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 CHRISTOPHER TAHN
A MEMBER OF THE LAW SOCIETY OF ALBERTA

Hearing Committee

Margaret Unsworth, KC – Chair and Bencher
Louise Wasylenko – Lay Bencher
Martha Miller – Public Adjudicator

Appearances

Shanna Hunka – Counsel for the Law Society of Alberta (LSA)
Dennis McDermott, KC – Counsel for Christopher Tahn

Sanction Hearing Dates

March 13, 2023

Hearing Location

Virtual Hearing

HEARING COMMITTEE REPORT - SANCTION

Background and Overview

1. Christopher T. Tahn was the subject of 14 complaints and 69 citations flowing from those complaints. In a 56.5-day hearing (Merits Hearing), this Hearing Committee (Committee) heard evidence plus argument on 10 of the 14 complaints and 57 of the 69 citations. The Merits Hearing proceeded over the year and a half in approximately one week increments where the Law Society of Alberta (LSA) would focus on one or two complaints and the relevant citations.

2. In a decision dated November 23, 2022 (Merits Decision), the Committee:
    - Found Mr. Tahn guilty of conduct deserving of sanction on 49 of the 69 citations
    - Dismissed 12 citations (numbers 3, 4, 5, 6, 44, 57, 58, 59, 60, 61, 62 and 63) when the LSA called no evidence; and
    - Dismissed 8 citations (numbers 1, 2,10, 14, 15, 16, 49 and 56) on the basis that the LSA failed to prove the citations.

3. An Agreed Statement of Facts was proposed by the LSA for all citations. There is some dispute when Mr. Tahn first saw this proposal, but he was certainly in possession of it by April 2020 (six months or so before the first hearing date). He has never responded to the draft Agreed Statement of Facts.
    - In essence, Mr. Tahn's argument for failing to do so was that he could not because all his files, paper and electronic records, were in the possession of the LSA.

- As noted in the Merits Decision, the LSA was very clear that Mr. Tahn and/or his counsel were free at any time to attend at the LSA offices and review the files for as long as they wished.
- Mr. Tahn never sought to avail himself of that opportunity.

4. There was also no agreement as to documents and by the end of the Merits Hearing there were 438 exhibits.

5. The Committee, following the November 23, 2022 Merits Decision, set one day for sanction and costs hearing (Sanction Hearing) at which both the LSA and Mr. Tahn submitted case-law and oral argument. Mr. Tahn also called three witnesses and gave evidence himself.

6. The Committee disbars Mr. Tahn and orders costs for the reasons that follow.

Evidence and Submissions of LSA

7. The LSA introduced six exhibits, absent comment by Mr. Tahn. These exhibits included:
   - the LSA certificate of the disciplinary record of Mr. Tahn;
   - the past hearing decision involving Mr. Tahn from 2006 (Exhibit 440) and costs outstanding from the 2018 matter (Exhibit 444 - $55,000.00 outstanding); and
   - an estimated Statement of Costs for this hearing (Exhibit 441 – estimated $350,841.87).

8. The LSA took the Committee through a series of LSA hearing decisions during oral argument which they argued are analogous to the current situation. All these cases had numerous complaints or citations, and all resulted in disbarment with costs:

   Law Society of Alberta v. Thomas, 2016 ABLS 55 [merits decision], 2017 ABLS 21 [sanction decision]

   Law Society of Alberta v. Skrypichayko, 2016 ABLS 57

   Law Society of Alberta v. Clarence Ewasiuk, 2012 ABLS 16

   Law Society of Alberta v. Enge, 2009 ABLS 36

   Law Society of Alberta v. Peterson, 2022 ABLS 25

   Law Society of Alberta v. Virk, 2019 ABLS 25 [merits decision] and 2020 ABLS 4 [sanction decision], aff'd 2021 ABLS 16 (Appeal Panel), aff'd 2022 ABCA 2

9. The LSA urged the committee to disbar Mr. Tahn and order full payment of costs arguing:
   - The vast majority of the time spent on the Merits Hearing was spent on matters where Mr. Tahn was found to breach the LSA Code of Conduct (Code) or the Rules of the Law Society (Rules).

- Every complaint, as discussed by the Committee in the Merits Decision, contained some undisputed facts, yet
  - There was no agreement as to any facts on any of the complaints; and
  - There was no admission as to documents.
- Notwithstanding a reprimand for failing to respond to the LSA in 2006 and sanction for citations in 2018 which included failing to respond to the LSA, the current citations have many instances of failing to respond to the LSA, failing to respond fully, and failing to follow various trust safety rules – all of which goes to the very heart of governability.
- The Pre-Hearing and Hearing Guideline (June 2022) (Guideline) identifies the relevant factors which may be considered in imposing sanction (starting at paragraph 198). Many of those factors apply.

10. Pulling on relevant similar citations in these cases to the ones dealt with in the Merits Decision, the LSA argued the presence of the following factors identified in the Guideline:
    - Misappropriation of funds (*Thomas*, supra and Guideline paragraph 203),
    - harm to clients,
    - ungovernability (many citations of failing to respond to LSA and failing to cooperate with the investigation showing lack of respect),
    - many serious citations, and
    - serial offender (following 2006 and 2018 decisions).

11. On the matter of costs, the LSA argued that the recent *Jinnah* case from the Alberta Court of Appeal[1] does not apply to LSA matters however, alternatively, if it does apply, all four *Jinnah* factors are met in this instance:
    - There are serious charges involved here;
    - We are dealing with a serial offender;
    - There was failure to cooperate in investigations; and
    - There was hearing misconduct – failing to be on time, efficient or focused such that, the LSA alleges, we were waiting around and 'spinning our wheels' throughout the entire hearing.

Evidence and Submissions of Christopher Tahn

12. Mr. Tahn called the following witnesses:
    - FF – counsel for Mr. Tahn and his insurer in ongoing litigation relating to complaint 13 (Citations 64-66).
      - Centrally, the evidence was that Mr. Tahn may not have been the cause of the issues relating to the lien and delay.
    - PH – Mr. Tahn's mother who spoke to his desire to be a lawyer and the very negative impact the 2018 suspension had on his mental health (embarrassment, depression, drinking). She urged him to get help and was pleased when he did.

[1] *Jinnah v Alberta Dental Association and College*, 2022 ABCA 336.

- RN – a current business associate of Mr. Tahn who knew he was suspended from the practice of law. He expressed a desire to work with Mr. Tahn in the future whether suspended or not.

13. Mr. Tahn also gave evidence on his own behalf. He said he still had an interest in being a lawyer. He said he should never have agreed to the facts of the citations in 2018, that the Executive Director of the LSA should have reached out to him to help him with his practice instead of investigating, that he could have done some things better but disagreed with many of this Committee's findings and that he was not given enough credit for the fact that he was being investigated on all fronts and may not have been at his best.

14. Prior to the Sanction Hearing, Mr. Tahn submitted the following six cases to the Committee. Each case involved a lawyer subject to a hearing on one complaint with no more than two citations flowing from the complaint. Five of the cases involved an admission as to facts and four of those involved joint submissions on sanction. The penalty in each was a reprimand and a small fine, with one exception in which a 30-day suspension was given [*Plantje*].

    Law Society of Alberta v. Malcolm, 2016 ABLS 19

    Law Society of Alberta v. Ayers, 2016 ABLS 41

    Law Society of Alberta v. Jeffrey Plantje, 2007 LSA 22

    Law Society of Alberta v. Boulton, 2013 ABLS 6

    Law Society of Alberta v. Field, 2018 ABLS 9

    Law Society of Alberta v. Ingimundson, 2014 ABLS 52

15. In oral argument, mention was made of none of these cases except the dissent in *Plantje*. There was no suggestion to the Committee that any of these cases, all dealing with a reprimand, should apply in this matter. No direct response was offered to any of the submissions of the LSA except to argue that the sanction should not be disbarment and a suggestion as to costs.

16. On sanction, Mr. Tahn urged the Committee to take into account that he has been suspended since 2018. He then argued (without reference to any authority) that the appropriate sanction would be a further suspension of two years with the following stipulations – he be allowed to practice elsewhere in Canada during the suspension and once the suspension is complete, his practice would be limited to in-house counsel.

17. On costs, Mr. Tahn referred to no decisions and did not respond to the *Jinnah* case. He simply stated that the Committee should subtract one third of the Bill of Costs.

Analysis and Decision on Sanction

18. In conducting this analysis, the Committee has considered the cases provided by the LSA and Mr. Tahn as well as the Guideline, the Code and the Rules.

19. Mr. Tahn started his oral argument on sanction by directing the Committee to section 53 of the *Legal Profession Act* (*Act*) and stating that it was important to consider that section and that the Rules may not allow something greater than the *Act*.

20. Section 53 of the *Act* says nothing about potential sanction. Possible sanctions by this Committee are specifically governed by section 72 of the *Act* which sets out three sanctioning options:

> 72(1) If a Hearing Committee finds that a member is guilty of conduct deserving of sanction, the Committee shall either:
>
> (a) order that the member be disbarred,
>
> (b) order that the membership of the member be suspended during the period prescribed by the order, or
>
> (c) order that the member be reprimanded.

21. Section 72 does not allow the Committee to place conditions on a disbarment or suspension therefore the suggestion of Mr. Tahn that he be allowed to practise elsewhere in Canada during a suspension cannot be entertained. Nor can the suggestion that he be allowed to practise as in-house counsel while suspended.

22. Mr. Tahn suggested in his final argument, as he had at various times in his Merits Hearing, that resolution of many of the complaints could have been obtained if the LSA had just reached out to discuss the matters instead of proceeding with a formal investigation. This argument flies in the face of the fact that several of the citations relate to an utter failure to even respond when contacted by the LSA even in the very earliest stages of the LSA involvement. In any event, how the matter might in hindsight, in Mr. Tahn's opinion, have been better dealt with is irrelevant. There is no doubt that the LSA properly followed the *Act* and Rules in its investigation and processes leading up to and including the hearing on the citations.

<u>Basic Principles - Sanction</u>

23. The central principles and authorities for sanction were recently stated by another hearing committee in *LSA v. Peterson* (cited above at paragraph 8), are adopted by this Committee and are quoted here in relevant part:

> 52. Section 49(1) of the *Act* states that:
>
> For the purpose of this *Act*, any conduct of the member … that:
>
> a) is incompatible with the best interests of the public or the members of society, or

b) tends to harm the standing of the legal profession generally,

is conduct deserving of sanction, whether or not that conduct relates to the member's practice as a barrister and solicitor and whether or not that occurs in Alberta.

53. This statutory provision is followed in the LSA Pre-Hearing and Hearing Guideline published October 1, 2021 (Guideline) which states at paragraph 102 that:

> The purpose of disciplining lawyers is to protect the public interest and maintain confidence in the legal profession. By enforcing ethical and professional standards, the Law Society is fulfilling its regulatory mandate and supporting the rule of law, the proper administration of justice and the independence of the legal profession.

54. Based on the *Act* and the Guideline, it is clear that the mandate of the LSA to ensure a high degree of confidence in the legal profession and protection of the public from misconduct by the profession is essential to the viability of the profession. Accordingly, cooperation with the LSA and participation in the disciplinary process by a member critical. If a member can simply ignore the disciplinary process with impunity, the LSA will have abdicated its authority and ceased to have any ongoing legitimacy.

Purpose of Sanction

55. The Guideline …. states the purpose of sanction as follows:

> 187 The fundamental purposes of sanctioning are to ensure that the public is protected from acts of professional misconduct and to protect the public's confidence in the integrity of the profession. These fundamental purposes are critical to the independence of the profession and the proper functioning of the administration of justice.
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> 188 Other purposes of sanction include:
>
> a) specific deterrence of the lawyer;
>
> b) where appropriate to protect the public, preventing the lawyer from practicing through disbarment or suspension;
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> c) general deterrence of other lawyers;
>
> d) ensuring the Law Society can effectively govern its members; and
>
> e) denunciation of the misconduct.
>
> 189 Sanctioning must be purposeful, the factors that relate most closely to the fundamental purposes outlined carry more weight than others.

56. This overriding obligation to protect the public and foster the confidence in the profession was affirmed by the Court of Appeal in the decision of *Adams v. Law Society of Alberta*, 2000 ABCA 240 at paragraph 6 wherein the Court stated:

> A professional misconduct hearing involves not only the individual and all the factors that relate to that individual, both favourably and unfavourably, but also the effect of the individual's misconduct on both the individual client and generally on the profession in question. **This public dimension is of critical significance to the mandate of professional disciplinary bodies** [emphasis added].

Factors in Determining Appropriate Sanction

57. There are a number of factors which must be considered in determining the appropriate sanction including the seriousness of the misconduct. This Committee is mindful, however, of the comments of the Alberta Court of Appeal in the *Adams* decision at paragraph 27 wherein the Court observed:

> *Further, and in any event, because the relevant facts vary greatly from case to case, care must be taken to consider each complaint in the context of its particular circumstances*.

58. The ability of the LSA to govern the profession is essential to self-governance. Serious misconduct which undermines the LSA's regulatory function must be dealt with appropriately, including, where necessary, limiting the ability of the member to continue to deliver legal services.

59. A non-exhaustive list of factors to be considered in determining the appropriate sanction are contained in paragraphs 198 – 208 of the Guideline. These factors include, but are not limited to:

a) the degree to which the misconduct constitutes a risk to the public;

b) the degree to which the misconduct constitutes a risk to the reputation of the legal profession;

c) the degree to which the misconduct impacts the ability of the legal system to function properly;

d) the potential impact on the LSA's ability to legally govern its members;

e) the potential harm to a client, the public, the profession or the administration of justice;

f) the disciplinary history of the member involved;

g) whether the member acted intentionally, knowingly, recklessly, or negligently;

h) whether the member cooperated with the LSA, or alternatively, failed to respond to communications from the LSA;

i) whether the member practiced while suspended or inactive;

j) whether the conduct brought the administration of justice into disrepute;

k) the impact of previous sanctions on the member; and

l) finally, whether the member has demonstrated a desire to remain a member of the LSA.

60. One of the leading cases on sentencing factors for professional administrative bodies is the decision of J*aswal v. Medical Board (Nfld.),* 1996 CanLII 11630 (NL SC). In that decision, the Court outlined a non-exhaustive list of factors that should be considered in imposing the proper sanction against a professional by his disciplinary body. Those factors included:

a) The nature and gravity of the proven allegations;

b) The age and experience of the offending [member];

c) The previous character of the [member] and in particular, the presence of any prior complaints or convictions;

d) The age and mental condition of the offended [client];

e) The number of times the offence was proven to have occurred;

f) The role of the [member] in acknowledging what had occurred;

g) Whether the offending [member] had already suffered other serious financial or other penalties as a result of allegations having been made;

h) The impact of the incident on the offended [client];

i) The presence or absence of any mitigating circumstances;

j) The need to promote specific and general deterrence and, thereby, to protect the public and ensure the safety and proper practice of [law];

k) A need to maintain the public's confidence in the integrity of the [legal] profession;

l) The degree to which the offensive conduct was found to have occurred was clearly regarded, by consensus, as being the type of conduct that would fall outside the range of permitted conduct; and

m) The range of sentence in similar cases.

(the "Jaswal Factors")

61. In reviewing both the guide and the Jaswal Factors, it is important to note that relationship between the LSA and its members is an important factor to take into consideration when determining the appropriate sentence. If the LSA cannot regulate its members, it can neither protect the public nor instill confidence in the profession.

Ungovernability, Integrity and Disbarment

24. There are a number of relevant precedents brought to the attention of the Committee by the LSA. None of the decisions from Mr. Tahn are relevant given the vast difference in action and findings between all the cases and Mr. Tahn's conduct.

25. A notable decision referred to the Committee is the recent *Peterson* decision quoted at length above for basic sanctioning principles. In *Peterson*, ungovernability was established by the conclusion of that hearing committee that there was ample demonstration (among other things) of impact on the ability of the LSA to regulate, accepting and keeping legal fees without providing service, negative impact on confidence in the profession, failure to accept responsibility for his actions, failure to express any remorse and bringing the administration of justice into disrepute.

26. In the *Enge* matter, that hearing committee noted that failure to cooperate with the investigation was, on its own, sufficient to anchor a sanction of disbarment. Therefore, the fact that some of the citations examined in isolation would not attract such a penalty was irrelevant.

27. In the *Virk* decision of the Alberta Court of Appeal, the Court observed that the primary objective of the process is not to punish the Appellant but to protect the public, quoting the following from *Law Society of New Brunswick v. Ryan*[2]*:*

> "There is nothing unreasonable about the Discipline Committee choosing to ban a member from practicing law when his conduct involves an egregious departure from the rules of professional ethics and had the effect of undermining public confidence in basic legal institutions". Mr. Virk faced nineteen citations of misconduct arising from seven different complaints and was ultimately found to be guilty of sanction on all but four.

28. In the *Thomas* decision, there were 13 citations. The hearing committee noted the following factors, among others, which led to disbarment:
    - there was misappropriation of funds because trust funds were transferred out of trust general account in the absence of accounts being rendered and in the absence of authorization for the transfer (paragraphs 73 and 74 of merits decision);
    - Mr. Thomas was provided with numerous opportunities to meet with the custodian for the purpose of reviewing files after the custodianship but did not avail himself of these opportunities (paragraph 76 of merits decision); and
    - Mr. Thomas exhibited a troubling pattern of blaming everyone but himself for his difficulties thus giving the Committee no comfort that he might be governable (paragraph 170 of sanction decision). He blamed:
        - his former law firm for the problems with his trust accounting records,

[2] 2003 SCC 20, at para 59.

- the custodian of his practice for his inability to respond to the LSA's inquiries,
- the LSA for his inability to defend himself against the citations when he could have provided that defense long before the custodianship was ordered,
- an LSA investigator for the fact that he has been administratively suspended since July 2009, and
- an "overzealous prosecutor," his defense counsel and the LSA for his guilty plea to criminal charges.

29. The *Ewasiuk* matter involved 33 citations and ultimately disbarment was based on a finding that 20 of the citations warranted sanction. Of particular relevance were comments by the hearing committee that Mr. Ewasiuk "did not seem to understand that he had an ongoing professional responsibility to cooperate, to be responsive and to comply. Mr. Ewasiuk used expressions like "constant hammering" to describe his reaction to his professional regulator's lawful demands." (paragraph 640 of the decision).

Analysis - Sanction

30. The Merits Decision identifies several serious breaches of the Code and of the Rules. This analysis does not purport to mention all citations however they were all dealt with and commented on in detail in the Merits Decision.

31. Ours is a self-governing profession, and all members must be diligent in ensuring that we do everything we can to maintain the privilege of self-governance. An important part of this is maintaining the public trust, which means acting with integrity to protect the public and maintain public confidence in the profession. When lawyers are called to the bar, they pledge to conduct themselves truly and with integrity in all things. Lawyers must be held accountable to that pledge. For sanctioning to serve its purposes it must reinforce that solemn pledge.

32. The conduct of Mr. Tahn in this matter undermined the trust of his clients, who expected him to act in their best interest. This affects not only those individuals but also any other members of the public who may hear of this and question whether they can rely on their lawyer. There is thus an impact on the profession as a whole.

33. Mr. Tahn said in his testimony during this Sanction Hearing that he respected the role of the LSA in maintaining a self-governing profession. However, his actions during the time period covered by these 69 citations lead this Committee to have grave concerns about his governability as does his attitude during the Merits Hearing.

34. He failed to follow some of the most basic trust safety rules such as reporting deficiencies in his trust account (citation 27), reconciling general accounts monthly (citation 28), keeping a general account journal up to date and retaining copies (citation 29), failing to deposit trust money on or before the next business day (citation 30), and failing to file an annual trust safety report (citation 50).

35. Maintaining our self-governing status also requires all members to ensure we are fully and completely responsive to communications and requests from the LSA. It is important to ensure that when the LSA makes inquiries, or requires information, members reply promptly and responsively. Failure to do so raises issues about governability. The citations are replete with instances of either failing to respond in a timely fashion or failing to respond at all to communications from the LSA (citations 35, 36, 51, 55, 66, 68 and 69 – all in 2018 or early 2019).

36. In considering the appropriate sanction, the Committee has carefully reviewed all the factors outlined in the Guideline as well as the comments and findings of other hearing committees. Several troubling patterns emerged:

- Mr. Tahn had a pattern of blaming everyone but himself for his difficulties. A few examples suffice:
  - his assistant, for failing to file the trust safety report (citation 50) and not sending accounts to clients (citations 13 and 42);
  - the LSA, because he did not have access to his files to defend himself, yet numerous discussions were held even during the course of the Merits Hearing in which Mr. Tahn was told he could review his files at the LSA office at any time and for as long as he liked but he did not avail himself of these opportunities; and
  - his client, for not understanding what he needed to complete the matter (citation 47)

- Mr. Tahn had a rather *laissez faire* attitude to the Rules with a focus on an achievement of results. More than once the Committee heard that either the Rules did not apply to him or that the Committee should not be concerned because the client was not actually harmed.
  - He often relied on oral directions from clients and phone calls which he then failed to confirm in writing. This led to several instances of miscommunication such as complaint 4 where Mr. Tahn said his client told him to slow the process of getting a divorce, but the client denies this and there is no documentation. Other examples include citation 53 where there is a dispute between Mr. Tahn and another lawyer over whether phone calls were made and there is no documentation. Similarly in citation 24, $3,000,000.00 was deposited and then sent out of Mr. Tahn's trust account based on a phone call with no supporting documentation.
  - The casual nature of his practice relates to Mr. Tahn's interpretation and application of Rules which appear to the Committee to be very clear. For example, the Rules clearly say there is to be a deposit of trust funds within 24 hours of receipt of money from a client. Yet Mr. Tahn gave evidence that this rule did not apply where there was no risk to the public; when there were smaller amounts of money and a locked cash drawer in which he stored cash until the next bank run (usually once a week). The requirement to reconcile statements monthly and to report shortages to the LSA is another example where, notwithstanding a clear rule, Mr. Tahn took the position the rule did not apply as he was looking after reconciling differences himself by hiring an expert to assist with his bookkeeping.
  - For reasons that are unclear, and contrary to the Rule requiring statements of accounts to clients, Mr. Tahn testified that he followed a practice of never rendering accounts to any client who was a lender.

- Mr. Tahn exhibited an absolute failure to acknowledge or even consider that he might indeed have been at fault in relation to any of the citations. This started with his refusal to even entertain a discussion about an Agreed Statement of Facts. The Committee acknowledges that a member is not obliged to enter into an agreed statement of facts but in this case, there were 69 citations and several of them could have been the subject of an agreement (note again citation 50, failing to file a trust safety report and citation 30, failing to deposit trust money within 24 hours, as just two examples). Mr. Tahn vigorously fought each and every citation leading to the result that the LSA had to introduce hundreds of exhibits (Mr. Tahn declined to agree to all but a few) and call multiple witnesses on each and every citation, often times with no discernable response from Mr. Tahn.

37. In summary, and carefully considering all of the factors in paragraph 198 of the Guideline plus the decisions referred to us, this Committee finds the appropriate sanction to be disbarment. Without reviewing again all the citations, we conclude:
    - The citations are on the whole, very serious. Several of the citations, particularly those relating to the use of trust moneys, establish a risk to the public and to the reputation of the legal profession;
    - The risk of governability is established; and
    - There are a high number of proven citations following many others which led to a suspension in 2018 which is still ongoing.

Analysis and Decision on Costs

38. The Committee heard only very briefly from Mr. Tahn on costs and then, with no supporting authority, only a suggestion of reducing the costs by 30%. The LSA directed us to the *Jinnah* decision from the Alberta Court of Appeal arguing (1) the reasoning does not apply to LSA proceedings and (2) if the reasoning does apply, all the factors in *Jinnah* are met and the full costs should be ordered. The Committee agrees with the LSA.

39. We need not decide whether *Jinnah* applies although we do note the number of panel decisions stating it does not.

40. If *Jinnah* does <u>not</u> apply, then section 72(2)(c) of the *Act* provides a hearing committee may make an order “requiring payment to the Society of all or part of the costs of the proceedings within the time prescribed by the Order”. Paragraph 221 of the Guideline then provides that the default position when a lawyer is found guilty of conduct deserving of sanction is that actual costs of the hearing should be paid by the lawyer. This position is based on the proposition that the hearing expenses incurred in the exercise of the LSA's statutory obligations are appropriately charged to the lawyer whose conduct is under scrutiny.

- The Committee would adopt that default position in this case given the seriousness of the citations, the number of citations and our findings/concerns about governability.

41. If *Jinnah* does apply, then four factors are noted relevant by the Court of Appeal at paragraphs 128 to 144 of the decision of the Court of Appeal. Substantial costs are said to be appropriate when:
    - The member has engaged in serious misconduct – that is the case in the current matter respecting Mr. Tahn;
    - The member is a serial offender – there are reported hearing decisions relating to Mr. Tahn from 2006 and 2018 addressing similar types of citations;
    - The member fails to cooperate with the regulator's investigation – the current citations have many such examples, and the Committee found the majority of those citations to be proven; and
    - The member is guilty of hearing misconduct – absent any argument from Mr. Tahn on this point, the Committee is of the view this final factor is met
        - The Merits Hearing went on for one and a half years with many stops and starts;
        - It rarely started on time during the entire one and a half years with regular, lengthy discourse between Mr. Tahn and his counsel during scheduled hearing time. Even taking into account that the Merits Hearing was virtual and not in person, the times the Merits Hearing had to adjourn to enable discussions seemed excessive; and
        - the defence to the citations was often unfocussed and disorganized thus unnecessarily prolonging the hearing**.**

42. An Estimated Statement of Costs was entered as an exhibit at the hearing. The costs totaled $350,841.87 and the Committee directs that they be paid in full by Mr. Tahn.

Concluding Matters

43. Mr. Tahn is disbarred effective immediately.

44. He is directed to pay costs of the proceedings in the amount of $350,841.87 prior to any LSA reinstatement application.

45. There shall be a Notice to the profession pursuant to section 85 of the *Act*.

46. The Committee found no reasonable or probable grounds to believe that a criminal offense had been committed and thus makes no direction that there should be a referral to the Attorney General.

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

Dated June 29, 2023

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Margaret Unsworth, KC – Chair and Bencher

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Louise Wasylenko – Lay Bencher

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Martha Miller – Public Adjudicator