evidence of professional misconduct to support further regulatory proceedings involving the Licensed Paralegal. This letter sets out the results of the review.

1. REGULATORY OUTCOME

Based on my review, I have concluded that the Law Society did not have the jurisdiction over the Licensed Paralegal at the time of the retainer. In any event, there is insufficient evidence of professional misconduct in this matter to support further regulatory proceedings involving the Licensed Paralegal. Therefore, I have closed this file.

2. BACKGROUND AND REGULATORY ISSUES

You retained the Licensed Paralegal to represent you in discussions with TD Canada Trust with respect to your Line of Credit. By Complaint Form received by the Law Society on April 12, 2010, you alleged that the Licensed Paralegal engaged in professional misconduct.

The following professional regulation issues were identified and addressed with the Licensed Paralegal:

1. That he may have delayed in moving your matter forward;
2. That he may have failed to keep you apprised of the conduct of the matter;
3. That he may have failed to serve you; and
4. That he may have breached client confidentiality and/or may have made inappropriate comments about you.

3. NON-REGULATORY ISSUES

Apart from the matters the Law Society investigated as professional regulation issues, you also raised the following matters that are not professional regulation issues:

Negligence:

You are alleging that the Licensed Paralegal handled your case in a way that caused financial loss or other damage to you. When a Licensed Paralegal makes a mistake that causes financial loss or other damage to a client, there *may* be professional negligence.

The Law Society does not have regulatory jurisdiction to deal with negligence issues. Specifically, the Law Society does not have jurisdiction to:

- Give legal advice on the merits of a negligence claim;
- Decide if a Licensed Paralegal was negligent;
- Decide the amount of the losses or damages caused by any negligence;
- Order that a Licensed Paralegal pay damages for negligence; or
- Order a Licensed Paralegal to correct the problems caused by the alleged negligence.

If you want to pursue this matter, you should consider obtaining legal advice on the legal options available to you.

There are limitation periods setting the time in which you must sue a Licensed Paralegal if you are alleging negligence. If you do not sue the Licensed Paralegal within this time period, you may lose your right to do so. The fact that you have made a complaint to the Law Society or that the Law Society may be conducting an investigation regarding conduct issues is not relevant to any civil suit you may wish to bring against the Licensed Paralegal. Your complaint to the Law Society will not stop a limitation period from running or expiring. You are responsible to ensure that the requirements for any time limits are properly met.

Fees:

The Law Society does not have statutory jurisdiction to determine how much, if anything, a client should pay for professional services or the terms of payment. These are private contractual and business matters between the licensed paralegal and client. Therefore, your legal obligation to pay the licensed paralegal any amount for fees and/or disbursements and the amount, if any, properly payable are legal issues and not professional regulation issues.

If you are disputing the amount of money you owe or paid to the Licensed Paralegal, you can have the account addressed in the Small Claims Court. The Court, not the Law Society, has jurisdiction over disputes relating to the accounts of licensed paralegals. A judge may review and adjust a licensed paralegal's account in the appropriate circumstances.

Your Legal Matter:

The Law Society cannot intervene in, change results of, or provide legal advice about your legal matter. You may wish to obtain legal advice on any legal options available to you.

4. MATERIAL AND INFORMATION CONSIDERED

I have considered all of the material and information provided to the Law Society by you and the Licensed Paralegal.

5. YOUR POSITION

You held a Line of Credit with TD Canada Trust. You stated that the balance was suddenly zero and the account was closed on October 19, 2005. On April 3, 2007, you attended at TD Canada Trust and a bank representative advised that the balance was paid because the loan was sold to a collection agency.

You were referred to the Licensed Paralegal by Mr. Kandiah Nathan, a financial advisor. You retained the Licensed Paralegal on September 7, 2007 to communicate with TD Canada Trust with respect to your Line of Credit. Although you advised the Licensed Paralegal that you had a deadline of October 19, 2007, the first communication from TD Canada Trust was not received until October 12, 2007. You allege that the Licensed Paralegal told you that “his” lawyer, Peter Connolly, was communicating with TD Canada Trust. Despite several requests for copies of the communication, it was never provided to you. On October 15, 2007, you requested the Licensed Paralegal’s assistance in drafting your Statement of Claim but he refused to help you. You terminated the retainer with the Licensed Paralegal on October 16, 2007.

A few days after the retainer was terminated, you encountered Mr. Nathan at the TTC Warden Subway Station. He informed you that the Licensed Paralegal showed him details of your TD Canada Trust bank account. You also state that Mr. Nathan suggested to you that you were suffering from a psychiatric problem and that is the reason why you were saying that you had been the victim of fraud. You allege that the Licensed Paralegal “received an illegally obtained psychiatric diagnosis from TD Canada Trust or from some other party” and disclosed its contents to Mr. Nathan.

On December 14, 2007, you swore an Affidavit entitled “Affidavit of Document 3 Civil” with the subheading “(Gana Kiritharan’s Attempts to Communicate with TD Canada Trust and Confusing Reply from the Bank)”. In this document, you identify your attempts to obtain information and answers from TD Canada Trust with respect to your Line of Credit.

On September 26, 2008, you swore an Affidavit entitled “Affidavit of Document 10 Civil” with the subheading “(Psychiatric Diagnosis of Gana Kiritharan’s Mental Condition)”. You state that the “Fraudulent Interferences” you had experienced had caused you to feel stressed and depressed. At paragraph 2, you state that you were able to manage this “by listening music [sic],

travelling, reading books and taking enough rest.” You state at paragraph 13 that, on June 4, 2008, your psychiatrist, Dr. Sooriabalan, diagnosed you with “Delusional Disorder of Persecutory Type”. You advise that you suggested to Dr. Sooriabalan that his diagnosis may be a mistake because you were the victim of fraud. You also state that you believe that the psychiatric illness may have started as early as March or April, 2003.

6. LICENSED PARALEGAL’S RESPONSE

The Licensed Paralegal’s response was set out in his letter to the Law Society dated August 18, 2010, a copy of which was provided to you under cover of letter dated September 16, 2010. I will not reiterate the Licensed Paralegal’s response in this letter.

7. ANALYSIS

a. Evidentiary Burden

The Law Society requires clear and convincing proof of professional misconduct based on cogent evidence before it can proceed with further regulatory proceedings against a licensed paralegal. This standard of proof helps maintain a balance of procedural fairness between the Licensed Paralegal’s proper professional interests and the Law Society’s regulatory mandate to protect the public from licensed paralegals who act unprofessionally. The Law Society can only proceed on the basis of clear and convincing proof based on cogent evidence.

b. Review of the Evidence

You allege that the Licensed Paralegal engaged in professional misconduct as follows:

- 1. That he may have delayed in moving your matter forward.**
- 2. That he may have failed to keep you apprised of the conduct of the matter.**
- 3. That he may have failed to serve you.**
- 4. That he may have breached client confidentiality and/or may have made inappropriate comments about you.**

You allege that the Licensed Paralegal delayed in taking action on your behalf and failed to keep you apprised of the status of your matter. You further advise that the Licensed Paralegal failed to serve you in that he refused to help you draft your Statement of Claim. You further allege that the Licensed Paralegal breached client confidentiality and/or made inappropriate comments about you to Mr. Nathan, a financial advisor in the same building as the Licensed Paralegal.

On May 1, 2007, the Law Society became responsible for regulating the paralegal profession. The Rules and By-laws that apply to paralegals came into effect on May 1, 2007. The Law Society issued the first paralegal licence on March 31, 2008. The Licensed Paralegal’s retainer

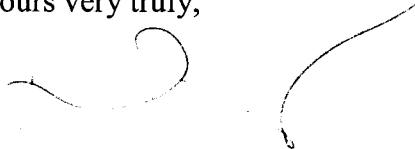
commenced and was terminated prior to 2008. Therefore, the Law Society's jurisdiction may be limited in this regard.

The evidence suggests that you retained the Licensed Paralegal on September 7, 2007 and terminated his retainer on October 16, 2007. The Licensed Paralegal was not a licensed member of the Law Society of Upper Canada at that time. In any event, I have reviewed all of the materials provided by you and the Licensed Paralegal. Even if the Licensed Paralegal had been licensed at the time of the retainer, the evidence does not raise any professional conduct concerns about the Licensed Paralegal's conduct during his representation of you.

8. CONCLUSION

Since the evidence does not support further regulatory proceedings, this file is closed.

Yours very truly,



Danielle Wilson
Complaints Resolution Counsel

DW/kpm

cc: Mr. Ramesh Nicholas



The Law Society of
Upper Canada

Barreau
du Haut-Canada

February 8, 2011

Private & Confidential

Gana Kiritharan
307 - 10 Stonehill Court
Scarborough, Ontario M1W 2X8

Dear Mr. Kiritharan:

Re: Lawyer: Thillainathan Sritharan
Complainant: Gana Kiritharan
Case No.: 2010-85719

Osgoode Hall
130 Queen Street West
Toronto, Ontario
M5H 2N6

Tel: (416)947-3359
Fax: (416)947-5256

Complaints Resolution
Department
Professional Regulation

Danielle Wilson
Complaints Resolution
Counsel

dwilson@lsuc.on.ca

The Law Society has completed a review of the Lawyer's professional conduct in this matter. The review was conducted to determine if there is sufficient evidence of professional misconduct to support further regulatory proceedings involving the Lawyer. This letter sets out the results of the review.

1. REGULATORY OUTCOME

Based on my review, I have concluded that there is insufficient evidence of professional misconduct in this matter to support further regulatory proceedings involving the Lawyer. Therefore, I have closed this file.

2. BACKGROUND AND REGULATORY ISSUES

You sought a consultation with the Lawyer with respect to a proposed fraud action against TD Canada Trust. By Complaint Form received by the Law Society on April 12, 2010, you alleged that the Lawyer engaged in professional misconduct.

The following professional regulation issues were identified and addressed with the Lawyer:

- That he may have been uncivil and/or made inappropriate comments to a prospective client.

3. NON-REGULATORY ISSUES

Apart from the matters the Law Society investigated as professional regulation issues, you also raised the following matters that are not professional regulation issues:

Your Legal Matter:

The Law Society cannot intervene in, change results of, or provide legal advice about your legal matter. You may wish to obtain legal advice on any legal options available to you.

4. MATERIAL AND INFORMATION CONSIDERED

I have considered all of the material and information provided to the Law Society by you and the Lawyer.

5. YOUR POSITION

You advise that you sought an opinion from the Lawyer with respect to a potential fraud action. You advise that you met with the Lawyer in December of 2006. You state that, without looking at your evidence, the Lawyer told you that you were suffering from a psychiatric problem, which is the reason why you were saying that you had been the victim of fraud. You allege that he further advised you to listen to music and warned you that suicide rates are high in the winter.

You advise that you held a Line of Credit with TD Canada Trust. You stated that the balance was suddenly zero and the account was closed on October 19, 2005. On April 3, 2007, you attended at TD Canada Trust and a bank representative advised that the balance was paid because the loan was sold to a collection agency.

You provided a copy of an Affidavit sworn by you on September 26, 2008, entitled "Affidavit of Document 10 Civil" with the subheading "(Psychiatric Diagnosis of Gana Kiritharan's Mental Condition)". You state that the "Fraudulent Interferences" you had experienced had caused you to feel stressed and depressed. At paragraph 2, you state that you were able to manage this "by listening music [sic], travelling, reading books and taking enough rest." You state at paragraph 13 that, on June 4, 2008, your psychiatrist, Dr. Sooriabalan, diagnosed you with "Delusional Disorder of Persecutory Type". You advise that you suggested to Dr. Sooriabalan that his diagnosis may be a mistake because you were the victim of a fraud. You also state that you believe that the illness may have started as early as March or April, 2003.

6. LAWYER'S RESPONSE

The Lawyer's response was set out in his letter to the Law Society dated June 3, 2010, a copy of which was provided to you under cover of letter dated June 9, 2010. I will not reiterate the Lawyer's response in this letter.

7. ANALYSIS

a. Evidentiary Burden

The Law Society requires clear and convincing proof of professional misconduct based on cogent evidence before it can proceed with further regulatory proceedings against a lawyer. This standard of proof helps maintain a balance of procedural fairness between the Lawyer's proper professional interests and the Law Society's regulatory mandate to protect the public from lawyers who act unprofessionally. The Law Society can only proceed on the basis of clear and convincing proof based on cogent evidence.

b. Rules of Professional Conduct

I have conducted my analysis of the complaint while considering the following *Rules of Professional Conduct*.

- 6.03 (1)** A lawyer shall be courteous, civil, and act in good faith with all persons with whom the lawyer has dealings in the course of his or her practice.

c. Review of the Evidence

You allege that the Lawyer engaged in professional misconduct. I will deal with the allegations below.

- That he may have been uncivil and/or made inappropriate comments to a prospective client.

You allege that the Lawyer was uncivil to you and suggested that you were suffering from a psychiatric disorder. You are concerned that the Lawyer received information from another party that you are a psychiatric patient. You further allege that the Lawyer suggested that you listen to music and warned you that suicide rates are higher in the winter.

The Lawyer's position is that you were a walk-in client who attended his office alleging that you had been defrauded by TD Canada Trust. You state that you met with the Lawyer in December 2006. The Lawyer had no notes to file and did not specifically recall the date of your meeting. He believes that you met with him more recently than 2006. The Lawyer states that he advised you resolve your issue directly with the bank and that it would be very costly and time-consuming to bring an action against the bank. The Lawyer states that you were adamant that you wished to bring an action against the bank and that he observed that you were "overly stressed". The Lawyer states that you seemed depressed when he advised you that he would not represent you in bringing an action against the bank. The Lawyer's position is that he "encouraged [you] in a friendly manner to look after [your] health and to listen to music to ease [your] tension."

Here, the Lawyer completely denies your allegation of professional misconduct and has provided his own version of the events which does not support a finding of professional misconduct on this issue. Given the complete denial by the Lawyer, the conflicting perspectives between the

Lawyer and you as to events, and the absence of independent corroboration from a disinterested source, I cannot conclude that the required standard of proof has been met. Since the required standard of proof has not been satisfied, there is no basis for further regulatory proceedings on this aspect of your complaint.

I recognize that you may have been unsettled by the Lawyer's remarks. However, I am satisfied with the explanation that the Lawyer's remarks were made in the context of your concerns about the potential fraud and its effect on your health.

Based on the foregoing, the evidence suggests that the Lawyer's remarks are not inappropriate to the extent that would support further regulatory proceedings on this allegation. Further regulatory proceedings must be supported by clear and convincing proof of professional misconduct based on cogent evidence. This standard of proof helps maintain a balance of procedural fairness between the Lawyer's proper professional interests and the Law Society's regulatory mandate to protect the public from lawyers who engage in professional misconduct.

To be clear, the Law Society has not assessed credibility as between you and the Lawyer and has not accepted or preferred the Lawyer's evidence over your evidence. The outcome of this aspect of your complaint is instead based on the Law Society's conclusion that the evidence does not meet the required standard of proof.

8. CONCLUSION

Since the evidence does not support further regulatory proceedings, this file is closed.

You may ask the Complaints Resolution Commissioner to review this complaint in accordance with the enclosed information sheet by making a request in writing within 60 days of the date of this letter.

Yours very truly,



Danielle Wilson
Complaints Resolution Counsel

DW/kpm

cc: Mr. Thillainathan Sritharan

Enclosure:

1. Complaints Resolution Commissioner Information Sheet – 1 page