

LAW SOCIETY OF ALBERTA
IN THE MATTER OF THE *LEGAL PROFESSION ACT*;
AND
IN THE MATTER OF A HEARING REGARDING
THE CONDUCT OF BALRAJ CHHOKER,
A MEMBER OF THE LAW SOCIETY OF ALBERTA

Hearing Committee:

Glen Buick - Chair

Douglas McGillivray, QC - Committee Member

Edith Kloberdanz - Committee Member

Appearances:

Counsel for the Law Society – Shanna Hunka

Counsel for Balraj Chhoker – Dale Ellert

Hearing Dates:

August 17, 2017

Hearing Location:

Law Society of Alberta at 500, 919 – 11th Avenue S.W., Calgary, Alberta

**HEARING COMMITTEE REPORT:
SANCTION**

Jurisdiction, Preliminary Matters and Exhibits

1. On August 17, 2017, the Hearing Committee (Committee) re-convened to consider sanctions for Mr. Chhoker. Since the last date of the hearing, Mr. Hawkes had been appointed to the Provincial Court of Alberta and as a result, there were changes in the composition of the Committee. Douglas McGillivray, Q.C., was appointed pursuant to section 59(4) of the *Legal Profession Act*, joining Ms. Kloberdanz and Mr. Buick. Mr. Buick was named Chairman for the sanction hearing.
2. Counsel for both the LSA and Mr. Chhoker indicated they had no objection to the composition of the Committee as reconstituted.

3. Submissions had been received from both counsel as to possible sanctions, as Mr. Chhoker had been found guilty in respect of all the six citations he faced. In determining the appropriate sanction, the Committee had in mind particularly the general factors laid out in the LSA's Hearing Guide, including:
 - (i) The need to maintain the public's confidence in the integrity of the profession, and the ability of the profession to effectively govern its members;
 - (ii) Specific deterrence of the member from further misconduct;
 - (iii) General deterrence of other members who might choose to ignore or withhold full cooperation from their regulator;
 - (iv) Denunciation of this conduct;
 - (v) Rehabilitation of the member; and
 - (vi) Avoiding undue disparity with the sanctions imposed in other cases.
4. In considering mitigating factors to be taken into account in sanctioning, the Committee noted Mr. Chhoker's cooperative and productive experience so far with Practice Management, and that Mr. Chhoker had filed a 54 paragraph Statement of Admitted Facts, in which he acknowledged many facts surrounding the conduct subject of the citations. Mr. Chhoker also admitted citations 3, 4, and 5.
5. The principal aggravating factors related to citations 3, 4, and 5. Not only was Mr. Chhoker's failure to report unethical conduct a significant infraction in itself, his reliance on the altered documents at the questioning under oath made his answers false and misleading, and his adherence to this position, which he knew to be wrong, led to a much longer and more costly investigative process than would otherwise have been possible. It was the substance of his own conduct, however, which most influenced the Committee.
6. The public has the right to expect honesty from a lawyer. As Mr. Chhoker's counsel admitted to the Committee, there is no excuse for not telling the truth under oath, and then to continue letting the falsehood impede the investigation by his regulator. Had he not eventually told the truth to the investigator, Mr. Chhoker might well have faced disbarment.
7. Taking into account the foregoing considerations, the evidence, and the representations made to this Committee, it is ordered that Balraj Chhoker be suspended from practice for a period of six months, to commence September 5, 2017. Should that date be found impractical to ensure the appropriate actions in connection with Mr. Chhoker's present cases, it may be adjusted in consultation with the LSA. If it should prove impossible to set an agreed date, the matter can be brought back to the Committee.

Costs

8. As a general rule, members found guilty of conduct deserving of sanction should pay the costs of the process. Accordingly, and taking into account submissions by counsel for both the LSA and Mr. Chhoker, it is ordered that he pay costs of \$75,000.00, over a period to be determined in consultation with the LSA. The Committee understands that it may be difficult for Mr. Chhoker to pay this amount quickly, and recommends leniency on the part of the LSA with respect to time. As with the date of commencement of the suspension, if it is impossible to reach agreement regarding the time within which Mr. Chhoker will pay the costs, the matter may be brought back to the committee for determination. Counsel for Mr. Chhoker suggested that part of the costs (up to \$5000.00) might be covered by continuing legal education, including necessary and reasonable travel expense. It was agreed that this suggestion had merit and should be the subject of negotiation with the LSA.
9. Hearing exhibits shall be made available to the public, with the exception that they shall be redacted to prevent the disclosure of the identity of third parties and to prevent the disclosure of confidential or privileged information.
10. There shall be a Notice to the Profession.
11. There shall be a notice to the Attorney General.

Dated at the City of Calgary, in the Province of Alberta, this 30th day of August, 2017 by:

Glen Buick, Chair

Douglas McGillivray, QC

Edith Kloberdanz