

**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 MISHA SANGHI
A MEMBER OF THE LAW SOCIETY OF ALBERTA**

Hearing Committee

Jim Lutz, KC – Chair
Grace Brittain – Adjudicator
Glen Buick – Lay Bencher

Appearances

Miriam Staav – Counsel for the Law Society of Alberta (LSA)
Jeinis Patel – Counsel for Misha Sanghi

Hearing Date

July 7, 2023

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 that Misha Sanghi failed to provide competent, timely, conscientious and diligent service to her client, R.B., including by failing to submit her permanent residence application in a timely fashion and failing to provide her with accurate information regarding the status of her matter, and that such conduct is deserving of sanction; and
 - 2) It is alleged that Misha Sanghi failed to act with integrity, including by altering one or more documents to mislead her client, R.B., and that such conduct is deserving of sanction.
2. On July 7, 2023, the Hearing Committee (Committee) convened a hearing into the conduct of Misha Sanghi, based on the two citations.

3. After reviewing all of the evidence, exhibits, and hearing the testimony and arguments of the LSA and Ms. Sanghi, for the reasons set out below, the Committee finds Ms. Sanghi guilty of conduct deserving sanction on both citations, pursuant to section 71 of the *Legal Profession Act (Act)*.
4. The Committee also finds that based on the facts of this case, the appropriate sanction is a three-month suspension in accordance with section 72 of the *Act*, commencing two months from July 7, 2023.
5. In addition, pursuant to section 72(2) of the *Act*, the Committee orders costs in the amount of \$9,000.00 payable before July 7, 2024.

Merits Decision

6. Both counsel collaborated on and submitted a Statement of Admitted Facts, Exhibits, and Admission of Guilt (Agreed Statement) pursuant to section 60 of the *Act*. The Committee made inquiries of Ms. Sanghi to ensure she understood that she made the admissions of guilt voluntarily, unequivocally admitted her guilt to the citations as well as her understanding of the nature and consequences of her admission and that the Committee was not bound by any joint submissions made by counsel. Ms. Sanghi acknowledged she understood and wished to proceed.
7. The Committee found the Agreed Statement to be in an acceptable form pursuant to section 60 of the *Act*. Accordingly, the Committee finds Ms. Sanghi guilty of the two citations.

Facts/Background

8. Ms. Sanghi is a practicing lawyer in Calgary, in the area of immigration law. Ms. Sanghi affirmed the facts as outlined in the Agreed Statement and she testified at the hearing to add context to the Agreed Statement in the sanction phase. Based on the Agreed Statement and her evidence, events giving rise to the citations are summarized in the following paragraphs.
9. Ms. Sanghi testified she was a lawyer educated and called to the bar in India in 2010, working in the area of tax law. Ms. Sanghi arrived in Calgary in October 2014 and began the NCA accreditation program. Ms. Sanghi was able to secure employment at the law firm SSH in December 2014 as a legal assistant.
10. In 2016, upon completion of the accreditation process, she started work at SSH as an articling student, being called to the Alberta bar in October 2017.

11. In late 2017, Ms. Sanghi was an associate with SSH, assisting R.B. with an application for permanent residence based on humanitarian or compassionate grounds. Ms. Sanghi obtained from the firm the documents necessary to complete the application.
12. In the days and months that followed, the application was not filed despite prompting from R.B. and despite the time sensitive nature of the application. For all of 2018 and 2019 the application remained unfiled and Ms. Sanghi misled R.B., implying that the application had been completed. In November of 2019 a processing fee was paid (Original IRCC Receipt) for the application was paid, despite the application still not having been submitted.
13. In March 2020, R.B. contacted Ms. Sanghi concerned about her status in Canada. R.B. was so concerned about the delay, she contacted her Member of Parliament to follow up and determine what was holding up her application.
14. As a result of this, Ms. Sanghi finished the application but did not respond to R.B.'s communications. At this time, Ms. Sanghi sent an email to an assistant at the IRCC asking about the status of R.B.'s application. This was misleading, as the application had not been submitted. The assistant responded she did not have the application in the system.
15. Ms. Sanghi asked R.B. to attend her office to sign forms. On March 5, 2020, the application was submitted, and four days later on March 9, Ms. Sanghi received notice the IRCC confirmed receipt of the application.
16. R.B. asked Ms. Sanghi for a receipt and tracking details related to the application. At this point, Ms. Sanghi altered various documents to show R.B. proof the application had been filed. Ms. Sanghi altered the application, the postal receipt, and the fee receipt from IRCC of which were all backdated and altered to look like R.B.'s application. Notably, the postal receipt was from another file, altered to look like R.B.'s application.
17. The IRCC receipt was altered using Adobe Software from November 2019 to a new date of April 2018 to mislead R.B. into believing the application was submitted.
18. In May 2020 Ms. Sanghi's employment with SSH was terminated. R.B. attended the firm wanting to speak to someone about the application.
19. Ms. Sanghi was contacted by the firm, and she informed them the application was submitted in 2018 but returned to the firm late in 2019, then resubmitted in March 2020. This was misleading as the application was only submitted in March 2020.

20. On June 3, 2020, the firm contacted IRCC about the possibility of an expedited application to maintain R.B.'s temporary status and refunded her legal fees. The LSA was also contacted about this matter.
21. An investigation by the LSA ensued and Ms. Sanghi informed the investigators she deeply regretted her actions and apologized. Ms. Sanghi indicated she had learned from her mistakes and recognized the factors leading to this, including a heavy case load, ineffective communication with clients, and high stress situations. Her apology extended to her firm, the public, and she agreed to take any steps to improve as a lawyer.
22. In her evidence, Ms. Sanghi described a very high case load with no administrative support. She discussed very long days and very challenging billing targets that needed to be met if anything more than the annual salary was to be paid.
23. Ms. Sanghi testified that she reflects regularly on this matter and her failure to complete the work. She described the pressures of a young lawyer working around client and employer expectations and the steps that led to her misleading her client and ultimately the firm.
24. Ms. Sanghi felt compelled not to complain about her workload, believing she could complete all the work she was given in order to show the partners she was competent and hardworking. At the time that she was working on this matter, Ms. Sanghi had been a practicing lawyer in Alberta for less than two years. The steps Ms. Sanghi took to cover up her failing to file the application and misleading R.B. and the firm were due largely to Ms. Sanghi's lack of experience and a lack of support staff.
25. As noted above, Ms. Sanghi delayed the application due to unmanageable caseload work and did not feel she could tell R.B., whose trust she felt she had broken.
26. Ms. Sanghi told the Committee she felt, "humiliated and ashamed because R.B. placed her trust in [her] and [she] broke her trust" by robbing her of a chance to apply for permanent residence.
27. As a result of COVID-19, no hearings were scheduled, therefore Ms. Sanghi and other associates were temporarily laid off in March of 2020, then laid off permanently in May 2020.
28. In September 2020, along with another former firm associate, Ms. Sanghi began practicing in an association in a less pressing financial and better practice situation. Ms. Sanghi now works with an assistant and a smaller number of files.
29. Ms. Sanghi engaged with LSA's Practice Management department creating a plan to manage her practice, as well as engaging in educational upgrading and extensive

volunteer work through a church immigration program, the Calgary Food Bank and the Calgary HIV Society.

30. Ms. Sanghi appears keenly aware of her responsibilities and the issues that brought her before the Committee acknowledging her responsibility to the clients, courts, and the LSA.
31. Moreover, under cross-examination by LSA counsel, Ms. Sanghi acknowledged her obligation is to act honourably and with integrity. She agreed she violated her obligations as a lawyer in the matter of R.B. She also acknowledged the absence of any mental or physical conditions.

Submissions of the LSA

32. Counsel for the LSA submitted Ms. Sanghi's conduct was conduct deserving of sanction on both citations and sought a suspension of six months and an order for costs.
33. The LSA emphasizes specific deterrence of Ms. Sanghi and general deterrence citing the LSA Pre-Hearing and Hearing Guideline (Guideline) at paragraph 185-186, to ensure the protection of the public and the integrity of the profession.
34. Ms. Sanghi's conduct falls towards the more serious end of the professional conduct spectrum putting the reputation of the profession at risk by misleading R.B., the firm, and Immigration Canada.
35. LSA counsel submitted that a vulnerable client like R.B. was put at risk. By misleading her, Ms. Sanghi prevented R.B. from taking any steps to mitigate her jeopardy. The deception perpetrated on R.B. prevented R.B. from protecting herself.
36. It is also aggravating that the deception took place over two years, which is a significant period of time.
37. In citing the Guideline, LSA counsel emphasised lack of integrity and dishonourable conduct as the fundamental sanction considerations.
38. According to LSA counsel, the aggravating factors include:
 - a) The two-year delay in the filing of the application.
 - b) The intentional steps to mislead R.B.
 - c) The member's lack of integrity.

39. In mitigation, the LSA notes:
- a) Ms. Sanghi has no disciplinary record.
 - b) She was a junior lawyer at the time of the citations.
 - c) Her significant level of cooperation with the discipline process and the admissions she signed.
 - d) Ms. Sanghi's expression of remorse and acceptance of full responsibility.
 - e) The subject matter of the citations resulted from one single client matter.
 - f) Her prior good character as evidenced in the letters provided by her colleagues;
 - g) Ms. Sanghi's work with Practice Management and willingness to work towards rehabilitation and improve her skills.
 - h) The counselling undertaken by Ms. Sanghi is significant and speaks to her rehabilitative efforts.
40. LSA counsel also commented on the impact a suspension would have on Ms. Sanghi and aptly stated there is a price for the privilege of practice: that price is integrity, and the individual fortunes of a lawyer never trump the reputation of the profession or a member's obligation to the public.
41. LSA counsel referred to a number of authorities, including the following:
- *Law Society of Alberta v. Hammoud*, 2013 ABLs 9 – This decision balances the consequences of discipline proceeds against the personal consequences to the member. Holding the reputation of the profession is more important than the fortunes of any individual member citing *Bolton v. Law Society* [1994] 1 WLR 512 at 519.
 - *Law Society of Alberta v. Beaver*, 2023 ABLs 4 – This unfortunately oft-cited decision represents the high watermark in serious misconduct and sanction sentence. As counsel for the LSA intuitively submits, “the distinction between Ms. Sanghi's conduct and Mr. Beaver's conduct is like comparing apples to oranges.” The facts are distinguishable as is the sanction.
 - *Law Society of Upper Canada v. Willoughby*, 2011 ONLSHP 43 – This decision is similar to that of Ms. Sanghi's, though there were more instances of failing to serve clients (six). LSA counsel points to the fact there was a detailed psychiatric report in this case, something that is not present in the matter before this

Committee. Counsel further submits it is significant because the psychiatrist “establishes causal connection” between the conduct and medical condition.

42. The Committee noted firstly that there is nothing in the Guideline requiring medical, psychological or psychiatric evidence must be called for the Committee to assess and weigh in a hearing. To the contrary, as with precedent, it is open to the Hearing Committee to come to its own conclusions based on the totality of the evidence presented.
43. Secondly, a close review *Willoughby* at paragraph 13 notes:

The Lawyer also produced a detailed psychiatric report, dated April 16, 2010, from Dr. Hy Bloom, who indicated that there was no diagnosed psychiatric condition, but that the Lawyer had been exposed to situational stresses at the time that he exercised such poor judgement.
44. It seems no medical evidence connected the conduct to a mental illness and just as in Ms. Sanghi’s case, we have a lawyer subject to a stressful practice situation (situational stresses) who exercised poor judgment that resulted in a three-month suspension.
45. The *Willoughby* decision noted there was a psychological report but nothing connecting the medical diagnosis to the misconduct, contrary to *Beaver*.
46. Counsel for the LSA submitted there must be evidence of a causal link between the medical diagnosis and the impact it would have on sanction.
47. The Committee disagrees. A panel may consider all evidence and ascribe to it the weight that is appropriate in each, particular case. To do otherwise would be to fetter the panel’s decision-making process. Each case has its own merits and must be considered without constraining its ability to do so.
48. Another case cited by LSA counsel, *Law Society of Alberta v. Persad*, 2020 ABLs 27, is a decision that dealt with a member falsifying a divorce judgment and providing it to a non-client for the member’s benefit. In this case, counsel for the LSA and counsel for Mr. Persad proposed a joint submission of a six-month suspension that was accepted by that hearing committee. While useful, this decision is predicated on a joint submission, making it difficult to apply absent the *quid pro quo* component of the negotiations.
49. This Committee does not agree with the LSA’s submission that the *Persad* case signals the appropriate range of sanction for this type of offence, involving dishonesty and an integrity breach, moving out of a lower range. The Committee reaffirms the time-held position that no committee is bound by a prior committee’s decision and that each case must be decided on its own facts. This ensures flexibility of the sanctioning process to arrive at a just and proper sanction in each individual hearing.

50. The remaining cases submitted are useful as guide markers in the sanctioning process but are distinguishable on their facts based on the number of citations and the nature of the conduct.
51. LSA counsel submitted a suspension of six months and an order for costs was the appropriate sanction. The Committee understood the six months was to be concurrent on both citations or alternatively a total of six months.
52. LSA counsel sought costs in the amount of \$13,466.25.
53. Counsel for the LSA also sought a referral to the Attorney General pursuant to section 78(6) of the *Act* and under section 366 (forgery) of the Criminal Code of Canada. Counsel for Ms. Sanghi does not dispute this recommendation.

Submissions of Ms. Sanghi

54. Counsel for Ms. Sanghi adapted an appropriate theme of, “When Good Lawyers do Bad Things.” Counsel for Ms. Sanghi notes both a lack of experience and a junior lawyer feeling intense pressure to please both the client and the firm. It is implicit in the facts that Ms. Sanghi did not stand to gain from her actions financially or in any other way.
55. Counsel for Ms. Sanghi acknowledges the heightened vulnerability of immigration clients and how any money they possess often goes to pay lawyers who assist in the immigration process. The fiduciary duty Ms. Sanghi owed R.B. cannot be overstated.
56. Ms. Sanghi’s actions were initially impulsive but simply could not be undone as they led to further steps to conceal her failure to file the application.
57. The level of cooperation exhibited by Ms. Sanghi should not be overlooked or underestimated. Counsel for Ms. Sanghi submits his client has learned from this experience. She has learned from Practice Management, sought professional assistance and changed her work model to include fewer files and the addition of an assistant.
58. Although counsel for Ms. Sanghi advocates for a fine, he acknowledges a three to eight month suspension would be appropriate. Other sanction options were discussed but without any compelling authority to support them.
59. On the issue of costs, counsel for Ms. Sanghi sought a reduction in costs given Ms. Sanghi’s circumstances including years at the bar and the nature of her immigration practice.
60. Ms. Sanghi did not oppose a referral to the Attorney General or the Notice to the Profession.

Analysis and Decision on Sanction

61. The Guideline sets out that the purpose of sanction is to ensure the public is protected from acts of professional misconduct and to protect the public's confidence in the integrity of the profession. These two components are critical to the independence of the profession and the administration of justice.
62. As often noted, other purposes of sanctioning include:
 - a) Specific deterrence.
 - b) Where appropriate to protect the public, preventing the lawyer from practicing law through disbarment or suspension.
 - c) General deterrence of other lawyers.
 - d) Ensuring the LSA can effectively govern its members.
 - e) Denunciation of misconduct.
63. The sanctioning phase must be purposeful and certain factors weigh more heavily than others in determining the most appropriate sanction.
64. Having reviewed the material and the submissions of the parties as well as hearing from Ms. Sanghi the Committee is of the view a suspension for three months is the appropriate sanction along with the ancillary orders being requested and agreed to by Ms. Sanghi.
65. The Committee is mindful of Ms. Sanghi's conduct of first lying to R.B. and then taking steps to cover the lies with false documents. This is misconduct that strikes at the very core of a lawyer's integrity and governability. Fortunately, Ms. Sanghi's actions were mitigated firstly by her efforts to get R.B.'s visa extended, but also by the work of her firm and fulsome cooperation with the LSA. As noted, a suspension sends a clear and unqualified message to the public and membership that standards set by the *Act*, Code of Conduct and Rules of the LSA must be followed without exception.
66. The imposition of a three-month suspension reflects the fundamental purpose of the sanction process by protecting the public from acts of professional misconduct and protecting the public's confidence in the integrity of the profession by sanctioning lawyers whose conduct falls below the standards set by the LSA.
67. In consideration of the numerous mitigating factors fairly stated by LSA counsel and balancing those against the aggravating factors, we conclude a junior lawyer with limited experience should be given a more lenient sentence than that of a senior practitioner in similar circumstances, such as *Persad*.

Decision on Costs

68. Both parties were *ad idem* on the appropriate jurisprudence regarding costs. Specifically, the parties agree the decision in *Jinnah v. Alberta Dental Association and College*, 2022 ABCA 336, should be restricted to the *Health Professions Act* and does not apply to the *Act*, its Rules or Code of Conduct. Counsel and the Committee agreed the leading authority to be followed is, *Tan v. Alberta Veterinary Association*, 2022 ABCA 221, which leaves the issue of costs to the hearing committee.
69. The parties made submissions on costs and in light of the LSA request for a reduced cost award, the Committee would further reduce those costs to \$9,000.00 given Ms. Sanghi's experience at the bar, cooperation with the investigation and her rehabilitative steps coupled with her significant engagement volunteering in the community.
70. As agreed between the parties, the Committee ordered the costs to be paid in full by July 7, 2024.

Concluding Matters

71. There will be a referral to the Attorney General as the Committee views Ms. Sanghi's actions engage section 78(6) of the *Act* and require a referral.
72. A Notice to the profession shall be issued.
73. 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. Sanghi will be redacted and further redactions will be made to preserve client confidentiality and solicitor-client privilege (Rule 98(3)).

Dated October 5, 2023.

Jim Lutz, KC

Grace Brittain

Glen Buick