

**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 ZUBIA IMTIAZ
A MEMBER OF THE LAW SOCIETY OF ALBERTA**

Single Bencher Hearing Committee

Bill Hendsbee, QC – Chair

Appearances

Karen Hansen – Counsel for the Law Society of Alberta (LSA)
Faraz Bawa – Counsel for Zubia Imtiaz

Hearing Date

January 26, 2022

Hearing Location

Virtual Hearing

HEARING COMMITTEE REPORT - SANCTION

Overview

1. Zubia Imtiaz was admitted as a member of the LSA in 2012. She practises as a sole practitioner in Calgary, primarily in the area of matrimonial law.
2. Ms. Imtiaz's conduct during two separate Chambers appearances on April 15, 2019 resulted in the following citations being directed to hearing by the Conduct Committee Panel:
 - 1) It is alleged that Zubia Imtiaz failed to be courteous and act in good faith in her dealings with opposing counsel and that such conduct is deserving of sanction;
 - 2) It is alleged that Zubia Imtiaz failed to be accurate, candid and comprehensive in her submissions to the Court during an ex parte application and that such conduct is deserving of sanction; and
 - 3) It is alleged that Zubia Imtiaz improperly obtained a judgment on behalf of her client against D.B. and that such conduct is deserving of sanction.

3. The LSA and Ms. Imtiaz entered into a Statement of Admitted Facts and Admission of Guilt (the Agreed Statement) in relation to Ms. Imtiaz's conduct.
4. The Conduct Committee found the Agreed Statement acceptable. Accordingly, pursuant to section 60(4) of the *Legal Profession Act* (the *Act*), it is deemed to be a finding of this Hearing Committee (Committee) that Ms. Imtiaz's conduct is deserving of sanction in relation to all three sanctions detailed above.
5. On January 26, 2022, the Committee convened a hearing to determine the appropriate sanction.
6. After reviewing all of the evidence and exhibits and hearing the submissions of Counsel for the LSA and Counsel for Ms. Imtiaz, for the reasons set out below, the Committee has determined that the appropriate sanction is a reprimand, a \$2,000 fine and costs in the agreed amount of \$2,500, payable on or before July 26, 2022.

Preliminary Matters

7. There were no objections to the constitution of the Committee or its jurisdiction, and a private hearing was not requested so a public hearing into the appropriate sanction proceeded.

Statement of Admitted Facts and Admission of Guilt

8. After the commencement of proceedings in relation to Ms. Imtiaz's conduct, LSA Counsel submitted the Agreed Statement. The Conduct Committee found the Agreed Statement acceptable on September 14, 2021. Pursuant to section 60(4) of the *Act*, each admission of guilt in the Agreed Statement is deemed to be a finding by this Committee that Ms. Imtiaz's conduct is deserving of sanction under section 49 of the *Act*.
9. As provided by section 60(3) of the *Act*, once the Agreed Statement was accepted by the Conduct Committee, the hearing into the appropriate sanction could be conducted by a single Benchler. As a result, I was appointed to conduct the sanction hearing.
10. The Agreed Statement is briefly summarized below.
11. Ms. Imtiaz acted for the owner of a business which had commenced an action claiming amounts owed to it for excavation work it had completed. Ms. Imtiaz was later retained on a limited retainer basis to bring a Summary Judgment application against the corporate defendant, which was represented by counsel.

12. Ms. Imtiaz attended in Calgary morning chambers on April 15, 2019 to seek Summary Judgment on behalf of her client. Notwithstanding that opposing counsel had previously advised Ms. Imtiaz that he was unable to attend on that date as he was booked to attend in court in Edmonton, Ms. Imtiaz proceeded to obtain Summary Judgment. During that application, Ms. Imtiaz advised the Court that she had expected opposing counsel to be in attendance despite her knowledge that he would be in Edmonton on another matter.
13. Ms. Imtiaz subsequently drafted, filed and served the Judgment without the involvement of opposing counsel. She then used the Judgment to freeze the bank accounts of the opposing party and to obtain Garnishee Orders.
14. When opposing counsel learned of the Judgment, he immediately contacted Ms. Imtiaz to request that she withdraw the Judgment, failing which he would file an appeal. Ms. Imtiaz responded that she was unable to do so as she had been representing her client on a limited retainer and she was not retained to deal with any appeal related matters.
15. Ultimately, the Judgment was set aside by the Court of Appeal on May 6, 2020 with the Court concluding that the court below had been misled.
16. Ms. Imtiaz's conduct deserving of sanction included, inter alia, the following:
 - 1) She failed to be courteous and act in good faith in her dealings with opposing counsel by:
 - a. Failing to adjourn the Summary Judgment application, as requested;
 - b. Proceeding with the Summary Judgment application knowing that opposing counsel would not be in attendance.
 - 2) She failed to be accurate, candid and comprehensive during the Summary Judgment application by:
 - a. Misrepresenting the reason that opposing counsel was not in attendance;
 - b. Failing to advise the Court of the reason why opposing counsel was not in attendance and that he had requested an adjournment;
 - c. Leaving the Court with the false impression that opposing counsel was expected to be in attendance.

Analysis and Decision on Sanction

17. Counsel for the LSA and Ms. Imtiaz made a joint submission on sanction consisting of a reprimand, a \$2,000 fine and agreed costs in the amount of \$2,500.

18. Pursuant to the LSA Pre-Hearing and Hearing Guideline, a hearing committee is not bound by a joint submission on sanction, although it is to be given serious consideration. A joint submission on sanction should be entitled to deference unless it can be shown to be demonstrably unfit or contrary to the public interest.
19. The approach taken by both Ms. Imtiaz and the LSA in dealing with this matter through an Agreed Statement avoided an unnecessary contested hearing, witness inconvenience, and increased costs.
20. In her submissions on sanction, Counsel for the LSA referred the Committee to *Law Society of Alberta v. Roszler*, 2017 ABLS 5. In that case, the member failed to treat another lawyer with courtesy and failed to be accurate, candid and comprehensive in his submissions to the Court. The member was a senior lawyer with no disciplinary record. The hearing committee in that case agreed to a joint submission on sanction consisting of a reprimand and costs.
21. In *Law Society of Alberta v. Zariwny*, [1997] L.S.D.D. No. 158, the member failed to disclose to the Court during an ex parte application that the opposing party was represented by counsel, who had not been given notice of the application. Additionally, the member failed to disclose to opposing counsel that the ex parte order had been granted by the Court. In that case, the member, a senior lawyer with no discipline record, was sanctioned with a reprimand, a \$750 fine and costs.
22. Upon considering Ms. Imtiaz's lack of discipline history as well as the joint submission, the Committee found that it was in the public interest to accept the joint submission. The Chair administered the following reprimand to Ms. Imtiaz at the hearing:

The Hearing Guide of the Law Society of Alberta requires that Hearing Committees take a purposeful approach to sanctioning a member who has been found guilty of conduct deserving of sanction. The fundamental purposes of sanctioning are the protection of the public interest and the protection of the reputation and standing of the legal profession generally.

A joint submission on sanction is to be given deference. Your cooperation in proceeding with a joint submission on guilt and sanction has helped to avoid unnecessary hearing costs, as well as avoiding further inconvenience and stress to the parties affected by your actions. I also note that you have entered into Practice Management and that you have been cooperative thus far. In light of these circumstances, this Hearing Committee

concludes that it is in the public interest to accept the joint submission.

I would like to direct your attention to an excerpt from an earlier decision, *Law Society of Alberta v. King*, found at CanLII 2010 ABL 9:

A reprimand has serious consequences for a lawyer. It is a public expression of the profession's denunciation of the lawyer's conduct. For a professional person, whose day-to-day sense of self-worth, accomplishment, and belonging is inextricably linked to the profession, and the ethical tenets of that profession, it is a lasting reminder of failure. And it remains a lasting admonition to avoid repetition of that failure.

Ms. Imtiaz, at the time of these events, you were an experienced lawyer, having been called to the Bar in 2012. You should have been aware of the high standards expected of you in making representations to the Court and in your dealings with opposing counsel.

As I have stated, the Hearing Committee notes that you have no previous discipline record with the Law Society. However, as you are aware, as an independent regulator, it is crucial that the Law Society reinforce the obligation that our members have to the public we serve. In this instance, you have damaged your reputation as well as the reputation of the Law Society, and for that you are hereby reprimanded.

We are hopeful that this process has been of some benefit to you. We thank you for cooperating with the Law Society to resolve this matter without the necessity of a full hearing, and we trust that you will apply the lessons learned as a result of this incident going forward.

Concluding Matters

23. In addition to the reprimand reproduced at paragraph 21 herein, the Committee also orders that Ms. Imtiaz pay a fine in the amount of \$2,000 and costs in the agreed amount of \$2,500, for a total amount payable of \$4,500. This amount is payable on or before July 26, 2022.
24. A Notice to the Attorney General is not required.
25. A Notice to the Profession is not required.
26. 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 Ms. Imtiaz will

be redacted and further redactions will be made to preserve client confidentiality and solicitor-client privilege (Rule 98(3)).

Dated at Calgary, Alberta, March 8, 2022

Bill Hendsbee, QC