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 ZUKHRAF BAIG
A MEMBER OF THE LAW SOCIETY OF ALBERTA

Hearing Committee

Ken Warren, KC – Chair and Former Bencher
Barbara McKinley – Former Bencher
Grant Vogeli, KC – Bencher

Appearances

Karen Hansen and Henrietta Falasinnu – Counsel for the Law Society of Alberta (LSA)
Alexandra Seaman – Counsel for Zukhraf Baig

Hearing Dates

June 24 and June 26, 2024

Hearing Location

Virtual Hearing

HEARING COMMITTEE REPORT

Overview

1. The following citations were directed to hearing by the Conduct Committee Panel on May 17, 2022:

    1) It is alleged Zukhraf S. Baig defrauded R. Co. by means of fraudulent credit card transactions and that such conduct is deserving of sanction.

    2) It is alleged Zukhraf S. Baig used client information and identification for an improper purpose and that such conduct is deserving of sanction.

    3) It is alleged Zukhraf S. Baig altered a cheque for personal gain and that such conduct is deserving of sanction.

2. Baig was admitted as a member of the LSA on February 6, 2015. Baig practiced primarily matrimonial and family law in a small firm setting. He became inactive on March 10, 2021 and as at the date of the hearing he was suspended for non-payment of fees to the LSA. In 2020 and early 2021 when Baig committed the conduct leading to

the underlying citations, he was employed by a small law firm in Fort McMurray and was practicing family law.

3. On June 24, 2024, the Hearing Committee (Committee) convened a hearing into the conduct of Baig, based on the above citations. The hearing continued on June 26, 2024. Baig and the LSA entered into a Statement of Admitted Facts and Admission of Guilt dated May 6, 2023 (SAF) in which he admitted the facts alleged in each of the citations and that his conduct was deserving of sanction with respect to each citation. The Committee accordingly finds Baig guilty of conduct deserving sanction on all three citations, pursuant to section 71 of the *Legal Profession Act* (*Act*). The hearing continued to determine the appropriate sanction.

4. After reviewing all of the evidence and exhibits, and hearing the testimony and arguments of the LSA and Baig through his counsel, the Committee finds based on the facts in this case, and for the reasons set out below and in accordance with section 72 of the *Act*, that the appropriate sanction is disbarment and payment of costs in the amount of $20,000.00, payable within two years of the date that Baig resumes the practice of law in any Canadian jurisdiction

Preliminary Matters

5. 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 Mr. Baig's conduct proceeded.

Statement of Admitted Facts and Background

6. The facts respecting the citations as set out in the SAF are as follows:

Citations 1 and 2

5) From February 1, 2019, to March 1, 2021, I was employed by a small law firm and practised primarily in family law. My firm collected and stored client credit card information for the purpose of payment of accounts for legal fees and disbursements.

6) In May of 2020 and again between November 2020 and March 2021, I made unauthorized use of the firm's records of client information and credit card data for the purposes of fraudulently purchasing online sexting services from R. Co., a company operating out of the U.S. On at least 60 occasions I used the firm's client records to enter the cardholder's name, credit card number, expiration date, CVV and billing postal code to attempt to purchase sexting services offered by R. Co. through an online website. About 24 of those attempts were approved, so that I was able to use the sexting services.

7) The fraudulent client card charges for those transactions which were approved ranged in the amounts from $100 to $1,800 (USD) per client, and the total amount of transactions that were approved amount to approximately $10,000 (USD). R. Co. suffered a loss of approximately $10,000 (USD) due to the reversal of the charges by the credit card companies involved.

8) Because the fraudulent credit card charges were eventually reversed, the Law Society's investigation did not reveal any clients who incurred a loss because of my misconduct. However, some clients did need to cancel or replace their credit cards that I had fraudulently used.

Citation 3

9) On or around February 24, 2021, I altered a cheque that had been issued by my firm to pay a third-party vendor by inserting the number "4" in front of the original "69.78"and depositing the cheque into my personal bank account. Upon discovering this alteration on March 9, 2021, the firm alerted the bank, and the bank then reversed the transaction.

7. Counsel for the LSA submitted in her opening statement that the misconduct warranted disbarment but in argument acknowledged that a long suspension was a possibility if Baig's substance and pornography addictions provided an adequate explanation for the misconduct and that continued adherence by Baig to the treatment regime would eliminate the risk to the public. Counsel for Baig conceded that this type of conduct was at the most serious end of the spectrum and would ordinarily warrant disbarment but submitted that circumstances existed that would allow the Committee to conclude that the public interest and reputation of the profession could be adequately protected through a lesser sanction. A suspension of 18 to upwards of 24 months was suggested.

8. Both counsel framed the key issue for the Committee's determination as whether despite the very serious misconduct there existed such exceptional circumstances that the protection of the public and the reputation of the legal profession could be accomplished with any sanction other than disbarment. The exceptional circumstances in large measure were the impact of addictions to which Baig was subject at the time of his misconduct.

9. The Committee heard oral testimony from two witnesses, Baig and an expert called by Baig's counsel, Dr. L.E., a clinical forensic psychologist. The agreed exhibits also included a report from Dr. L.E. dated April 16, 2024 (the L.E. Report).

10. Baig grew up in Pakistan and at the time of the hearing was living with his parents in Pakistan. He is 40 years old, married and has a four year old son. He admitted to having

been afflicted by addictions to pornography, sex, alcohol and cocaine. He eventually came to understand that his primary addiction is pornography and that his addictions to cocaine and alcohol are secondary addictions. His pornography preoccupation, coupled with masturbation, began in his early teens and escalated in his mid teens. When Baig moved to Canada to begin his university education in Toronto, he gained access to high-speed internet and his pornography addiction worsened. He downloaded porn videos and smoked marijuana almost daily.

11. Baig later attended law school in Saskatchewan where he was introduced to live camera pornography. After completing law school, Baig moved to Calgary where he began using cocaine regularly around the fall of 2013. He used cocaine to enhance his pornography experience. Baig was also seeing prostitutes.

12. Baig was called to the Alberta bar in 2015. He was living in his parents' home in Calgary and had exhausted a $50,000 line of credit funding his addictions. Baig admitted that his work for his first law firm employer was significantly affected by his alcohol and cocaine use and that he was fired for poor performance as a result. His next job with a law firm lasted only a few months because of his addictions.

13. Baig was married in May of 2016. He was living in Calgary and his wife was living in Pakistan. Baig returned to Pakistan in December of 2016 and admitted his cocaine addiction to his father. His pornography viewing continued. He testified that he was abstinent from drugs for the first half of 2017 but then resumed cocaine use. He saw a psychiatrist in Pakistan but did not recover from his addictions. He also saw a psychologist in Pakistan. A personality assessment report, undated but referencing a psychological assessment on January 23, 2019, set out a number of recommendations that were not followed by Baig. The report's credibility was highly questioned by Dr. L.E., who gave it no weight.

14. In December of 2018, Baig received a job offer from a Fort McMurray law firm. He accepted the offer and moved with his wife to Fort McMurray in February of 2019. Within a month or so, Baig resumed his cocaine use. He was spending inordinate amounts of money on his addictions, leading to a decision that his wife would control the family's finances and thereby limiting Baig's access to his personal funds. Losing control of his own money led to Baig's decisions to wrongfully use clients' credit card information and to alter a cheque and deposit it personally.

15. He regularly used cocaine, saw prostitutes, watched pornography and masturbated in his employer's offices at night. On one occasion in May of 2020, he was seen walking in the office in his underwear in the middle of the night and was confronted by police. He confessed to them that he had been watching pornography but not that he had been using cocaine or using clients' credit card information to purchase the online sexting services. Baig admitted that he either lied or was deceptive with the police. Video

surveillance within the office brought the incident to his employer's attention the next day. Baig made up a story and did not tell his employer that he had been watching pornography, masturbating, using cocaine and misusing client credit card information. Baig admitted that he either lied or was deceptive with his employer.

16. Baig's uncle contacted the Alberta Lawyers' Assistance Society (Assist) and was advised that Baig should attend a residential addiction treatment resource. A short time later, Baig took time off from his employment to attend [a recovery centre] in Saskatchewan. He attended for a five-week residential addictions program but disclosed only his substance abuse involving cocaine and alcohol. Baig at that time did not feel that he had a pornography or sex addiction and received no treatment for it at [the recovery centre]. The Exit Summary indicated that Baig left the program on July 17, 2020 with a Certificate of Successful Completion. Immediately after completing treatment at [the recovery centre], and returning to his employment, Baig resumed watching pornography and within a few months he resumed his cocaine and alcohol use.

17. From November 2020 to March 2021, Baig was in active addiction. He felt that he needed to watch live pornography and to consume cocaine at the same time to heighten his experience. He also consumed alcohol. He testified that he was willing to do whatever it took in order to watch the live camera pornography. Baig felt his judgement was impaired by his substance abuse. He again repeatedly used clients' credit card information and altered the cheque while under the influence of the substances. He used the money from depositing the altered cheque to acquire more cocaine. Baig admitted that his actions breached the trust that the clients had placed in the law firm and in him as a lawyer working at the firm. He expressed remorse and admitted that what he did was harmful to the firm's clients, his employers, his family and the profession.

18. Baig attributed his misconduct to his addictions but admitted that it was his decision to engage in the addictions and his decision not to deal with the addictions sooner. Baig admitted that when he was sober, he knew that using the clients' credit card information was wrong and that notwithstanding his addictions he knew the difference between right and wrong. He further admitted that in spite of that knowledge, he did not tell his employer or the LSA of his misconduct until his unlawful activities were uncovered.

19. Baig's law firm employer learned of his misconduct in or about March of 2021 when the American sexting company served the employer and Baig with a cease and desist letter. Baig's employment was terminated. The matter then came to the attention of the LSA. Baig was interviewed by a LSA investigator on April 2, 2021 and initially denied his actions. When confronted by the investigator, Baig admitted his misconduct and about two years later signed the SAF.

20. Baig was interviewed by P.H., a registered social worker with experience assessing personality and substance-related disorders, in September of 2022. P.H. prepared a

Forensic Mental Health Assessment for Baig's counsel dated December 17, 2022 (the P.H. Report). Baig told P.H. that he viewed his sexual compulsivity as his primary issue and his substance abuse as secondary to it. P.H. administered several diagnostic tests. [P.H.'s findings redacted]

21. P.H.'s opinion was that the diagnostic impressions held true for Baig and that "significant therapeutic intervention" was required to adequately manage them. P.H. considered the conditions to be "directly connected" to Baig's workplace misconduct. P.H. set out seven recommendations that included attendance for therapeutic intervention provided through an accredited Canadian provider and an assessment with an accredited Canadian psychiatrist. Baig did not begin treatment until a year after the recommendations.

22. Baig underwent further treatment at the [recovery centre] from December 13, 2023 to January 23, 2024. He explained that steps to arrange that treatment were started many months before. He testified that he came to realize at [the recovery centre] that pornography and sex was his primary addiction, and he underwent treatment for that condition and his substances abuse condition. Baig testified that since leaving [the recovery centre] he had not watched pornography and he had not consumed alcohol or cocaine. He had changed his lifestyle by becoming more active, sleeping better and improving his diet. He claimed to have improved his relationships with his son and wife. He has also maintained a support group from colleagues at [the recovery centre].

23. Baig has not made any restitution to the American sexting company as he lacks funds. He has worked intermittently in Pakistan and at low wages in the range of $200.00 per month. He sent an apology letter to his Fort McMurray employer but not until a few weeks before the hearing in June 2024.

24. Baig indicated that he would like to eventually relocate to Canada. He was referred to the various recommendations from Dr. L.E. to facilitate a return to practice (discussed below) and stated that he was willing to comply with each of them.

25. Dr. L.E. presented as a credible, objective and knowledgeable expert witness. He admitted that he had no clinical experience with sexual addictions and that he was not an addictions expert. However, he said that addiction and sexual compulsion played a large role in the vast majority of work that he did in the criminal and family courts. Dr. L.E. opined that Baig was subject to three mental health conditions that have the potential to impact his ability to practice law competently and ethically [mental health conditions redacted] Dr. L.E. was of the view that the three addictions were not discreet but that the substance abuses were in the service of amplifying Baig's sexual behavior. In Dr. L.E.'s opinion, Baig's primary clinical needs were currently being addressed and the fundamentals of an adequate plan were in place.

26. The L.E. Report outlined Baig's abstinence as: no cocaine since late February or early March 2022; no alcohol, other than two drinks on December 5, 2023, since January 2023; and no online sexual content since his admission to the [recovery centre]. That summary is entirely reliant on self-reporting by Baig. No objective evidence, such as urine or hair follicle testing, was tendered to corroborate Baig's claimed substance abstinence for any time period. Dr. L.E. agreed that independent reports of abstinence would be valuable in a case such as this one where the addict may be motivated to misrepresent his achievement of sobriety. There was also no objective evidence, such as electronic device monitoring, to corroborate, at least in part, Baig's claimed abstinence from online sexual content for any time period. Dr. L.E. agreed that there was no way to independently verify whether Baig had been successful in abstaining from online sexual content. Dr. L.E's opinions on the levels of Baig's abstinence and substance remissions were based solely on Baig's self-reporting.

27. In the L.E. Report, Dr. L.E. opined that Baig suffers from multiple co-morbid addictive/compulsive behavior disorders that when untreated compromise his ability to practice law in an ethical and competent manner. The L.E. Report sets out a management plan which is the same as that proposed in the P.H. Report, with the addition of laboratory testing to monitor Baig's drug and alcohol use and to deter his impulsive tendencies. The recommended risk management plan is as follows:

- Continued participation in twice weekly support meetings facilitated by [the recovery centre].

- Continued participation in 12 step support meetings such as Alcoholics Anonymous, narcotics anonymous, and sex addicts anonymous.

- Medical monitoring using whatever methodology allows for detection of stimulants and alcohol over the longest period.

- Continued participation in individual therapy for adjunct issues (e.g. family/marital relationships).

- Assessment by an accredited Canadian psychiatrist for ADHD.

- A professional mentor or supervisor should be identified and made aware of Baig's engagement with the monitoring program, with appropriate consent and authorization of Baig. The designated liaison should know the behavioral indicators of Baig's sex and substance abuse. The mentor supervisor should provide quarterly reports regarding signs of potential concerns that may be displayed in the workplace such as attendance, record keeping, and professional demeanor.

- Baig should notify any potential employer of his substance use and sexual behaviour concerns.

- Baig should be required to provide access to all workplace provided electronic devices upon request by the appropriate party.

- Baig should have limited or no access to the financial information of clients in his workplace. If access is granted, it should be monitored.

- Internet monitoring/filtering software should be installed on Baig's workplace and personal electronic devices.

28. Dr. L.E. further stated that while Baig was committed to his recovery and fully engaged in his ongoing treatment, he was still very early in the process and will require close monitoring and significant support for the next couple of years. Baig's recovery may not be linear, and he may require additional assistance at various points. There was a probability of reversals. Dr. L.E. noted that addictions are 'tough to treat' and have high relapse rates, including 60% to 70% for alcohol and cocaine. He was unaware of any research regarding the relapse rate for sexual addiction. Dr. L.E. felt that Baig was highly motivated to stay sober and that he was remorseful but that his treatment would be challenging. Dr. L.E. opined that there was a good probability that Baig would not remain 100% abstinent from substances or sexually compulsive behavior going forward.

29. In his oral testimony, Dr. L.E. explained that addicts typically continue to engage in their behavior until an external event compels a change. In Baig's case, being fired early in his career for poor performance didn't trigger a behavioral change but getting caught in March of 2021 for his significant financial improprieties led to a change in his addiction behavior. Dr. L.E.'s opinion was that Baig's financial improprieties were 'almost entirely related to his addictions'. He engaged in financial misconduct, by misusing the client's credit card information repeatedly, but in small amounts, and by altering the cheque, to obtain his next fix. Dr. L.E.'s view was that there was a low risk of Baig engaging in financial impropriety in the future if he was not actively addicted.

30. On cross-examination, Dr. L.E. conceded that there was an element of volition in Baig's fraudulent behavior despite the strong compulsions from his addictions. Dr. L.E. felt that two years of sustained behavior was required to establish a new baseline of remission such that Baig would not be at a high risk of relapse.

31. In response to a question from the Committee, Dr. L.E. agreed that Baig's mental health disorders did not in and of themselves demonstrate that Baig was at any particular time unable to control his behavior.

32. LSA counsel argued that Baig's misconduct warranted disbarment. It was fraudulent and criminal in nature, done repeatedly and deliberately, caused harm to the public and breached the trust of clients. Baig knew what he was doing and knew the difference between right and wrong. Mitigating factors were Baig's admission of guilt, expression of remorse, a late apology to his prior employer and eventual entry into a treatment and recovery program.

33. The Committee was referred by LSA counsel to thirteen Canadian law society decisions dealing with serious misconduct and mental health issues.

34. In *Law Society of Alberta v. Torske*, 2015 ABLS 13, the hearing committee imposed an 18-month suspension rather than a disbarment. Torske forged 40 to 50 prescriptions to satisfy a narcotics painkiller addiction developed following an injury. He entered a guilty plea to a criminal charge of uttering a forged document. The hearing committee accepted that there was a causal connection between the addiction and the misconduct and that if the addiction was properly treated there would be no further misconduct. Torske had an over 15-year track record as a successful and well-respected lawyer before the misconduct occurred. At the time of the hearing, Torske had received extensive treatment and had succeeded in controlling his addictions. His counsel, his employers and his doctors were satisfied that he was ready to return to the practice of law after a suspension that had already lasted 2 years. Torske was considered to be in sustained remission.

35. In *Law Society of Alberta v. Liakopoulos*, 2021 ABLS 22, the senior lawyer misappropriated close to $1,000,000 from a trust fund for which he acted as trustee. At the hearing, he provided a doctor's letter that diagnosed him with a gambling addiction. However, the letter was tendered immediately before the hearing and without affording the LSA the opportunity to cross-examine the doctor or to obtain its own medical evidence. The hearing committee found that there was not sufficient or credible medical evidence to establish a causal link between the gambling addiction and the misappropriation. Disbarment was ordered and was upheld on appeal at 2022 ABLS 16.

36. In *Law Society of Alberta v. Virk*, 2020 ABLS 4, Virk was found guilty of 15 citations, many of which related to breaches of integrity, although no misappropriation occurred. At the sanction hearing, a psychiatrist testified that Virk suffered from a mental health issue that materially contributed to his misconduct. The doctor acknowledged that the mental health issue did not provide a complete explanation for the misconduct or that but for the medical health condition Virk would not have engaged in the conduct. The doctor further testified that Virk was at a high risk for relapse. The hearing committee found that Virk's mental health condition had little or no bearing on his ability to tell the truth or his ability to understand and appreciate the consequences of the breaches of his professional obligations. The Committee did not find that there was a causal or contributory connection between Virk's mental disorder and his misconduct. Disbarment was ordered

and was upheld by an appeal panel of the Benchers at 2021 ABLS 16 and the Court of Appeal of Alberta at 2022 ABCA 2.

37. In *Law Society of Alberta v. Beaver*, 2017 ABLS 3, Beaver was found guilty of seven citations relating to the misappropriation of over $300,000 and failing to act with integrity. He had a 20-year clean conduct record prior to his misconduct. At the sanction hearing, evidence was tendered respecting Beaver's mental health issues and the contribution of those conditions to his misconduct. The hearing committee found that the medical reports did not establish a causal link between the misappropriation and the addiction or depression. It noted that the misappropriations were intentional and took place over a long period of time. There was insufficient evidence that Beaver was completely rehabilitated such that he would not engage in misappropriation in the future. The hearing committee concluded that the protection of the public and the reputation of the profession required disbarment. That decision was upheld by an appeal panel of the benchers at 2023 ABLS 4. The Court of Appeal of Alberta on November 5, 2024 dismissed a further appeal, at 2024 ABCA 354. The Court reviewed several decisions from Alberta, Manitoba and Ontario law society hearing panels and courts and noted that the language used to describe the level of connection needed between the misconduct and the medical diagnosis for the medical diagnosis to be mitigating in sanction were inconsistent. The Court stated at paragraph 142 that the proper question is "whether the medical diagnosis caused or contributed to the lawyer's conduct" and if the medical diagnosis caused or contributed to the conduct, it is up to the hearing panel to determine its weight as a mitigating factor.

38. In *Law Society of Alberta v. Nickless*, [2010] LSDD No. 203, Nickless faced 14 citations, including being incapable of representing clients in court due to his drug addiction, wrongful conversion of about $6,000 and lying to the LSA regarding his drug use. The hearing committee accepted a joint submission for an 18-month suspension, finding that Nickless was a well respected and competent counsel when sober and that the misconduct arose from his incompetence by reasons of addiction to narcotics and prescription drugs. The hearing committee also made directions relating to what was necessary prior to Nickless applying for readmission. That procedure has changed and this Committee is not empowered to provide directions regarding the reinstatement process.

39. In *Law Society of Alberta v. Hula*, 2010 ABLS 19, Hula admitted to misappropriating trust funds in the amount of over $100,000 over a period of three years. He attempted to hide the misappropriations by the creation of false invoices and then lied to clients and the LSA. Testimony by a psychiatrist indicated that Hula had a personality disorder and was in some sort of dissociative state when he engaged in the misconduct. The hearing committee accepted the evidence concerning the medical conditions but found that Hula's actions showed a lack of integrity. The hearing committee was not convinced that

Hula had been rehabilitated and would not relapse and concluded therefore that he remained a risk to the public. Disbarment was ordered.

40. In *Law Society of British Columbia v. Ahuja*, 2021 LSBC 44, Ahuja misappropriated about $16,000 for his personal use while in active addiction to alcohol and cocaine. The hearing took place about four years later, by which time Ahuja had undergone extensive rehabilitation and continued to be subject to drug and alcohol monitoring. The addiction specialists called by the Law Society and by Ahuja agreed that he met the diagnostic criteria for addiction and was now in stable remission. They also agreed that the addictions were connected to the misconduct. Rehabilitation had been exemplary. Ahuja had engaged in extensive personal rehabilitation, had founded a charity to assist people living with addiction, spoke on addiction issues and acted as a sponsor to other persons seeking treatment for addictions. The hearing panel ordered a 7-month suspension along with conditions on his return to practice. Ahuja had been practicing under supervision prior to the hearing.

41. LSA counsel referred the committee to authority cited at paragraph 11 of *Ahuja* that stated that the first and overriding purpose of the discipline process was to ensure the public is protected from acts of professional misconduct and to maintain public confidence in the legal profession generally. The second purpose is to promote the rehabilitation of the lawyer. If there is a conflict between these two purposes, the protection of the public and maintenance of public confidence in the profession must prevail. LSA counsel submitted that in cases involving serious misconduct committed while the lawyer was suffering from an addiction, disbarment would be necessary if promoting the rehabilitation of the lawyer would put the public interest and the reputation of the profession at risk.

42. In *Law Society of Ontario v. Yantha*, 2018 ONLSTH 94, while suffering from depression and alcoholism, Yantha overbilled about $29,000 to Legal Aid. The medical evidence established that the depression and alcoholism were causally connected to the misconduct. Yantha minimized his wrongdoing and his alcoholism and avoided treatment for his depression. The hearing committee was not satisfied that Yantha would not continue to engage in reckless behavior in the future and concluded that a long suspension was not sufficient to protect the public. Yantha was given the opportunity to surrender his license.

43. In *Nova Scotia Barristers' Society v. Van Feggelen*, 2010 NSBS 2, Van Feggelen misappropriated funds eight times over five months, totalling about $30,000, and committed other misconduct. He suffered from depression and anxiety which were under treatment at the time of the hearing. The hearing committee heard evidence of Van Feggelen's successful return to practice some months before the hearing under supervision and a practice review report that indicated the lawyer had made considerable progress in his treatment and the operation of his law practice. Van

Feggelen had repaid most of the misappropriated funds. The minority decision of the five-person hearing panel ordered disbarment. The minority was not satisfied that there was a significant nexus between the mental health issues and the misappropriation, that the lawyer knew that his actions were wrong and that the lawyer had other options available. The majority decision concluded that disbarment was not required. It accepted that there was a sufficient nexus between the misconduct and the mental illness and that there were other mitigating factors including timely restitution, confession at an early stage, a lack of a discipline history, rehabilitation of the condition and a successful return to practice. As the lawyer had already been suspended for nine months, no further suspension was ordered although there were conditions placed upon his return to practice.

44. LSA counsel submitted that a suspension of Baig for 18 months (providing for a possible return to practice in January of 2026, two years after completion of the [recovery centre] rehabilitation) may be appropriate if the Committee concluded that the addictions provided a full explanation for the misconduct, that Baig was remorseful and committed to his rehabilitation and that the evidence of rehabilitation was sufficient to establish that adherence to a risk management plan would permit Baig to return to practice without placing the public at risk. Otherwise, she submitted that the appropriate sanction would be disbarment.

45. Counsel for Baig submitted that the evidence of Dr. L.E. provided a clear causal connection between the addictions and Baig's misconduct, that was acknowledged to be dishonourable conduct that goes to the heart of integrity. Counsel referred the Committee to four decisions and addressed some of the LSA's authorities.

46. In *Law Society v. Kelly*, 2018 ABLS 27, the senior practitioner admitted guilt to a number of practice related citations. He had no prior discipline history in over 20 years at the bar. The hearing committee heard some evidence of underlying medical conditions but there was no evidence of a causal connection between those conditions and the misconduct. The hearing committee found that the medical factors appeared only to have contributed to the misconduct. A four-month suspension was ordered.

47. In *LSO v. Miller*, 2019 ONLSTH 106, Miller admitted guilt to citations based on his overbilling of legal aid in an amount in excess of $200,000. The medical evidence established that Miller was suffering from a bipolar II psychiatric disorder at the time of the overbilling. No fraud or dishonesty was alleged. The medical evidence was that the psychiatric disorder substantially contributed to Miller's failure to discover that his assistant was sending out dishonest accounts. At the time of the hearing, Miller was in full remission with medication and the experts said that the chances of a relapse were extremely low. Miller was deeply remorseful and the hearing committee received into evidence 24 letters of good character attesting to Miller's integrity. Miller had no prior

discipline record in his 20 prior years of practice. A 4-month suspension was ordered. Absent the medical condition's impacts, the suspension would have been 12 months.

48. In *LSO v. McCullough*, 2022 ONLSTH 63, the 65 year old Indigenous lawyer who had ben practising over 20 years misappropriated trust funds on 99 occasions over a 22 month period to pay the operating expenses of her firm. The funds were then reimbursed within days or weeks. No clients suffered any loss. The hearing panel stated that the presumptive sanction for misappropriations from trust was revocation (i.e. disbarment) absent 'exceptional circumstances'. However, with consideration of *Gladue* principles, it found exceptional circumstances, including: McCullough had overcome experiences of hardship, disadvantage and violence as a young person to become a lawyer at age 41; she commenced her legal career at the same time that she adopted her four nieces and nephews, all of whom had complex special needs, diverting them from the child protection system; she was under significant stress at the time of the misconduct as a result of financial support she was giving to family members; and she provided valuable ongoing service to an important community of clients, many of whom were indigenous parents needing representation in child protection proceedings. An 8-month suspension was ordered.

49. Counsel for Baig submitted that *Torske* was similar factually to this case. Torske acted without integrity while under the influence of untreated substance abuse disorders and bipolar II disorder. The medical evidence was that Torske was unlikely to reoffend if the addiction was properly managed. Torske failed to seek help for his addiction until his doctor, who had told him twice to stop forging prescriptions, told Torske that he was reporting the forgeries to the police. Counsel recognized the significant differences between *Torske* and this case, including that Torske had a lengthy unblemished record as a practising lawyer before his addictions, but emphasized the similarity of the issues in the two cases.

50. Counsel for Baig also distinguished *Liakopoulos*, *Virk* and *Beaver*, in which disbarments had been ordered. Counsel submitted that: Liakopoulos involved more serious misconduct and a causal connection between the gambling compulsion and misconduct was not established; Virk had a prior disciplinary record, there were concerns about governability and the rehabilitation outcome was uncertain; and Beaver involved more serious breaches of trust impacting many individuals and there was not a clear causal connection between the mental health issues and addiction and the misconduct.

51. Counsel for Baig submitted in summary that an 18- to 24-month suspension could adequately protect the public, having regard to: no prior disciplinary record; an admission of guilt; expressions of remorse; a desire to make restitution; ongoing efforts to rehabilitate; evidence of a causal connection between the addictions and the misconduct; and the three year passage of time from when Baig was caught until the hearing.

Analysis and Decision on Sanction

52. Section 190 of the LSA's 2022 Pre-hearing and Hearing Guideline (Hearing Guideline) provides:

> Disbarment is appropriate in the most serious cases where the lawyer's right to practice law must be terminated to protect the public against the possibility of a recurrence of the conduct, even if that possibility is remote. Where any other result would undermine public confidence in the integrity of the profession, the lawyer's right to practice may be terminated regardless of extenuating circumstances and the probability of recurrence. The reputation of the profession is more important than the impact of sanctioning on any individual lawyer.

53. That statement of principle was recognized by the hearing panel in *Ahuja* at paragraph 11 where it cited *Law Society of BC v. Nguyen*, 2016 LSBC 21 at paragraph 36:

> Still, the disciplinary action chosen, whether a single option from section 38(5) or a combination of more than one of the options listed, must fulfill the two main purposes of the discipline process. The first and overriding purpose is to ensure the public is protected from acts of professional misconduct, and to maintain public confidence in the legal profession generally. The second purpose is to promote the rehabilitation of the respondent lawyer. If there is a conflict between these two purposes, the protection of the public and the maintenance of public confidence in the profession must prevail, but in many instances the same disciplinary action will further both purposes.

54. The authorities establish that the presumptive sanction for misappropriation of funds by a lawyer is disbarment. In *McCullough*, the hearing panel at paragraph 17 set out the operative principle:

> For this reason, professional misconduct involving proven dishonesty (including misappropriation) typically warrants revocation. This principle stems from *Bolton v. Law Society*, [1993] EWCA Civ 32, where Sir Thomas Bingham said that in cases of proven dishonesty "... the tribunal has almost invariably, no matter how strong the mitigation advanced by this solicitor, ordered that he be struck off the Roll of Solicitors".

55. The essential point made in *Bolton* and adopted in *Mucha*, 2008 ONLSAP 5, is that mitigating circumstances that may be effective in other cases do not have the same effect in cases of proven dishonesty and that in such cases revocation is almost invariably ordered no matter how strong the mitigating factors may be. The reason is the need to maintain well founded confidence in the legal profession. The foregoing passage

from *Bolton* was cited with approval by the Court of Appeal of Alberta in *Liakopoulos* at paragraph 66.

56. The Court of Appeal of Alberta in *Liakopoulos,* at paragraphs 69 and 70, also expressly agreed with the following statement by the hearing committee in that case at paragraph 54:

> As noted in *Beaver*, while medical reports might deal with the risk of reoffending behaviour, it cannot address the regulatory task of demonstrating to the public that the LSA is responding to the conduct in a manner that leads to a high degree of public confidence in the profession.

57. In *Adams v. Law Society of Alberta*, 2000 ABCA 240, at paragraph 6, the Court stated:

> A professional misconduct hearing involves not only the individual and all the factors that relate to that individual, both favorably and unfavorably, but also the effect of the individual's misconduct on both the individual client and generally on the profession in question. The public dimension is of critical significance to the mandate of professional disciplinary bodies.

58. In *Law Society of BC v. Tak*, 2014 LSBC 57 at paragraph 35, the hearing panel stated:

> In the absence of multiple, significant mitigating factors, public confidence in the profession and its ability to regulate itself would be severely compromised if anything short of disbarment is ordered for misappropriation of client funds.

59. Absent consideration of the mitigating factors to be discussed below, the Committee would order the disbarment of Baig. The central issue for determination by the Committee is whether exceptional circumstances exist in this case such that both the protection of the public and protection of the reputation of the profession can be accomplished by a long suspension rather than disbarment.

60. The hearing panel in *Miller* at paragraph 75 cited *Bishop v. Law Society of Upper Canada*, 2014 ONSC 5057 in which Justice Nordheimer stated that in order to mitigate penalty an exceptional circumstance will need to "... rise to the level where it would be obvious to other members of the profession, and to the public, that the underlying circumstances of the individual clearly obviated the need to provide reassurance to them of the integrity of the profession." The evidentiary burden is a high one.

61. The Hearing Guide at paragraphs 185 to 187 confirms 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 profession. Other purposes of sanctioning, including specific and general deterrence and denunciation of the

misconduct, are secondary and carry less weight. Sanctioning must be purposeful and proportional.

62. The Hearing Guide at paragraph 204 sets out a number of factors that may have either an aggravating or mitigating effect on the appropriate sanction. The factors relevant to the Committee's consideration are:

- Baig had no prior discipline record;
- Baig was called to the Alberta bar in February of 2015 but had actively practiced only slightly more than four years when his misconduct was discovered;
- Baig did not self-report. When interviewed by a LSA investigator, he initially denied his actions until confronted by the investigator. Baig signed the SAF about two years later;
- Baig has expressed remorse for his misconduct but apologized to his prior employer only shortly before the hearing;
- Baig has been cooperative respecting the hearing process;
- Baig was under the influence of three addictions at the time of his misconduct and the evidence of Dr. L.E. was that Baig's financial improprieties were 'almost entirely related to his addictions'. In short, there is evidence that the mental disorders caused or contributed to the very serious misconduct;
- Baig, despite his stated desire to do so, has made no financial restitution due to his limited financial circumstances;
- Baig completed a rehabilitation program in January of 2024 and based only on his self-reporting has maintained his sobriety since that time. Dr. L.E. further stated that: Baig was still very early in the recovery process and will require close monitoring and significant support for the next couple of years; Baig's recovery may not be linear and he may require additional assistance at various points; there was a probability of reversals; Baig's treatment would be challenging; there was a good probability that Baig would not remain 100 % abstinent from substances or sexually compulsive behavior going forward; and two years of sustained behavior (to about January 2026) was required to establish a new baseline of remission such that there would not be at a high risk of relapse.
- Baig's misconduct was solely for his own benefit, to satisfy his addictions; and

- Baig repeatedly and over several months breached the trust of the law firm's clients by misusing financial information that had been entrusted to the firm for the provision of legal services.

63. Having considered carefully the SAF, hearing record, authorities and submissions of counsel, the Committee finds that both the protection of the public and protection of the reputation of the profession cannot be accomplished by a long suspension rather than disbarment. The Committee finds in all of the circumstances of this case that disbarment is necessary to maintain the public's confidence in the integrity of the legal profession.

64. In *Virk*, the Court of Appeal of Alberta stated at paragraph 40:

> Disbarment is the most severe sanction, but it is not reserved for cases involving dishonest dealing with money, nor is it reserved for the hypothetical "worst case and worst defender". Every case is different, and comparison with other decisions is rarely decisive. The need to restore public confidence in the profession and protect the public will vary. As a result, such comparisons have limited weight in demonstrating that a sanction is demonstrably unfit. The Appeal Panel was not required to identify the most directly comparable prior case and impose a similar sanction.

65. None of the authorities are directly comparable. Each turns on its facts, including prior discipline record, reputation for integrity in practice over a prior period, seriousness of the misconduct, admission of guilt, remorse, impact of mental disorders or addictions, level of rehabilitation, risk of reoffending, losses sustained and restitution. In the cited authorities in which no causal connection was found between the misconduct and a mental disorder or addiction condition (*Liakopoulos, Virk, Beaver, Kelly and McCullough*), disbarment was ordered in three cases. In the cited authorities in which a causal connection was established (*Hula, Yantha, Miller, Ahuja, Torske and Nickless*) disbarment was ordered in two cases. In *Van Feggelen*, the minority found no causal connection and would have disbarred the lawyer while the majority found the misconduct to be explained by the mental illness and ordered a suspension.

66. *Torske* and *Ahuja* considered substance abuse that was found to be causally connected to the misconduct and in each case a suspension was found to be the appropriate sanction. Counsel for Baig relied heavily on *Torske*, in particular. The Committee finds each case to be clearly distinguishable.

67. Torske had a 15-year clean practice record, as a crown prosecutor and later a criminal defence counsel, before his addictions developed and he committed his forgeries. His bipolar II disorder was being treated and his addictions were in sustained remission at the time of the hearing. There was objective evidence, through repeated hair follicle random testing, of sobriety. Prior to the hearing he had maintained employment with

positive evaluations as a paralegal. His conduct had been denounced by a criminal conviction. In contrast, Baig: was impaired in his performance as a lawyer by his use of pornography, cocaine and alcohol at the very start of his career and thereafter; at the time of the hearing, was very early in the recovery process; adduced no objective evidence of sobriety; had no law firm employment in any capacity prior to the hearing; and had not been subject to criminal sanction. In response to a question about Baig's lack of a successful track record as lawyer, his counsel suggested that the Committee look to Baig's other conduct. In that regard, the Committee notes that Baig regularly purchased and possessed cocaine, a prohibited substance, starting in 2013 after completing law school. He also admitted that he lied to or was deceptive with the police and his employer and that he was initially untruthful with the LSA investigator.

68. Ahuja, called to the BC bar in 2012, was a junior lawyer, like Baig. Ahuja had a prior discipline record but the medical evidence was that he was suffering from substance abuse issues when he committed the prior misconduct. He had completed a residential treatment program and at the time of the hearing had been complying with his ongoing sobriety monitoring program for about four years. Ahuja had practiced under the supervision of a senior lawyer without complaint for about three years prior to the hearing. He had made restitution to all the victims. He was subject to objective addiction monitoring. The hearing panel received 28 letters with character references from a variety of sources including family, clients, his former supervising lawyer and senior members of the bar. Ahuja had become a recognized advocate of activities to promote rehabilitation and awareness of addiction. In contrast, Baig: was not earlier reported to the LSA for misconduct even though his performance as a lawyer was impaired; is in the early stages of recovery and completed the [recovery centre] program less than a year ago; has not practiced since March 2021; has not made restitution; has provided only a self-report of sobriety; adduced no character references; and has not been the 'model respondent', as Ahuja was described by the hearing panel.

69. Pursuant to section 72(1) of the *Act*, the Committee shall either disbar, suspend or reprimand the member, and may also impose practice conditions as permitted by the Rules of the LSA (Rules). The Committee's view is that it is premature due to the early stage of Baig's recovery to realistically assess the conditions that might permit Baig's safe return to practice. Section 86(1) of the *Act* requires the reinstatement of a disbarred member to be made by order of the Benchers at least one year after the date of disbarment. Reinstatement of disbarred members is governed by sections 107.2 to 114 of the Rules.

70. The reinstatement rules provide for the appointment of a Committee of Inquiry that presides over a reinstatement hearing. The Committee of Inquiry has broad powers, including to receive written submissions from interested persons, to hear testimony from the applicant for reinstatement, to hear and receive other evidence and to direct investigations. The Committee finds that in the circumstances of this case a Committee

of Inquiry would a year or later from now be able to more thoroughly and fairly assess Baig's ability to safely return to practice and any conditions that may be required to ensure that result. It may receive evidence that is unavailable to the Committee at this time, including: the status of Baig's recovery two years after completion of the [recovery] program; whether Baig has achieved and maintained sustained remission; periodic objective evidence of Baig's sobriety; Baig's activities, personally and vocationally, since the date of the hearing; and character references speaking to Baig's behavior and condition during his recovery.

71. The Committee recognizes the harsh impact of disbarment on Baig but is bound to give priority to the protection of the public and the maintenance of public confidence in the profession. The Committee also considered the impact of its decision on other lawyers struggling with mental health or addiction issues. Early reporting and treatment must be encouraged and is in the best interests of both the public and the profession. In the Committee's view, self-reporting by a lawyer of mental health or addiction issues should be lauded and the LSA's resources should be directed to assist the lawyer in pursuing recovery, while ensuring safe practice and the maintenance of the profession's reputation. Self-reporting by a member ought to be a significant mitigating factor if sanctions are considered. However, when the lawyer commits misconduct over a lengthy period and seeks treatment only after they are caught and accountable for their misconduct, a less benevolent approach is warranted to encourage early self-reporting, as difficult as that may be for a lawyer suffering from a mental disorder or addiction.

Costs

72. There are several recent decisions of the Court of Appeal of Alberta dealing with costs in professional discipline cases.

73. In *Jinnah v. Alberta Dental Association and College*, 2022 ABCA 336, the Court considered an appeal by a dentist of a disciplinary decision by her College's appeal panel finding her guilty of unprofessional conduct and ordering a sanction consisting of a reprimand, completion of an ethics course, payment of Hearing Tribunal costs in the amount of $37,500.00 and payment of one-quarter of the appeal panel costs. The professional college was under the ambit of the *Health Professions Act*, RSA 2000, c. H-7. The Court set aside the Order that the dentist pay the costs of the investigation and hearing. The Court directed those matters to be reconsidered by the College's appeal panel for determination in accordance with the principles set out in the Court's decision.

74. In *Jinnah*, the Court held that it is the profession as a whole, not just a disciplined member, that benefits from the privilege of self-regulation. The costs of conducting discipline proceedings were viewed as an inevitable part of self-regulation. The Court held that the imposition of all or a significant percentage of the costs of self-regulation on the profession was fair because all members benefit from self-regulation. The Court

held that as a general principle, it would be appropriate to impose a significant portion of the costs of an investigation into and hearing of a complaint on a disciplined dentist only if there was a compelling reason to do so. The Court outlined what it considered to be the four compelling reasons to depart from the general rule:

1) a dentist who engages in serious unprofessional conduct;

2) a dentist who is a serial offender who engages in unprofessional conduct on two or more occasions;

3) a dentist who fails to cooperate with the college investigators and forces the college to expend more resources than is necessary to ascertain the facts related to a complaint; and

4) a dentist who engages in hearing misconduct, being behavior that unnecessarily prolongs the hearing or otherwise results in increased costs of prosecution that are not justifiable.

75. The Court concluded that in most cases of unprofessional conduct, the profession should bear the costs of the discipline process. This represented a significant shift from the previous position of the Court.

76. The *Jinnah* decision was considered by an appeal panel of the Benchers (consisting of seven Benchers) in *Beaver*, 2023 ABLS 4. Mr. Beaver was found guilty by a hearing committee of unprofessional conduct resulting in his disbarment and an order to pay costs in the amount of $120,000.00, representing about 75% of the total costs. Coincidentally, Mr. Beaver's counsel on the appeal represented Dr. Jinnah on his appeal. The Bencher appeal panel upheld the costs award and found that the Court of Appeal's decision in Jinnah was applicable only to professionals regulated by the Alberta Health Professions Act. The Court of Appeal of Alberta, at 2024 ABCA 254, dismissed the appeal, finding that the costs award was reasonable, but declined to comment on whether Jinnah was applicable to lawyers.

77. In *Tan v. Alberta Veterinary Medical Association*, 2024 ABCA 94, the Court considered an appeal by the veterinarian of findings of unprofessional conduct. The Hearing Tribunal ordered that he pay 20% of the costs of the investigation and initial hearing. The College's appeal panel (the Committee of Council) upheld the findings on the merits and on sanction and ordered the veterinarian to pay about 50% of the appeal costs. The proceedings were conducted under the *Veterinary Professions Act*, RSA 2000, c. V-2, which is not encompassed under the Alberta *Health Professions Act*. At paragraph 34 of its decision, the Court of Appeal panel (that included one member who had been part of the *Jinnah* panel) characterized the *Jinnah* decision as confirming that "professional regulatory bodies should not automatically order costs against a member, even where

allegations are sustained. The decision-maker must consider both whether a costs award is appropriate and if so, the quantum". The Court's reasons made it clear that *Jinnah* was not restricted to professions regulated under the Alberta *Health Professions Act*.

78. Importantly, at paragraph 35 of its decision, the Court relied not upon *Jinnah* but on its earlier decision in *Alsaadi v. Alberta College of Pharmacy*, 2021 ABCA 313, in holding:

> We agree with the appellant that even where it is appropriate to order costs against a member, the Hearing Tribunal and the Committee of Council must consider the appropriate quantum in all respects, including which expenses the member should be partially responsible for, whether the expenses incurred were for reasonable steps in reasonable amounts, what portion is chargeable to the member and whether the end result is reasonable.

79. The Court's reliance on *Alsaadi* rather than *Jinnah* is instructive. In *Alsaadi*, Justice Khullar (now Chief Justice of the Court of Appeal of Alberta) stated at paragraph 94 that the Court's approach to costs in the disciplinary process of self-regulated professions was set out in *K.C. v. College of Physical Therapists of Alberta*, 1999 ABCA 2053, as follows:

> The fact that the **Act** and **Regulation** permit the recovery of all hearing and appeal costs does not mean that they must be ordered in every case. Costs are discretionary, with the discretion to be exercised judicially… Costs awarded on a full indemnity basis should not be the default, nor, in the case of mixed success, should costs be a straight mathematical calculation based on the number of convictions divided by the number of charges. In addition to success or failure, a discipline committee awarding costs must consider such factors as the seriousness of the charges, the conduct of the parties and the reasonableness of the amounts. Costs are not a penalty, and should not be awarded on that basis. When the magnitude of a costs award delivers a crushing financial blow, it deserves careful scrutiny: … If costs awarded routinely are exorbitant they may deny an investigated person a fair chance to dispute allegations of professional misconduct; … Costs are often treated as an afterthought and an inevitability in professional discipline matters under the *Health Professions Act*.

80. Justice Khullar noted that the approach taken by many Hearing Tribunals was to calculate the total maximum expenses related to the hearing and then to order a percentage of that amount to be paid by the unsuccessful professional. She referred to a number of decisions in which the costs ordered to be paid by the professional were in

the range of 60 to 75% of the total costs. Justice Khullar summarized the approach to costs at paragraph 120:

> A more deliberate approach to calculating the expenses that will be payable is necessary. Factors such as those described in *K.C.* should be kept in mind. A hearing tribunal should first consider whether a costs award is warranted at all. If so, then the next step is to consider how to calculate the amount. What expenses should be included? Should it be the full or partial amount of the included expenses? Is the final amount a reasonable number? In other words, a hearing tribunal should be considering all the factors set out in *K.C.*, in exercising its discretion of whether to award costs, and on what basis. And of course, it should provide a justification for its decision.

81. The Court of Appeal of Alberta approach to costs in discipline proceedings involving professionals seems to have come full circle through the decisions of a number of panels of the Court over the past three years:

- *K.C. v. The College of Physical Therapists of Alberta*, 1999 ABCA 253 – August 23, 1999 – The factors to be considered are set out above in paragraph 96.

- *Alsaadi v. Alberta College of Pharmacy*, 2021 ABCA 313 – September 17, 2021 – Confirmed the application of the *K.C.* factors.

- *Tan v. Alberta Veterinary Medical Association*, 2022 ABCA 2021[Tan 1] – June 17, 2022 – The court cited *Alsaadi* and *K.C.* factors.

- *Jinnah v. Alberta Dental Association and College*, 2022 ABCA 336 - October 13, 2022 – The court held that a professional should not be charged with a significant portion of the costs of an investigation and hearing unless one or more of four enumerated compelling reasons applied.

- *Tan v. Alberta Veterinary Medical Association*, 2024 ABCA 94 [Tan 2] – March 19, 2024 – The court referenced *Jinnah* as deciding that a professional regulatory body should not automatically order costs against a member, even where allegations are sustained, but it cited *Alsaadi* and applied the *K.C.* factors in assessing costs.

- *Beaver v. Law Society of Alberta*, 2024 ABCA 354 – November 5, 2024 – The court upheld an award representing about 75% of the LSA's estimated hearing costs as reasonable whether or not *Jinnah* applied to the regulation of a lawyer.

The court was aware that leave had been recently granted for a reconsideration of *Jinnah*.

82. The Committee notes that on July 2, 2024 the Court of Appeal of Alberta, in *Charkhandeh v. College of Dental Surgeons of Alberta*, 2024 ABCA 239, allowed an application seeking leave to argue on appeal that *Jinnah* should be reconsidered.

83. The Committee is of the view that the *K.C*. factors apply and that a costs award against Baig is appropriate in the circumstances here. With respect to the factors in *K.C.*:

- Baig admitted guilt to all three citations;
- Baig's admitted misconduct, described by his counsel as involving "dishonourable conduct that goes to the heart of integrity"' represents egregious misconduct, at the most serious end of the range;
- Baig admitted his misconduct, thereby reducing the length and costs of the proceeding; and
- The estimated statement of costs in the approximate amount of $29,000.00 is in the Committee's view very reasonable. The counsel fees are based on a rate of $125/hour, a rate that is 25 years old. That hourly rate is unrealistically low when compared against the current rates for comparable legal services in the Alberta marketplace. The Committee urges the LSA to consider an increase to the prescribed LSA counsel rate that would more appropriately reflect the value of those services and their costs to the LSA and its members. The Committee acknowledges that the hearing took a half day less than projected in the per diem hearing expense section of the statement of costs.

84. Baig has not practiced law for over three years and his occasional employment in Pakistan has been very low paying. He testified that he hopes to make restitution to R. Co. but lacks the resources to do so. The Committee concludes that Baig also lacks the resources to pay any significant costs award and recognizes that the costs award is not to be in the nature of a penalty. Nonetheless, the Committee is not prepared to unconditionally saddle the profession with the full costs of the regulatory proceedings necessitated by Baig's admitted misconduct. The Committee orders costs against Baig in the amount of $20,000.00, payable within two years of the date that Baig resumes the practice of law in any Canadian jurisdiction.

Concluding Matters

85. Section 78(6) of the *Act* in part provides:

> …if following a hearing under this Division, the Hearing Committee … is of the opinion that there are reasonable and probable grounds to believe that the member has committed a criminal offence, the Hearing Committee … shall forthwith direct the Executive Director to send a copy of the hearing record to the Minister of Justice and Solicitor General.

86. Counsel for the LSA submitted that the unauthorized credit card use fell within section 342(1) of the Criminal Code, the cheque alteration fell within section 366(1) of the Criminal Code and the acquisition of sexting services from R. Co. without payment fell within section 380(1) of the Criminal Code. Counsel for Baig made no submissions on this issue other than to affirm the threshold under section 78(6) of the *Act*.

87. The Committee's opinion is that there are reasonable and probable grounds to believe that the Member has committed the criminal offences referenced and directs the Executive Director to make the requisite referral to the Minister of Justice and Solicitor General. The Committee notes that it is not within its purview to determine if the Member has any defences to the referenced offences.

88. Notice to the Profession of the disbarment is required.

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

Dated November 13, 2024.

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Ken Warren, KC

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Barbara McKinley

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Grant Vogeli, KC