

**IN THE MATTER OF PART 3 OF THE  
LEGAL PROFESSION ACT, RSA 2000, c. L-8**

**AND**

**IN THE MATTER OF A HEARING REGARDING  
THE CONDUCT OF GEOFFREY GREEN  
A MEMBER OF THE LAW SOCIETY OF ALBERTA**

**Hearing Committee**

Deanna Steblyk, KC – Chair and Bencher  
Jodi Edmunds – Public Adjudicator  
Kent Teskey, KC – Former Bencher

**Appearances**

Shanna Hunka – Counsel for the Law Society of Alberta (LSA)  
Alain Hepner, KC – Counsel for Geoffrey Green

**Hearing Dates**

July 7, 2022

**Hearing Location**

Virtual Hearing

**HEARING COMMITTEE REPORT**

**Overview**

1. On April 20, 2021, a Conduct Committee Panel directed the following citations (Citations) to hearing:
  1. It is alleged Geoffrey Green knowingly assisted a disbarred lawyer to practice law and that such conduct is deserving of sanction; and
  2. It is alleged Geoffrey Green breached solicitor client privilege when he shared client information with a third party without client consent.
2. Mr. Green was called to the Alberta Bar in 1994. He is a sole practitioner in Edmonton and for the most part practices in the area of criminal law, primarily with clients of Legal Aid Alberta. He was a long-time close friend of Shawn Beaver, a former criminal lawyer whom Mr. Green met in law school. The LSA suspended Mr. Beaver on May 28, 2015 for misappropriating client trust funds, and disbarred him on February 15, 2017. A Notice to the Profession concerning Mr. Beaver's disbarment was sent out on February 16, 2017.

3. While Mr. Beaver was suspended and later after he had been disbarred, Mr. Green collaborated with him in providing legal services to a number of clients on criminal matters. The LSA received information in this regard in December 2019 and contacted Mr. Green later that same month. An investigation followed.
4. On June 1, 2022, Mr. Green executed a Statement of Admitted Facts, in which he admitted the Citations and admitted that his conduct was deserving of sanction.
5. On July 7, 2022, the Hearing Committee (Committee) convened a hearing into Mr. Green's conduct, based on the Citations. Shortly after the commencement of the hearing, Mr. Green executed an Amended Statement of Admitted Facts (Amended Statement), which supersedes the June 1, 2022 Statement of Admitted Facts.
6. The Committee found that the Amended Statement was in the appropriate form, and therefore concluded that the conduct described in the Citations was conduct deserving of sanction pursuant to the *Legal Profession Act (Act)*. Thereafter, the primary issue before the Committee was the appropriate sanction.
7. After reviewing all of the evidence and exhibits, hearing Mr. Green's testimony, and considering the oral arguments made by counsel for the LSA and counsel for Mr. Green, the Committee concludes that based on the facts of this case, the appropriate sanction is a 12-month suspension.
8. In addition, pursuant to subsection 72(2) of the *Act*, the Committee orders Mr. Green to pay the costs of the LSA's investigation and hearing. Mr. Green must pay the costs prior to making any application for reinstatement.

### **Preliminary Matters**

9. There were no objections to the constitution of the Committee or its jurisdiction, and a private hearing was not requested. Accordingly, a public hearing into Mr. Green's conduct proceeded.

### **Amended Statement and Other Background Information**

10. In the Amended Statement, Mr. Green admitted that between December 16, 2016 and December 19, 2019, he worked with Mr. Beaver on 55 client files. During this period, he and Mr. Beaver exchanged numerous e-mails discussing the files, fees, litigation strategy, and pleas, and also exchanged disclosure materials.
11. Mr. Green further admitted that Mr. Beaver provided legal services on these client matters, including preparing arguments and legal briefs; research; consultation; providing legal advice, legal opinions, and legal strategies; reviewing disclosure; and drafting correspondence to the Crown.

12. According to the Amended Statement, Mr. Green started to collaborate with Mr. Beaver after Mr. Green loaned Mr. Beaver a total of \$25,000 in late 2014 and early 2015. Mr. Beaver offered to repay the loan by providing legal work.
13. However, after the debt was paid, Mr. Beaver continued to do legal work in collaboration with Mr. Green, and Mr. Green paid Mr. Beaver directly from his (Mr. Green's) personal bank account. Therefore, while Mr. Beaver started working for Mr. Green prior to his (Mr. Beaver's) suspension by the LSA, he continued to do so through his suspension and disbarment.
14. Mr. Green admitted that he was aware Mr. Beaver was disbarred during this time but continued to work with him anyway, and thereby knowingly assisted Mr. Beaver to engage in the unauthorized practice of law. Mr. Green said that he did not tell anyone else about this arrangement because he recognized that it was not right. The vast majority of the clients on whose files Mr. Beaver worked were unaware of Mr. Beaver's involvement.
15. Mr. Green also admitted that in the course of collaborating with Mr. Beaver on the client files, he provided confidential client information to Mr. Beaver without the clients' knowledge or consent. Mr. Green therefore breached solicitor-client privilege, as he admitted in the Amended Statement.
16. As mentioned, the Committee found that the Amended Statement was in the appropriate form, and that the conduct described in the Citations was proven and constituted conduct deserving of sanction pursuant to the *Act*.

### **Mr. Green's Evidence**

17. Mr. Green gave evidence before the Committee concerning his background and the factual context for the Citations. Generally, the Committee found him to be a credible witness, although at times, he tended to try and minimize his level of knowledge about Mr. Beaver's suspension and disbarment at the time they occurred, and to try and minimize his own culpability. Where he gave evidence that might be taken to contradict the clear admissions he made in the Amended Statement, the Committee preferred the Amended Statement. On his behalf, his counsel indicated that Mr. Green was not attempting to resile from any of his admissions.
18. The following is a summary of the evidence Mr. Green gave that the Committee finds relevant to sanction:
  - 1) He is currently 67 years old but does not wish to retire yet.
  - 2) He had a history of substance abuse early in his legal career, which led him to resign from his practice for 16 months to seek rehabilitation. He was reinstated in April 1999 and has been sober ever since.

- 3) He has a disciplinary history with the LSA from March 1999. The misconduct included breaching undertakings given to the LSA, failing to be candid with the LSA, misappropriating small amounts of trust funds from three clients (approximately \$1000 or less each), and failing to follow the LSA's accounting rules. He was suspended retroactively for 16 months (to coincide with the 16 months he took off from his practice to seek rehabilitation, as referenced above), given a reprimand, fined \$1500, and ordered to pay costs of \$2500. His misconduct was also referred to the Attorney General of Alberta in accordance with the requirements of the *Act*.
  - 4) His prior misconduct occurred during the period that he was struggling with substance abuse.
  - 5) He has battled a number of serious health issues over approximately the past ten years.
  - 6) Mr. Green's friendship with Mr. Beaver was very close. Mr. Green testified that Mr. Beaver was very supportive of him throughout his career, including during the time that he struggled with addiction and through his recovery, as well as through his other personal and health challenges. He indicated that he felt indebted to Mr. Beaver as a result.
  - 7) He is no longer in contact with Mr. Beaver; they last spoke in December 2019. He has made significant efforts to overhaul his lifestyle and assured the Committee that nothing like this will happen again.
19. Mr. Green emphasized that the foregoing evidence was given to provide the Committee with context for his misconduct, and not to excuse the misconduct. He plainly stated, "I'm completely at fault." He also expressed his remorse, advising the Committee that he is both ashamed and disappointed in himself over what he did. He extended his apologies to the LSA, his clients, and the Crown prosecutors who trusted him not to share disclosure packages with third parties. He further indicated that he felt grateful to the LSA for stepping in and stopping his arrangement with Mr. Beaver.
20. Despite his other admissions, Mr. Green indicated that while he was aware of Mr. Beaver's disbarment, he was not aware of his obligations under section 108 of the *Act* or his obligation to prevent others from the unauthorized practice of law. Section 108 prohibits any active member of the LSA from employing in connection with the member's practice as a barrister and solicitor any former member or any member whose membership is under suspension. According to Mr. Green, he was unaware of section 108 until the LSA intervened in December 2019 but acknowledged that he should have known.

21. Mr. Green tendered into evidence seven character reference letters from colleagues at the Bar, one from members of his family, one from his singing instructor, three from friends, one from his accountant, and five from former clients. His colleagues spoke highly of him and opined that he had been exploited and manipulated by Mr. Beaver. Several suggested that Mr. Green's clients had not been harmed by his misconduct and may in fact have benefitted from Mr. Beaver's involvement in their files. Generally, all of Mr. Green's referees were positive, and a number of them expressed their wish that he be treated with leniency.
22. Also entered into evidence was a psychological report concerning Mr. Green prepared by a senior clinical-forensic psychologist, which attempted to explain some of the reasons Mr. Green may have conducted himself as he did. Counsel for the LSA urged the Committee to treat this report with caution given some of its factual assertions and the opinion of the author as to the low chance of Mr. Green repeating this behaviour in the future.
23. On cross-examination by LSA counsel:
  - 1) Mr. Green acknowledged that while the Amended Statement refers to only 55 files he worked on with Mr. Beaver's assistance over a three-year period, there were additional files they worked on together prior to December 2016. They worked together on legal files for a period of approximately four-and-a-half years.
  - 2) Mr. Green acknowledged that his working arrangement with Mr. Beaver was not recorded in writing, and that he did not issue T4 slips for the work for which he paid Mr. Beaver from his personal account.
  - 3) Despite the publicity, Mr. Green denied that he was aware of the LSA's extensive dealings with Mr. Beaver over the years, including the many steps it has had to take in its effort to prevent Mr. Beaver from the unauthorized practice of law.
  - 4) He confirmed his acknowledgement that he sent confidential client information to Mr. Beaver during the course of their working relationship, including disclosure in breach of his undertakings to the Crown not to share that information with third parties.
  - 5) Mr. Green admitted that he told one client on whose file Mr. Beaver worked not to cooperate with the LSA. However, he stated, he later corrected himself and told the client to tell the LSA whatever the client wanted.
24. In answer to a question posed by a member of the Committee, Mr. Green indicated that he paid Mr. Beaver from his personal account because it was a "side deal" that "felt wrong" morally. However, he reiterated that he did not think that he was personally in

breach of the *Act* or the LSA Rules until the LSA informed him of the same in December 2019.

### **The LSA's Submissions**

25. Counsel for the LSA argued that the appropriate sanction for Mr. Green's misconduct was a two-year suspension. Counsel also sought payment of the LSA's costs.
26. In support of this position, LSA counsel argued that Mr. Green acted knowingly and intentionally in involving Mr. Beaver in many of his client files, and emphasized that it was not a one-off mistake, but rather a lengthy period of misconduct that stretched over four-and-a-half years and only stopped when the LSA intervened. She disputed any suggestion that Mr. Green had been an unknowing "dupe" or that he had been merely reckless. Even if the Committee were to accept his evidence that he was unaware of his obligations until the LSA intervened, she argued, lawyers are expected to know their obligations and ignorance should not mitigate sanction.
27. LSA counsel also emphasized the notoriety of the LSA's proceedings against Mr. Beaver, who has been "disbarred and disgraced". She argued that Mr. Green's conduct is now inextricably bound to Mr. Beaver's, which is part of the reason for the LSA's severe position on sanction. She further argued that given the notoriety of Mr. Beaver's conduct and the depth of his friendship with Mr. Green, it was unlikely that Mr. Green was not aware of the LSA's proceedings against Mr. Beaver from the outset. Moreover, he knowingly breached solicitor-client confidentiality and his undertakings to the Crown without the knowledge of either the majority of the affected clients or the Crown prosecutors involved.
28. In terms of aggravating factors that support a severe sanction, LSA counsel pointed out that Mr. Green is experienced senior counsel with a prior disciplinary record for serious misconduct. Although that record is dated and involved only small amounts of money, she submitted that it speaks to his governability, especially since some of the citations concerned his interactions with the LSA. She further pointed out that in Mr. Beaver's conduct proceedings, Mr. Green wrote a letter in support that was misleading because it did not disclose their working relationship at the time.
29. LSA counsel also argued that it was aggravating that both Mr. Green and Mr. Beaver realized a personal benefit from this misconduct. Mr. Beaver has "thumbed his nose" at the LSA and its attempts to keep him from the unauthorized practice of law (attempts which included obtaining an injunction from the Alberta Court of Queen's Bench (as it then was) in February 2016), and Mr. Green was complicit in that by enabling him to do so. Only qualified, authorized, and insured lawyers are entitled to practice law in Alberta, counsel argued, and Mr. Green's conduct undercut the LSA's ability to maintain that standard.

30. LSA counsel acknowledged that there were some mitigating factors in Mr. Green's favour. While he was initially shocked by the LSA investigator's appearance in his office in December 2019, he fully cooperated with the LSA afterwards, and executed a statement of admissions that saved the LSA the time and cost of contested proceedings and saved witnesses from the inconvenience of having to appear to testify. She further acknowledged Mr. Green's expressions of remorse and regret and his apologies. The consequences to Mr. Green's clients were relatively minor, although counsel still emphasized that the consequences to the LSA and its efforts to prevent Mr. Beaver from practicing law were significant.
31. With respect to the character references in evidence in support of Mr. Green, LSA counsel urged the Committee to be cautious in ascribing them weight in our deliberations, arguing that even individuals who are esteemed highly by their colleagues and clients can perpetrate misconduct.
32. Noting the goals of specific and general deterrence in regulatory sanctions, LSA counsel submitted that specific deterrence was less of a concern in this case. The facts, Mr. Green's personal circumstances and the mitigating factors suggest that it is unlikely Mr. Green will engage in this type of misconduct in the future.
33. However, counsel argued, there is a strong need for general deterrence and denunciation so that others will not assist Mr. Beaver in breaking the law. She submitted that general deterrence is especially important here in light of Mr. Beaver's notoriety and the fact that his conduct to date suggests that he simply will not cease his efforts to practice law in the face of his disbarment. In addition to Mr. Green, another lawyer assisted Mr. Beaver and ultimately resigned pursuant to section 61 of the *Act* (which is a deemed disbarment); see *Law Society of Alberta v. Jura*, [2020] L.S.D.D. No. 147. The LSA is concerned that there are others who have been or will be willing to do the same.
34. The Committee was provided with a Book of Authorities, to which LSA counsel referred during her argument. She noted that there are no Alberta cases on point and highlighted *Law Society of British Columbia v. Singh*, [2021] L.S.D.D. No. 52, as the most factually similar to Mr. Green's circumstances. Mr. Singh had also enabled a notorious, disbarred lawyer to practice law and admitted the misconduct by entering into an agreed statement of facts. The hearing panel imposed a two-year suspension against Mr. Singh and commented that it had almost decided to disbar him.
35. Although the *Singh* panel specifically noted that a fine would be an insufficient sanction in that case, LSA counsel observed that in the decisions in the Book of Authorities dealing with breaches of client confidentiality, the typical sanction was a fine or short suspension. She therefore submitted that in these circumstances, the Committee could consider adding a fine against Mr. Green in relation to the second citation.

36. LSA counsel was of the view that despite the factual similarities, the misconduct in the *Jura* matter was much worse than Mr. Green's misconduct because Ms. Jura had continuously lied to the LSA, at Mr. Beaver's direction. Counsel therefore did not consider the *Jura* decision comparable to the matter before this Committee.
37. LSA counsel also urged the Committee to review the recent decision of Rooke, ACJ in *Law Society of Alberta v. Beaver*, 2021 ABQB 134 (*Beaver*) for its comprehensive review of the facts around the LSA's many attempts to prevent Mr. Beaver from illegally practicing law in Alberta.

### **Mr. Green's Submissions**

38. Counsel for Mr. Green argued that like sentencing in criminal law, sanctioning in this matter should be tailored to the individual. He emphasized the particular mitigating factors in this case, including Mr. Green's personal circumstances, age, and health challenges; his cooperation with the LSA; his contrition and remorse; and his apology. He pointed out that Mr. Green has now distanced himself from Mr. Beaver and argued that there is a negligible chance Mr. Green will engage in such misconduct again. He highlighted the reference letters in evidence provided by Mr. Green's colleagues, each of which was very supportive. He denied that Mr. Green had acted out of self-interest, submitting that Mr. Green had been motivated solely by the desire to help a friend and assist his clients.
39. Counsel acknowledged that there is no excuse for Mr. Green's behaviour, as Mr. Green either knew or ought to have known of his obligations vis-à-vis a suspended and then disbarred lawyer. By way of explanation, however, counsel referred to the factors identified in the psychologist's report and reference letters and the long friendship between Mr. Green and Mr. Beaver.
40. Mr. Green's counsel disagreed that a long suspension is warranted, especially a two-year suspension that he suggested is tantamount to disbarment. In effect, he argued, the LSA was seeking to punish Mr. Beaver again rather than addressing Mr. Green's specific misconduct. He disagreed that there remains a great need for general deterrence, as both Mr. Beaver's and Mr. Green's matters are already widely known among the members of the Alberta Bar, and that itself has had a deterrent effect.
41. Counsel also disagreed with the LSA's suggestion that there are issues with Mr. Green's governability. He urged the Committee to focus instead on the good Mr. Green can do by providing legal services to vulnerable clients through Legal Aid Alberta.
42. Counsel did not have a specific position on a sanction that he considered appropriate. He suggested that the Committee could restrict Mr. Green's practice to criminal law or impose a short suspension of 30 to 60 days in combination with a fine and an order to



pay costs. Counsel did not suggest a monetary figure that he would consider sufficient, but noted that whatever the amount, Mr. Green would require time to pay.

### **Analysis and Decision on Sanction**

43. In assessing the appropriate sanction in this matter, the Committee had reference to the LSA's *Pre-Hearing and Hearing Guideline*, October 1, 2021 (Guideline). According to the Guideline, at paragraph 102, "[t]he purpose of disciplining lawyers is to protect the public interest and maintain public confidence in the legal profession" (see also paragraph 187). Sanction orders should therefore seek to achieve both specific and general deterrence, ensure that the LSA "can effectively govern its members" and denounce the misconduct at issue (at paragraph 188).
44. The Guideline also provides information concerning the factors a hearing committee should consider when determining sanction. It identifies the seriousness of the misconduct as the most important factor, and suggests that to assess seriousness, hearing committees should reflect on a series of sub-factors including (at paragraph 200):
  - 1) the degree to which the misconduct constitutes a risk to the public
  - 2) the degree to which the misconduct constitutes a risk to the reputation of the legal profession
  - 3) the degree to which the misconduct impacts the ability of the legal system to function properly
  - 4) the potential impact of the misconduct on the [LSA's] ability to effectively govern its members
  - 5) the harm caused as well as the potential harm to a client, the public, the profession, or the administration of justice that is reasonably foreseeable at the time of the lawyer's misconduct
  - 6) the number of incidents involved
  - 7) the length of time involved
45. The Guideline further provides that hearing committees should consider whether the lawyer acted "intentionally, knowingly, recklessly or negligently" (at paragraph 201), and indicates that relevant aggravating and mitigating factors may include (at paragraphs 206-207):

- 1) the lawyer's prior discipline record (although the amount of time that has passed since any prior misconduct is relevant)
  - 2) the length of time lawyer has been in practice
  - 3) whether the lawyer has acknowledged the wrongdoing and expressed remorse
  - 4) the extent to which the lawyer cooperated during the LSA's conduct process
  - 5) any "medical, mental health, substance abuse or other personal circumstances that impacted the lawyer's conduct"
  - 6) any personal benefit realized by the lawyer from the misconduct
46. The Committee finds that Mr. Green's misconduct was very serious. It was perpetrated by an experienced senior lawyer, extended over a long period of time (approximately four-and-a-half years), and involved dozens of client files. Section 109 of the *Act* provides that anyone who contravenes section 108 is guilty of an offence. This demonstrates the seriousness with which the Legislature has viewed this kind of conduct.
47. While it does not appear that any of Mr. Green's clients were specifically harmed, he exposed them to the risk of harm by permitting a suspended and then disbarred lawyer to work on their files and access their confidential information, all without their knowledge or consent. The sanctity of solicitor-client privilege is a fundamental tenet of our legal system, and Mr. Green breached both his clients' privilege and his undertaking to the Crown not to share disclosure packages with third parties. As a hearing panel of the Law Society of British Columbia stated in *Law Society of British Columbia v. McLeod*, [2015] L.S.D.D. 15 (at paragraph 15):
- ... client harm following a breach of client confidentiality is irrelevant to a determination of professional misconduct. When such breaches occur, there is harm to the reputation of lawyers generally and to the public's faith in the solicitor-client relationship, a relationship steeped in trust.
48. Further, the risk could have extended to other members of the public who retained Mr. Green to represent them. The public has high expectations of lawyers and their integrity and expects that they will exercise good judgment. Misconduct of this nature undermines the public's trust in the profession as well as the public's confidence in the LSA's capacity to govern its members effectively.
49. In addition to the harm caused to the reputation of the legal profession, harm was caused to the administration of justice and other members of the Alberta Bar. The fees paid by the latter fund LSA operations, including the significant costs the LSA has incurred in dealing with Mr. Beaver over the past seven years. Mr. Green's actions

enabled Mr. Beaver to continue to practice law in defiance of both the LSA's enforcement efforts and a court-ordered injunction. Mr. Green therefore enabled Mr. Beaver's contempt of court. His actions also undermined the LSA's ability to regulate the profession and discharge its mandate to ensure that only qualified, authorized, and insured people provide legal services in this province (see *Beaver* at paragraph 104).

50. The Committee also finds that Mr. Green acted intentionally. The evidence was that he was not duped or coerced into accepting Mr. Beaver's assistance on his client files, nor did he simply make a mistake. Whether or not he was specifically aware of section 108 of the *Act* or the exact steps the LSA was taking to stop Mr. Beaver, Mr. Green acknowledged that he should have been aware of his obligations not to facilitate the unauthorized practice of law and knew that what he was doing was wrong. Even if the Committee were to accept that Mr. Beaver exerted a powerful influence on Mr. Green given their long friendship, Mr. Green made his own decisions and must be held accountable for them. Mr. Green testified that at one time, he volunteered on the LSA's Practice Review Committee. By his own admission, this means that he should have known better than to enable Mr. Beaver as he did. At the very least – especially once Mr. Beaver was disbarred – Mr. Green should have known that he could consult with someone at the LSA for advice.
51. In terms of mitigating factors that would militate in favour of a more lenient sanction, the Committee took into account Mr. Green's age, his admissions and cooperation with the LSA's conduct process, the strength of the many character references he provided, and in particular, his apologies and his clear expression of significant remorse. The Committee also took note of the rather tragic nature of some of Mr. Green's personal circumstances and health challenges. However, the Committee was careful not to ascribe them excessive weight. There was a lack of persuasive evidence that those circumstances and challenges were causally connected to this misconduct.
52. In terms of aggravating factors (in addition to the seriousness of Mr. Green's intentional misconduct) that would suggest a more severe sanction is appropriate, the Committee took into account the following:
  - 1) Mr. Green's prior discipline record. While the Committee did not give it much weight in light of the fact that the record is over 20 years old, we agreed with LSA counsel that it is somewhat relevant to Mr. Green's governability because some of the citations concerned his interactions with the LSA. More recent and more relevant in the Committee's view is the blatant dishonesty in the February 8, 2017 reference letter Mr. Green wrote to the LSA in support of Mr. Beaver for the purpose of Mr. Beaver's conduct proceedings. Mr. Green wrote, "over the years, Shawn has assisted me with files on a regular basis. I try not to take too much of his time, so I contact him perhaps once or twice a year on average." This was knowingly false and undermined the LSA's efforts to assess an appropriate sanction against Mr. Beaver.

- 2) The considerable length of time Mr. Green has been in legal practice. Senior members of the Bar are expected to know better than their junior colleagues and to conduct themselves in accordance with the *Act*, the LSA's Rules, and the *Code of Conduct*.
53. The Committee also considered whether Mr. Green realized a personal benefit from his misconduct. At least initially, it is likely that he did so by virtue of the fact that he was receiving services from Mr. Beaver in satisfaction of the \$25,000 loan Mr. Green said he could ill afford to extend to Mr. Beaver, and that Mr. Beaver may otherwise have had difficulty repaying. The benefit to Mr. Green after the loan was paid off is less clear based on the evidence before us.
54. In an April 13, 2020 letter to the LSA, Mr. Green claimed that he "acted primarily out of a desire to assist [his] clients' full answer and defence". Even if true, however, that does not mean that his motivation was entirely altruistic. Succeeding for his clients was obviously to their benefit, but he also assisted a long-time personal friend he considered to be in need. Where he was successful in representing clients as a result of Mr. Beaver's assistance, Mr. Green may also have augmented his professional reputation and attracted new business. In addition, having access to Mr. Beaver's skills as an experienced defence lawyer and litigator likely alleviated Mr. Green's personal workload and enhanced his capacity to take on complex files. In the absence of more concrete evidence, however, the Committee gave limited weight to this factor.
55. Past decisions imposing sanctions in similar factual circumstances are typically considered for the purpose of proportionality: ensuring that similarly-situated lawyers guilty of similar misconduct are met with similar sanctions. As mentioned, LSA counsel cited a number of decisions for our reference, especially *Singh*, but acknowledged that there are few on point.
56. The Committee finds that the decisions in the Book of Authorities provided a rough touchpoint but were largely distinguishable. Mr. Singh was suspended for two years, but he faced a larger number of serious citations (a total of five), any one of which could have warranted the 18-month suspension sought by Law Society of British Columbia staff (see *Singh* at paragraph 8). In addition, Mr. Singh's misconduct caused his clients and colleagues specific, significant harm. The hearing panel also noted that Mr. Singh had not expressed remorse. They doubted he could be rehabilitated, saw very little in the way of mitigating factors, and found him to be fundamentally dishonest and lacking in integrity. This Committee has not made such findings against Mr. Green.
57. The other cases in the Book of Authorities involving lawyers who enabled the unauthorized practice of law were cited in *Singh* (see paragraph 10) but were not factually similar to Mr. Green's case. In *Law Society of Upper Canada v. Puskas*, [2013] L.S.D.D. No. 136, the lawyer allowed an unsupervised paralegal to conduct a real estate

practice for approximately 18 months, during which time she misappropriated \$893,000. The lawyer was suspended for 20 months and made subject to certain practice conditions on reinstatement. In *Law Society of Upper Canada v. Khan*, [2017] L.S.D.D. 104, the lawyer allowed an unlicensed agent to practice law without supervision and practiced while suspended. He was suspended for one year. In *Law Society of Upper Canada v. Seif*, [2018] L.S.D.D. 9, the lawyer allowed an unlicensed individual to practice law, and also failed to serve his clients and maintain proper books and records. Further to a joint submission on sanction, he was suspended for six months.

58. The aforementioned *Jura* decision was included in the Book of Authorities, but other than the fact that it involved another Alberta lawyer enabling Mr. Beaver to engage in the unauthorized practice of law, it is plainly distinguishable. Ms. Jura was found guilty of a wide range of other egregious misconduct, including misappropriating trust funds, misleading the LSA, forging client signatures, and practicing while suspended.
59. Five decisions in the Book of Authorities concerned lawyers who disclosed confidential client information to third parties (and in some instances, additional misconduct): *McLeod*; *Law Society of British Columbia v. Evans*, [2001] L.S.D.D. 23; *Law Society of Alberta v. Bissett*, [1999] L.S.D.D. 74; *Law Society of Alberta v. Belzil*, [2008] L.S.D.D. 167; and *Law Society of Upper Canada v. A Member*, 2005 CanLII 16408 (ONLST). The sanctions imposed ranged from reprimands and modest fines to short suspensions of no more than one month. However, the disclosure of confidential information in those cases occurred in circumstances significantly different than those before this Committee.
60. The Committee concludes that in view of the foregoing, a significant sanction is warranted that is commensurate with the seriousness of Mr. Green's misconduct and its impact on his clients, the public, the profession, the administration of justice, and the LSA. However, the mitigating factors argue in Mr. Green's favour, and the Committee agrees with LSA counsel that those factors suggest there is little risk Mr. Green will engage in similar behaviour in the future. This in turn suggests a reduced need for specific deterrence.
61. The Committee also agrees with LSA counsel that the greater concern in this matter is general deterrence: making it clear to other Alberta lawyers that if they assist Mr. Beaver or any other unauthorized individuals to engage in the practice of law, they will be met with severe consequences. That said, the Committee does not wish to over-emphasize general deterrence. In a different regulatory context, the Alberta Court of Appeal in *Walton v. Alberta (Securities Commission)*, 2014 ABCA 273 stated (at paragraph 154):

[Specific and general deterrence] are legitimate considerations, but at the end of the day the sanction must be proportionate and reasonable for each appellant. The pursuit of general deterrence does not warrant imposing a crushing or unfit sanction on any individual appellant.

62. The LSA did not seek disbarment, and in any event, the mitigating factors are such that the Committee would not consider it necessary in this case. Although the panel in *Singh* indicated that it considered disbarment (at paragraph 71), we reiterate that the circumstances before that panel were significantly more egregious than those before this Committee.
63. On the other hand, the Committee is satisfied that neither a short suspension nor a fine in any amount would achieve the necessary level of either specific or general deterrence. As the hearing panel stated in *Singh* (at paragraph 60), "[t]here should be no room for a lawyer to consider a dark side course of action with a belief that the likely penalty will be manageable should events transpire negatively." The *Singh* panel also stated (at paragraph 68):
- A fine of any magnitude, community service and endless hours of CPD will never approach the consequence of a suspension, of whatever duration. Accordingly, for those serious events of misconduct where disbarment is not indicated, significant suspension must be preserved as an appropriate penalty, and nothing short of that will be enough.
64. The Committee agrees. However, we are not convinced that on these facts, a suspension of two years – the same length as the suspension in *Singh*, a more egregious case than this – is warranted to achieve the necessary levels of specific and general deterrence. In the interest of balancing the two, the Committee concludes that a one-year suspension is sufficient. It is severe enough to denounce the misconduct and effect general deterrence but does not sanction Mr. Green so severely that it is disproportionate to other decisions (insofar as those mentioned herein are comparable) or his individual circumstances.
65. That said, the Committee wishes to reiterate that our conclusions in this matter are confined to the facts before us. Although we have determined that a one-year suspension is sufficient here and will not send a dramatically different message to the public or the profession about the seriousness with which we view the misconduct at issue, there may well be other cases in the future involving Mr. Beaver or other suspended or disbarred lawyers where the facts call for a longer suspension or measures that are even more severe.
66. Finally, with respect to costs, an Estimated Statement of Costs prepared by the LSA was entered into evidence at the hearing of this matter. The total costs shown are in the amount of \$12,810.63, but LSA counsel acknowledged that this figure is subject to change given that the hearing was shorter than originally expected. In any event, the Committee finds that it is appropriate for Mr. Green to be responsible for the LSA's costs as amended, and order that he pay those costs in full prior to making any application for reinstatement.

## Concluding Matters

67. In summary, the Committee orders that Mr. Green be suspended for a period of one year, to commence on the date agreed by Mr. Green and LSA staff. The Committee also orders that Mr. Green must pay the LSA's costs of this matter in the amount calculated by LSA staff. Those costs must be paid in full prior to Mr. Green making any application for reinstatement.
68. A Notice to the Profession will be issued.
69. The exhibits, other hearing materials, and this report will be available for public inspection, including the provision of copies of exhibits for a reasonable copy fee, except that identifying information in relation to persons other than Mr. Green will be redacted and further redactions will be made to preserve client confidentiality and solicitor-client privilege (LSA Rule 98(3)).

Dated October 4, 2022.

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Deanna Steblyk, KC

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Jodi Edmunds

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Kent Teskey, KC