

**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 RAJIV BHALLA
A MEMBER OF THE LAW SOCIETY OF ALBERTA**

Single Bencher Hearing Committee

Sanjiv Parmar – Chair

Appearances

Shane Sackman – Counsel for the Law Society of Alberta (LSA)

Robert D. Gillespie – Counsel for Rajiv Bhalla

Hearing Date

September 25, 2023

Hearing Location

Virtual Hearing

HEARING COMMITTEE REPORT - SANCTION

Overview

1. The following citations were directed to hearing by the Conduct Committee Panel on March 15, 2022:
 - 1) It is alleged that Rajiv Bhalla breached The Rules of the Law Society of Alberta related to trust transactions, and that such conduct is deserving of sanction.
 - 2) It is alleged that Rajiv Bhalla failed to provide legal services to the standard of a competent lawyer, including performing all functions in a conscientious, competent, timely and diligent manner, and that such conduct is deserving of sanction.
 - 3) It is alleged that Rajiv Bhalla disclosed information concerning the business and affairs of his clients, that he had acquired in the course of his professional relationship with those clients, and that such conduct is deserving of sanction.

2. Rajiv Bhalla was admitted as a member of the LSA on November 6, 1998. He maintains a broad general practice, including in the areas of real estate, family law, and criminal law.
3. The LSA and Mr. Bhalla's counsel collaborated on and submitted to the Conduct Committee a Statement of Facts, Exhibits and Admission of Guilt (Agreed Statement) in relation to Mr. Bhalla's conduct.
4. The Conduct Committee found the Agreed Statement acceptable. Accordingly, pursuant to section 60(4) of the *Legal Profession Act (Act)*, it is deemed to be a finding of this Hearing Committee (Committee) that Mr. Bhalla's conduct is deserving of sanction in relation to the three citations.
5. On September 25, 2023, the Committee convened a hearing into the appropriate sanction.
6. After reviewing all of the evidence and exhibits and hearing the submissions of the LSA counsel and Mr. Bhalla's counsel, including the joint submission on sanction, for the reasons set out below, the Committee finds the appropriate sanction to be a reprimand and fine. In accordance with section 72 of the *Act*, the Committee orders that Mr. Bhalla be reprimanded and pay a fine in the amount of \$1,500.00. Mr. Bhalla shall have six months to pay the fine.
7. In addition, pursuant to subsection 72(2) of the *Act*, the Committee orders costs in the amount of \$4,000.00. Mr. Bhalla shall have six months to pay the costs amount.

Preliminary Matters

8. 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.

Agreed Statement of Facts/Background

9. After the commencement of proceedings in relation to Mr. Bhalla's conduct, Mr. Bhalla submitted the Agreed Statement. The Conduct Committee found the Agreed Statement acceptable on July 18, 2023. 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 Mr. Bhalla's conduct is deserving of sanction under section 49 of the *Act*.

10. The events that give rise to the citations are detailed in the Agreed Statement and are set out in the following paragraphs.

Citation 1

11. On May 17, 2017, Mr. Bhalla was retained by C.B. in a divorce and matrimonial matter relating to C.B.'s ex-wife.
12. In August of 2018, Mr. Bhalla was further retained to represent C.B. in a child support matter relating to C.B.'s former common-law partner. A retainer agreement was signed for this matter on October 4, 2018. M.B. was opposing counsel acting for C.B.'s former common-law partner on this matter.
13. A term of both Mr. Bhalla's Retainer Agreements was that he would render accounts primarily on the basis of time spent on matters.
14. A further term of Mr. Bhalla's May 17, 2017 Retainer Agreement was that clients will review and certify that they have reviewed two collateral documents that form part of Mr. Bhalla's retainer entitled Administrative Information for New clients and Billing Information for New Clients. While C.B.'s May 17, 2017, Retainer Agreement certified that those two documents were provided, Mr. Bhalla admits that neither document was provided to or executed by C.B.
15. On May 1, 2017, Mr. Bhalla received a \$5,000.00 retainer from C.B., and on January 5, 2018, Mr. Bhalla received a further \$2,000.00 retainer from C.B., for the file dealing with C.B.'s ex-wife.
16. On August 13, 2018, Mr. Bhalla received a \$3,000.00 retainer from C.B., for the filing dealing with C.B.'s former common-law partner.
17. Services on C.B.'s file dealing with his ex-wife were set out in Mr. Bhalla's invoice dated February 9, 2018.
18. On February 22, 2018, Mr. Bhalla authorized a payment on account from C.B.'s file dealing with his ex-wife in the amount of \$5,697.24 to cover services rendered to date. This resulted in a trust balance of \$1,205.76 remaining on the file dealing with C.B.'s ex-wife.
19. Services on the file dealing with C.B.'s former common-law partner were detailed in two accounts dated November 18, 2018, and December 3, 2019.
20. Mr. Bhalla confirmed that his meeting summary on C.B.'s file shows neither any record of an in-person meeting with C.B. in the month of February 2018 nor any record of an in-person meeting with C.B. after October 17, 2018.

21. Mr. Bhalla also confirmed that he had no standard practice in delivering statement of accounts to clients. He further confirmed that he did not keep detailed time entries of chits.
22. At the relevant times, Mr. Bhalla believed that he had provided C.B. with copies of the February 9, 2018 invoice and November 18, 2018 invoice. However, upon reviewing his meeting summary and C.B.'s complaint against him to the LSA, Mr. Bhalla admitted that he inadvertently forgot to provide C.B. with copies of his invoices prior to withdrawing funds from trust. Mr. Bhalla admits this was a breach of the LSA trust accounting rules. However, the invoices were for services rendered and there is no admission or allegation that the services were not completed as detailed.
23. In November of 2019, C.B. retained new counsel, C.F., who requested that both of CB's matters be transferred to her office.
24. C.F. and Mr. Bhalla exchanged correspondence relating to C.B.'s file transfer. There was a dispute over the file transfer as C.B. still owed Mr. Bhalla for outstanding accounts.
25. On December 3, 2019, Mr. Bhalla rendered a final account and provided a copy of the same to C.F. by email at 5:37 pm. The total amount of the statement of account was \$4,149.95.
26. On December 3, 2019, Mr. Bhalla authorized a transfer of \$1,205.76 from the file dealing with C.B.'s ex-wife to the file dealing with CB's former common-law partner. Mr. Bhalla admitted there was no signed transfer document recording the transfer. Mr. Bhalla admitted that he did not obtain C.B.'s authorization of instructions to transfer funds between C.B.'s two matters.
27. Mr. Bhalla admitted that by completing the transfer, as indicated in paragraph 25, he breached Rule 119.25 (in force at the time) requiring that any inter-file transfer of funds be documented and authorized.
28. On December 10, 2019, after negotiating the transfer of C.B.'s file, Mr. Bhalla sent a letter indicating that the final amount owing by C.B. was \$2,944.19.

Citation 2

October 10, 2018 Court Appearance

29. On September 14, 2018 Justice S signed a consent order, which Mr. Bhalla duly executed, in the file dealing with C.B.'s ex-wife, setting out, among other things, that:

“AND UPON noting that the Respondent (MC) has a Notice to Disclose/
Application scheduled for October 10, 2018;”

[...]

1. There shall be a stay of enforcement of the arrears of Child Support which have accumulated to the date of this Order- until October 10, 2018.

30. On October 10, 2018, M.B., opposing counsel, appeared and the Justice L signed an order awarding costs to be dealt with at a later date.
31. Mr. Bhalla did not appear for C.B. on October 10, 2018, as he felt that the application seemed undefendable, so he told opposing counsel's office to proceed to get her Order, that is, that he would not appear or oppose.
32. Mr. Bhalla admitted to not obtaining instructions from C.B. to not oppose the application. He further admitted that he sought no extension of the stay of enforcement of child support arrears expiring that day. Mr. Bhalla also admitted that he should have informed M.B. earlier that the morning of the application that he would not be opposing it.

November 2018 Form of Order

33. On November 16, 2018, there was a family chambers application on the file dealing with C.B.'s ex-wife. That application dealt with disclosure and interim support payments. Mr. Bhalla had V.K., an associate at his office, attended at this application. C.B. was unsuccessful at the application and costs were awarded against him.
34. On November 23, 2018, opposing counsel, M.B., forwarded a draft form of order to Mr. Bhalla's office.
35. On December 3, 2018, M.B. emailed V.K. indicating that if she did not receive a response within two days to the draft form of Order, she intended to submit it for signature and filing.
36. On December 6, 2018, M.B. wrote to Mr. Bhalla's office enclosing the draft order for execution. Mr. Bhalla's office, for the first time, raised a dispute with M.B. regarding the form of Order and wrote the clerk, disputing, among other things, the amount of costs awarded.

File Transfer and December 4, 2019

37. In November of 2019, C.F. repeatedly contacted Mr. Bhalla's office, advising that she had been retained by C.B. and requested his client materials.
38. On November 21, 2019, C.F. advised Mr. Bhalla that his office had been served on November 15, 2019 with a Court Application set for December 4, 2019, and therefore,

she urgently needed the file materials. Mr. Bhalla denied to C.F. that he was served with such an application.

39. Mr. Bhalla subsequently reviewed an email chain from A. LLP enclosing a Court Application on November 15, 2019, set to be heard on December 4, 2019. This email chain showed that the application was served on V.K. V.K. did not make Mr. Bhalla aware of this application and Mr. Bhalla was unaware of it while he was communicating with C.F.
40. On November 2019, Mr. Bhalla pulled a procedure card on this matter and provided the same to C.F. on November 27, 2019. Mr. Bhalla indicated in his email that there was no application set for December 6, 2019. However, he admitted that the procedure card showed an application filed November 14, 2019, and set for December 4, 2019. Mr. Bhalla further admitted that in light of the pending application he should have transferred the file immediately.
41. Mr. Bhalla indicated on November 27, 2019, that if he received \$500.00 by Friday, November 29, 2019 he would release C.B.'s file.
42. On November 27, 2019, C.F. replied to Mr. Bhalla's email indicating that C.B. would make the \$500.00 payment conditional on receiving a final statement of account and copies of previous statements of accounts.
43. On November 28, 2019, Mr. Bhalla indicated to C.F. via email:

I got your email and one thing I want to make clear that I do not take orders from you. I set my own timeline according to my priorities. I have other important matters on hand to take care. I will prepare my account next week and provide with previous statement of account. I can accept email transfer \$500.00 dollars will be deposited in my trust account.

44. Late on December 3, 2019, Mr. Bhalla provided a final statement of account to C.F. There were further discussions arising out of the final statement of account. Mr. Bhalla had originally quoted a rough estimate of \$2,250.00 and the final statement of account was \$4,149.50.
45. On December 11, 2019, C.F. sent Mr. Bhalla a letter enclosing a cheque for \$500.00. The money was sent with three trust conditions that Mr. Bhalla was to meet prior to depositing the funds into his account. One of the trust conditions in that letter was:
 - 3) You have provided me with copies of the Administrative Information and New Clients and Billing Information for New Clients as referenced in your retainer agreement with C.B.

46. Mr. Bhalla applied the \$500.00 against C.B.'s account on January 3, 2020, notwithstanding that he did not provide copies of the documents listed under trust condition number three. Mr. Bhalla did not provide the documents because they did not exist. Mr. Bhalla admitted that he should have sought a variation to the trust condition prior to depositing the cheque.

Citation 3

47. Mr. Bhalla admitted that when he transferred C.B.'s matter to his new counsel, it contained other clients' documents and materials, including correspondence related to several real estate transactions, a purchase and sale agreement, a draft Guarantee's Acknowledge Act Certificate and other documents for clients other than C.B.
48. Mr. Bhalla admitted that this occurred because it was standard practice at his office for a period of time to use the backside of other clients' documents and discarded correspondences as scrap paper for notetaking during interviews and meetings. Some of these notes were placed on C.B.'s file.
49. Mr. Bhalla admitted that he periodically met other clients in the conference room where this scrap paper was stored.
50. Mr. Bhalla has since instructed his assistant to shred any unused draft papers and the office has discontinued this practice.
51. During the hearing Mr. Bhalla acknowledged that he understood that, despite the admissions of guilt on all three citations, and although a joint submission is entitled to deference, the Committee is not bound to accept it on sanction.

Submissions on Sanction

52. LSA counsel submitted a joint submission on sanction, a reprimand and a fine of \$1,500.00 and further, that costs be capped at \$4,000.00.
53. LSA counsel added that with respect to a joint submission, the Committee should accept it, unless it feels it would bring the administration of justice into disrepute or is otherwise contrary to the public interest.
54. In support of the Joint Submission, LSA counsel provided the following decisions:
- a. *Law Society of Alberta v de Quadros*, 2021 ABLS 7
 - b. *Law Society of Alberta v Schlotter*, 2019 ABLS 21
 - c. *Law Society of Alberta v Andresen*, 2021 ABLS 8
55. LSA counsel further submitted that:
- a. Mr. Bhalla does not have a discipline record, was cooperative, and made full admissions.

- b. There was no detriment to Mr. Bhalla's client;
 - c. The facts in this matter were reasonably similar to the tendered decisions, submitted that citation two of Mr. Bhalla's three citations was the most serious, and his matter was most analogous to the *de Quadros* decision.
 - d. The proposed sanction was consistent with the general and specific sentencing factors as more particularly detailed in the LSA Hearing Guide.
56. Counsel for Mr. Bhalla submitted that:
- a. The joint submission is fair as per LSA counsel's submissions.
 - b. Although it does not excuse Mr. Bhalla from his responsibility from supervising, some of these issues were caused by Mr. Bhalla's support staff and student-at-law/associate.
 - c. The sanction was quite appropriate and supported by the cases referred to.
 - d. Mr. Bhalla's firm has remedied the issue of using scrap paper which has confidential information on it.

Analysis and Decision on Sanction

57. While a hearing committee is not bound to accept joint submissions as to sanction, such submissions carry significant weight.
58. The leading authority is *R. v. Anthony-Cook*, 2016 SCC 43 (*Anthony-Cook*), in which the Supreme Court of Canada held that a joint submission should be accepted unless the proposed sanction "would bring the administration of justice into disrepute or is otherwise contrary to the public interest" (paragraph 32). *Anthony-Cook* is a criminal law case, but it has been applied in other LSA conduct matters.
59. According to paragraph 187 of the LSA Pre-Hearing and Hearing Guideline (Guideline), the "fundamental purposes of sanctioning are to ensure the public is protected from acts of professional misconduct and to protect the public's confidence in the integrity of the legal profession". The Guideline sets out a number of factors that may be taken into account when determining sanction, including, among others, the goals of specific and general deterrence and denunciation of the misconduct (paragraph 188).
60. Paragraph 200 of the Guideline indicates that "[t]he prime determinant of the appropriate sanction is the seriousness of the misconduct". It then suggests that in determining the seriousness of the misconduct, a hearing committee may consider a list of nine factors, including the degree to which the misconduct constitutes a risk to the public or to the reputation of the legal profession, the harm or potential harm caused by the misconduct, the number of incidents involved, and the length of time involved.
61. Paragraph 206 of the Guideline indicates that a hearing committee may also consider additional factors that have either an aggravating or mitigating effect on the appropriate

sanction. These may include whether the lawyer has a prior discipline record, whether the lawyer acknowledged their wrongdoing, any expression of remorse, the lawyer's level of cooperation with the LSA's conduct process, whether restitution has been made, and the extent to which the lawyer benefited from the misconduct.

62. In *Anthony-Cook*, the Supreme Court of Canada made it clear that “a joint submission should not be rejected lightly.” This is because (paragraph 34):

[r]ejection denotes a submission so unhinged from the circumstances of the offence and the offender that its acceptance would lead reasonable and informed persons, aware of all the relevant circumstances, including the importance of promoting certainty in resolution discussions, to believe that the proper functioning of the justice system had broken down.

63. The Committee is of the view that the joint submission in this case does not fall within that category. To the contrary, the Committee was satisfied that the jointly proposed sanction was an appropriate negotiated resolution in the circumstances of this case.

64. Mr. Bhalla's conduct was serious. He failed to act in accordance to trust and accounting rules, he failed to provide legal services to a standard of a competent lawyer, including failing to take his client's instructions, and he disclosed information concerning the business and affairs of his clients that he acquired during the course of his professional relationship with those clients. These actions undermine the confidence of the public in the legal profession.

65. The Committee recognizes that Mr. Bhalla has been practicing since 1998 and has no discipline record. The approach taken by both Mr. Bhalla and the LSA in dealing with this matter through an Agreed Statement also avoided an unnecessary contested hearing, witness inconvenience, and process costs.

66. Accordingly, the Committee was satisfied that the jointly proposed sanction is proportionate to the circumstances and comparable to prior decisions, and sufficient to affect the necessary specific and general deterrence.

67. As indicated, the Committee accepted the jointly proposed sanction of a reprimand, a \$1,500.00 fine and ordered costs of \$4,000.00. The fine and costs are to be paid in full within six months of the hearing.

68. The Committee delivered the following oral reprimand:

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

Mr. Bhalla, I acknowledge your cooperation with the Law Society leading up to today and resolving these complaints by admitting guilt and by proceeding with a Single Bench Hearing.

A joint submission on sanction is to be given deference. You have admitted guilt of three citations, which evidence very serious conduct matters; however, your cooperation proceeding with the process today helped to avoid unnecessary hearing costs and avoid time and inconvenience to various parties and witnesses as well as process costs. I conclude that, in light of all these circumstances and considerations, it is in the public interest to accept the joint submission, the \$1,500.00 fine, and the \$4,000.00 in costs. Your admissions have permitted these citations to be resolved on a more efficient basis, which is not just a benefit to you, but is a benefit to the public and to the Law Society.

Mr. Bhalla, the right to practice law in the province of Alberta is a privilege that has been bestowed upon you by the Law Society of Alberta and exercise its authority under the *Legal Profession Act*. Your conduct in regards to the complaints in this matter is a cause for concern. You have a responsibility to the members of the public and to the Law Society to represent their best interest. You failed in this case. You failed further to meet the high standards required for trust reporting and accounting, and breached client confidentiality.

This failure represents the type of thing that the Law Society strives to avoid, and the confidence we need to instill in the public is what we have to ensure that they believe and know that they will be treated by our member conscientiously and honestly. You failed in this case. You must do better. As a member of this Law Society, you will be expected to look at what you have done to determine whether or not you can improve on what has happened, learn from this particular matter, and, of course, to move forward.

But, again, holding this office requires you to understand the obligation you have to the public and to the Law Society and to its members and you, as an example of that, to be the type of exemplary individual who represents those interest. In these matters, you put your professional reputation and integrity at the risk and your client's interests at risk.

In making these comments today and expressing this reprimand today, I urge you to constantly have at the forefront of your mind and your practice the integrity required of all of us as members of this profession and the diligence that we must all demonstrate to protect our clients' interests and to maintain our reputation and the reputation of the profession. I hope from today's appearance that you can do more for yourself, and I require you to do more for the members of the public that you serve.

I wish you good luck, Mr. Bhalla, in your continued work and your continued practice, and I hope you can learn from this particular matter, and we can move forward from it.

Concluding Matters

69. There shall be no Notice to the Profession or referral to the Attorney General.
70. 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. Bhalla will be redacted and further redactions will be made to preserve client confidentiality and solicitor-client privilege (Rule 98(3)).

Dated October 18, 2023.

Sanjiv Parmar