THE LAW SOCIETY OF BRITISH COLUMBIA

IN THE MATTER OF THE *LEGAL PROFESSION ACT*, SBC 1998, C. 9

AND

GLEN ORRIS, Q.C.

(a member of the Law Society of British Columbia)

RULE 3-7.1 CONSENT AGREEMENT SUMMARY

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1. On November 26, 2021, the Chair of the Discipline Committee accepted a proposal submitted by Glen Orris, Q.C. (the "Lawyer") under Rule 3-7.1 of the Law Society Rules ("Rules").

2. Under the proposal, the Lawyer admitted that he committed the following misconduct, and that it constitutes professional misconduct pursuant to s. 38(4) of the *Legal Profession Act*:

   Mr. Orris admits that on April 25, 2019, in the course of acting for a client in a "faint hope" application pursuant to s. 745.6 of the *Criminal Code* in the Supreme Court of British Columbia, Docket 27402-1, Vancouver Registry, he communicated with persons he knew to be members of the jury panel for the purpose of advancing or protecting his client's interest in the application, contrary to rule 5.5-1 of the *Code of Professional Conduct for British Columbia*.

3. Under the proposal, the Lawyer agreed to be suspended from the practice of law for a period of three (3) weeks, commencing on December 2, 2021.

4. In making its decision, the Chair of the Discipline Committee considered an Agreed Statement of Facts dated November 19, 2021, and a letter to the Chair of the Discipline Committee. The Chair also considered the Lawyer's prior Professional Conduct Record,

which consisted of one conduct review from 2013 for his conduct communicating and interacting with a juror in a trial on which he was counsel at a gym during lunch breaks.

5. This consent agreement will now form part of the Lawyer's Professional Conduct Record.

6. Pursuant to Rule 3-7.1(5) of the Rules, and subject to Rule 3-7.2 of the Rules, the Law Society is bound by an effective consent agreement, and no further action may be taken on the complaint that gave rise to the agreement.

7. The admitted facts were set out in an Agreed Statement of Facts dated November 19, 2021. The facts have been summarized below.

I. Summary of Facts

8. On April 25, 2019, Mr. Orris communicated with jury panel members during the morning break and after initial jury selection. Outside the locked courtroom doors, while awaiting court to commence, Mr. Orris responded to a question regarding the "faint hope" process and two (2) comments.

9. While Mr. Orris was standing by the door to the courtroom, one of the members of the jury panel asked him "What kind of hearing is this? Isn't it up to the parole board?" (or words to that effect).

10. Mr. Orris responded to the question by stating something to the effect of "The hearing was simply to determine whether his client's pre-determined parole ineligibility could be reduced. The ultimate release would be determined by the parole board".

11. A further question was then asked by either the same person or another jury panel member close by. It was to the effect of "Do we have to decide what he did?" As the crown and defence had an Agreed Statement of Facts which was to be filed as part of the proceedings, Mr. Orris answered to the effect that "The parties had prepared an agreed statement of facts as to what happened in relation to the murder, and that was something the jury would not have to decide".

12. About this point in the break, Crown Counsel and her and co-counsel returned to the courtroom door. Having heard Mr. Orris talking to the jury panel members, Crown Counsel asked to speak with him and his junior away from the jury panel members. Mr. Orris and his junior obliged and moved away from the courtroom door. Crown Counsel expressed her concern about him speaking with the jurors as they may need to replace one of the panel members. Mr. Orris advised that it was not something he wanted to do and that he was just answering their questions with information they had already been told or was not in issue. Crown Counsel indicated to Mr. Orris that it was not appropriate.

13. A male member of the jury panel made a comment, in a loud voice, to the effect that "He had two friends who had both been convicted of murder, who had been released, and then killed again". Believing the comment to be inflammatory and prejudicial to his client and his application, Mr. Orris answered to the effect "I don't have any knowledge of that, sir. Such a thing may have occurred, but it is, in my experience, very rare".

14. Another comment was made by either the same jury panel member or a different male jury panel member to the effect of "We should still have the death penalty". Believing the comment was a criticism of his client and prejudicial to his application, Mr. Orris responded with words to the effect that he was glad he was working in a justice system that did not have the death penalty.

15. Immediately after returning to the courtroom, the hearing judge brought to counsel's attention that the sheriff had advised of four (4) separate jurors having potential ineligibility issues. After being questioned by the hearing judge, four (4) of the selected jurors were discharged from the jury.

16. The hearing judge then wished to immediately select the four (4) replacement jurors by recalling the remaining jury panel members. At this time, Crown Counsel advised the hearing judge about her concerns regarding Mr. Orris' communications with the remaining jury panel members.

17. After hearing submissions concerning the events outside the courtroom door during the break, out of fairness concerns, the hearing judge discharged the jury panel and adjourned the selection of the remaining jurors until April 29, 2019, when they would be selected from a different jury panel.

18. Mr. Orris was cooperative and apologetic when the matter was brought to the attention of the trial judge and readily agreed to the process for remedying the jury selection issue recommended by Crown Counsel.