

**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 HARDEEP SANGHA
A MEMBER OF THE LAW SOCIETY OF ALBERTA**

Hearing Committee

Cal Johnson, KC – Chair
Glen Buick – Lay Bencher
Levonne Louie – Lay Bencher

Appearances

Shanna Hunka – Counsel for the Law Society of Alberta (LSA)
Hardeep Sangha – Self-Represented

Hearing Date

September 3, 2024

Hearing Location

Virtual Hearing

HEARING COMMITTEE REPORT – SANCTION PHASE

Overview

1. On June 6, 2024, this Hearing Committee (Committee) conducted the first phase of a hearing (Merits Hearing) into the conduct of Hardeep S. Sangha (Sangha) and found that he had engaged in conduct deserving of sanction by:
 - 1) acting in an inappropriate manner with his students and employees;
 - 2) participating in the creation of false information contained in a revocation of a power of attorney (Revocation) and filing that document at the Land Titles Office, knowing that it was false;
 - 3) commissioning an Affidavit of Execution knowing that it was false;
 - 4) failing to provide three separate sets of clients with thorough, conscientious and diligent service;
 - 5) providing false information to a client regarding the status of the client's matter;
and

- 6) breaching Rule 119.21 of the Rules of the LSA by withdrawing funds from his trust account prior to sending a billing to the client.
2. The background facts surrounding the various findings, and the reasons for the findings, of the Committee are set forth in the Hearing Committee Report dated June 6, 2024, 2024 ABLIS 10 (Merits Decision). This phase of the hearing (Sanction Hearing) took place on September 3, 2024 and the Committee was to consider the appropriate sanction for that conduct.
3. After reviewing all the evidence and exhibits and hearing the testimony and arguments of the LSA and Sangha, for the reasons set out below the Committee found that the appropriate sanction is a six-month suspension, to be served commencing September 17, 2024. The Committee also orders that this matter be referred to the Attorney General. The decision of the Committee was issued directly to the parties and this Hearing Committee Report (Sanction Decision) provides the reasons.
4. In addition, pursuant to section 72(2) of the Legal Profession Act (*Act*), the Committee orders costs in the amount of \$38,039.77 to be payable by September 17, 2025.

Preliminary Matters

5. As noted in the Merits Decision, there were no objections to the constitution of the Committee, or its jurisdiction, and a public hearing proceeded. At the Sanction Hearing, no private hearing applications were made, so the Sanction Hearing continued before this Committee in public.

LSA's Submissions on Sanction

6. LSA counsel submitted the appropriate sanction, in the aggregate for all the sanctionable conduct, is a suspension of four to six months, full payment of costs of the Hearing, and a referral to the Attorney General.
7. LSA counsel argued that the elements of the sanctionable conduct could be described as:
 - a. the improper conduct respecting three different articling students and one staff employee and that this conduct raised areas of grave concern including:
 - i. Sangha's conduct extended over a one-to-two-year period indicating that the acts were not isolated incidents but deliberate and intentional acts evidencing ongoing intimidation and a disturbing pattern of behaviour;

- ii. the various witnesses at the Merits Hearing gave evidence of the serious and negative effects of Sangha's behaviour ranging from feeling their positions at his firm were constantly in danger, experiencing what one witness described as a "reign of terror" and another witness who worried for her physical safety. LSA counsel described the behavior as using a significant power imbalance to intimidate, harass and abuse the students and employee; and
 - iii. Sangha involved an employee in the creation of the false information in the Revocation that was designed to personally benefit Sangha in his attempt to cover up work not done in respect of a mortgage that had gone unregistered for over a year.
 - b. the false information contained in the Revocation;
 - c. the failure to serve three different clients, including the failure to serve both a mortgagor and mortgagee, Sangha had funded a mortgage even though it had not been registered and remained unregistered for 13 months, until pressure from the mortgagee client resulted in the registration by Sangha through the filing of the false Revocation at the Land Titles office;
 - d. the deliberate misleading of a client, noting that it was not simply one incident of misrepresentation but rather an ongoing pattern of conduct that included providing false information on the status of the client's matter, lying to the client about having filed a document, with following lies about a hearing date that did not occur, an order that had not in fact been filed and then about the entering of an order; and
 - e. the trust irregularities involving taking trust funds without proper authorization, which was a breach of the Trust Accounting Rules of the LSA. Sangha rendered a statement of account for work that had not been done followed by taking funds from trust before any statement of account had been provided to the client.
- 8. In terms of overall mitigating factors, LSA counsel noted:
 - a. there was some element of cooperation after the matter had proceeded significantly down the path of a full hearing on all the citations. As the Merits Hearing approached, the parties were able to come to a seeming consensus and Sangha signed a Statement of Admitted Facts, Exhibits and Admissions of Guilt (SOAF) on November 9, 2023. However, that was only after significant preparation time had been expended in readiness for the full hearing and after there had been significant witness preparation time;

- b. full cooperation was acknowledged in respect of the citation referencing the failure to serve the client that had been misled on multiple occasions; and
 - c. no prior discipline record.
- 9. LSA counsel referred to several factors which were described as neutral in that Sangha had not submitted any medical evidence as any form of mitigating factor in respect of the serious allegations of misconduct. Reference was also made to Sangha's work with Practice Management and the report on that engagement which was entered as an Exhibit at the Sanction Hearing.
- 10. LSA counsel referenced a number of overall aggravating factors, including:
 - a. the significant impact on the victims as evidenced by the oral testimony at the Merits Hearing and the various exhibits forming part of the SOAF;
 - b. the absence of any form of significant acceptance of responsibility for the conduct in terms of sincere expressions of remorse or apologies to the victims, nor any form of restitution of the clients who had been adversely impacted by the conduct;
 - c. the intentional nature of the acts and their continuance over an extended period;
 - d. the element of personal gain to Sangha through the false nature of the Revocation and its use to attempt to cover up other failures to serve by Sangha; and
 - e. the significant integrity issues raised by the false Revocation and the breach of the Trust Accounting Rules.

Improper Conduct and Harassment – LSA Case Authorities

- 11. By way of introduction, LSA counsel noted that it is difficult to find many cases of inappropriate or abusive conduct which did not involve some element of sexual harassment. It was acknowledged that was not a factor present here.
- 12. In *Law Society of Saskatchewan v Combes*, 2019 SKLSS 5, the lawyer acted towards, or communicated with, a number of different co-workers in a manner that was abusive, offensive or otherwise inconsistent with the proper tone of a professional communication, including in multiple instances referring to such persons as "dumber than a sack of hammers". Combes had no prior discipline record and admitted guilt to all the citations and that his behaviour contributed to a work environment that was ineffective, toxic and causing unnecessary stress. The hearing committee in that case

accepted a joint submission on sanction for a one-month suspension and payment of costs.

13. In *Law Society of Ontario v Fernando*, 2021 ONLSTH 63, the lawyer threatened regulatory proceedings against two other lawyers, communicated with such lawyers, his client and others in a manner that was uninformed and insulting, and made remarks that were discriminatory, and race and gender based. Fernando had a prior record for abusive or offensive communications, and a previous three-month suspension. A joint submission for a two- and one-half month suspension was accepted.
14. LSA counsel suggested that, considering the case authorities and the very serious and violent nature of some of the behaviour of Sangha, this citation warranted a sanction of a suspension of one to three months.

Swearing False Affidavit and Submitting a Knowingly False Documents for Registration – LSA Case Authorities

15. In *Law Society of Alberta v Amantea*, 2020 ABLIS 14, the lawyer admitted that he signed and swore affidavits of execution when in fact he had not actually witnessed the individual sign documents in his presence. The lawyer was a senior member of the Bar with no discipline record over a career of more than 40 years. He self-reported his conduct, cooperated with the LSA, gained no personal benefit and indeed had made some efforts related to restitution involving significant expenditure of personal funds. A joint submission for a one-month suspension and costs was accepted. A referral was made to the Attorney General pursuant to the provisions of the *Act*, after submissions by both parties on this unagreed portion of the hearing.
16. For cases evidencing what was described as the low end of the spectrum for such behaviour, the LSA referred to:
 - a. *Law Society of Alberta v Gish*, 2006 ABLIS 132 involving a single citation of swearing a false affidavit of execution and improperly commissioning a statutory declaration. The member had no prior discipline record, self-reported and cooperated with the investigation and adduced material evidence regarding her honesty and integrity from well-respected members of the legal community. The hearing committee acknowledged that normally such behaviour would attract a suspension, but based on significant mitigating factors, a fine of \$10,000.00 would serve the purposes of deterrence and satisfying public expectations; and
 - b. *Law Society of Alberta v Chopra*, [1988] A.J. No. 406, where the lawyer appealed a one-month suspension for swearing and filing a false affidavit on an appeal from a taxation of an account. The appeal was denied.

17. For cases involving the more serious end of the spectrum LSA counsel cited:
- a. *Law Society of Alberta v Phillion*, [1998] L.S.D.D. No. 18, where the lawyer was found guilty of both falsely swearing a statutory declaration and failing to be candid with the LSA. The member did not cooperate with and continued to benefit from the false declaration with no steps taken to rectify the situation. While the LSA sought a disbarment, the hearing committee ordered a one-year suspension, payment of half of the costs of the proceeding (considering other dismissed citations) and a referral to the Minister of Justice. On appeal to the Alberta Court of Appeal, the suspension was reduced to six months;
 - b. *Yungwirth v Law Society of Upper Canada*, [2004] L.S.D.D. No. 11, where the lawyer was suspended for one year by a hearing panel and appealed that decision. The lawyer was found guilty of multiple offences, including failure to serve by not disclosing facts, acting contrary to client instructions, acting in a conflict of interest and preferring one client over another, improperly delegating work to an assistant and commissioning false affidavits. On appeal the court noted that the lawyer had commissioned a false affidavit to circumvent CMHC regulations and attesting to purchase prices that had not been paid. The court stated that the false commissioning "strikes at the very heart of the integrity of the profession" [paragraph 40, p. 138] and noted that the lawyer's conduct deserved condemnation and a serious and substantial penalty. The appeal court upheld the one-year suspension notwithstanding the lawyer had a clean discipline record, had good character references, was clearly remorseful and admitted his errors; and
 - c. *Law Society of Alberta v Rutschmann*, 2007 LSA 1, where the lawyer had been found guilty of numerous citations including swearing a false affidavit. The LSA sought disbarment, but the hearing committee imposed a two-year suspension based on multiple aggravating factors including the lack of integrity and honesty, deceiving the Court, swearing a false affidavit and manufacturing false documents, misleading the LSA and a general attitude of uncooperativeness and lack of forthrightness. A referral to the Attorney General was made.
18. In the result, LSA counsel suggested that the integrity issues engaged by this conduct would justify a suspension of two to three months.

Misleading the Clients – LSA Case Authorities

19. LSA counsel referenced several cases as representing the more serious sanctions for such conduct, including:

- a. *Law Society of Alberta v Sanghi*, 2023 ABLs 20, where the member was found guilty of failure to serve a client and of altering one or more documents to mislead her client. The lawyer had no disciplinary record, cooperated with the process, provided expressions of remorse, accepted full responsibility, provided good character references from her colleagues and worked with Practice Management towards rehabilitation and improving her skills. The hearing committee imposed a three-month suspension and costs of \$9,000.00. A referral to the Attorney General was made; and
 - b. *Law Society of Alberta v McKay*, 2016 ABLs 34, where the member admitted guilt to 15 citations arising from five separate complaints occurring over a three-year period. This included failure to serve, misleading clients about the progress of their matters, failing to respond in a timely manner to clients and lawyers, breach of trust conditions and failure to cooperate with the LSA. The member was given a four-month suspension and ordered to pay costs of the investigation and hearing in the amount of just over \$24,000.00.
20. At the low end of sanctions for this type of conduct, LSA counsel referred to:
- a. *Law Society of Alberta v McCall*, 2014 ABLs 60, where the member failed to provide accurate and complete information to a client concerning the status of a filing of a statement of claim and was given a reprimand and ordered to pay costs;
 - b. *Law Society of Alberta v Field*, 2018 ABLs 9, where a member was given a reprimand for advising a client that an Order had been submitted for filing when it had not;
 - c. *Law Society of Alberta v Murtaza*, 2014 ABLs 49, where the member failed in the filing of a mortgage registration and then misled the mortgagee about the registration and failed to take accountability for his failures. A joint submission for a fine of \$3,000.00 and a reprimand was accepted by the hearing committee; and
 - d. *Law Society of Alberta v Lacourciere*, 2016 ABLs 9, where the member misled or failed to be candid with his clients and failed to keep them informed on their matter. He led the clients to believe that he was moving a matter forward to trial when he in fact wouldn't do so without receiving further fees. In that case the LSA sought a three-month suspension considering the member's multiple conviction record with the LSA, but the hearing committee could find no cases with similar circumstances and imposed a fine of \$10,000.00 and a reprimand.
21. In summarizing the import of the case authorities, LSA counsel argued that each of the categories of offences referenced above, on a stand-alone basis, would attract a

suspension of two to three months, and accordingly the request of an aggregate suspension of four to six months was more than reasonable. Counsel then argued that the breach of the Trust Accounting Rules would further tip the balance beyond these parameters.

22. At the conclusion of her case summary, LSA counsel advised the Committee that, on January 29, 2024, Sangha had been the subject of an interim suspension for conduct separate from the case in hand, but which had not gone to a hearing and would likely not do so until after this Committee's Sanction Decision.

Sangha's Submissions on Sanction

23. Prior to making his submission on sanction, Sangha sought to introduce three additional exhibits: (i) a revised memorandum of decision of the Practice Review Committee (PRC) concerning its involvement with Sangha; (ii) the report of the PRC to the Conduct Committee with respect to Sangha's involvement with PRC; and (iii) the Practice Assessment Final Report of the PRC. With the consent of LSA counsel, these were introduced as Exhibits 31 to 33 respectively.
24. Sangha raised a number of factors that he considered as mitigating:
 - a. On the last day of the Hearing in March 2024, Sangha referenced the fact that he had at some points acknowledged some bad or improper conduct;
 - b. He indicated he had cooperated on the agreement to the SOAF, which had resulted in the adjournment of a hearing originally scheduled for three days; and
 - c. He admitted fully to the citation concerning misleading the client such that the client did not have to be called as a witness by the LSA.

Improper Conduct and Harassment – Sangha Case Authorities

25. At the outset, Sangha conceded that the conduct in this area warranted a suspension but argued that it should be no more than one month to six weeks. In support he cited a number of cases involving lesser sanctions:
 - a. *Law Society of Upper Canada v. Shale Steve Wagman*, 2007 ONSLAP 0006, where the member was found guilty of some abusive communications containing profanity but had apologized to one of the complainants and paid some outstanding accounts with others. The hearing panel imposed a two-month suspension and costs, but which was reduced on appeal to a reprimand. Sangha acknowledged that the conduct evidenced by his emails was worse than what was evidenced in *Wagman*;

- b. *Law Society of Upper Canada v. Robson*, 2017 ONLSTH 132, where a one-month suspension was ordered for abusive communications, but which principally involved other lawyers and not members of the public;
- c. *Law Society of Alberta v. Hansen*, 2009 ABLIS 34, where a one-month suspension was imposed for citations that did not relate to inappropriate remarks. A citation relating to that type of conduct was unproven and dismissed; and
- d. *Law Society of Ontario v. Rogerson*, 2024 ONLSTH 12, involved two different types of misconduct – sexual harassment/discrimination towards employees and unprofessional communications with two clients. In imposing a one-month suspension the hearing panel noted no prior disciplinary record, extenuating circumstances explaining the conduct (including some medical evidence), cooperation in the proceedings, expressions of remorse and acceptance of responsibility and ongoing therapy and sensitivity training; and
- e. *Law Society of Alberta v. Rauf*, 2022 ABLIS 1, where the member was involved in an isolated incident involving profanity and abusive behaviour. The hearing panel in that case noted the LSA had provided a number of authorities of suspensions imposed for similar conduct. However, the hearing panel was concerned that a suspension would create unnecessary prejudice for Rauf's clients and would disproportionately affect him as a sole practitioner. A suspension would likely cause his clients to suffer delays in their cases and those delays could involve individuals in custody. Accordingly, a reprimand was imposed together with a fine of \$2,000.00 and payment of costs.

Swearing False Affidavit and Submitting a Knowingly False Document for Registration – Sangha Case Authorities

- 26. In *Law Society of Alberta v. Wheat*, 2022 ABLIS 9, the member had assisted a client in dishonest or fraudulent conduct in accepting instructions to create a false agreement to improperly achieve the ends of her client. Although the conduct was a single occurrence for no personal gain, and a previously unblemished 40-year record as a lawyer, the opposing party was an unrepresented litigant in a vulnerable position. The lawyer presented unchallenged letters of reference of significant caliber attesting to a professional whose judgment and honour was otherwise beyond repute. While the LSA sought a one-year suspension, the hearing committee ordered a two-month suspension, payment of costs and a referral to the Attorney General.
- 27. Sangha also cited cases involving joint submissions on sanction, not involving a suspension, for falsifying information or documents including:

- a. *Law Society of Saskatchewan v. Martens*, 2016, SKLSS 12, where the member created two false documents to cover up a failure to file documents. A joint submission for a reprimand and costs was accepted, with counsel for the member acknowledging that the conduct could well warrant a suspension. In refusing a suspension, the hearing panel noted that the member had withdrawn from practice for a considerable period; and
 - b. *Law Society of Upper Canada v. Vivek Nijhawan*, 2006 ONLSHP 0017, where the member admitted to commissioning a false affidavit of Land Transfer Tax. The hearing panel cited a number of mitigating circumstances including remorsefulness, cooperation with the LSUC, no disciplinary history, no personal benefit, the making of restitution and the candour of the member in bringing the specifics of the allegations to the attention of those providing references.
28. As with the LSA, Sangha also referred to *Amantea*, noting that Sangha was present for the swearing while Amantea was not, but acknowledged that the one-month suspension there was the result of a joint submission, and argued that the referral made there was done reluctantly.
29. Finally, Sangha referenced *Law Society of Alberta v McHenry* 2024 ABLs 15, where McHenry signed a document using his client's name, in the presence of his legal assistant, to avoid delays in a commercial transaction. Counsel for McHenry and the LSA were in agreement on a one-month suspension given the cooperation with the LSA investigation, the absence of personal gain, self-reporting of the conduct, medical evidence indicating an impact on McHenry and McHenry's decision to voluntarily remove himself from practice for a three-year period. No referral to the Attorney General was made.

Misleading the Client – Sangha Case Authorities

30. Although Sangha made only a brief mention of this area in his submissions at the Sanction Hearing, his Book of Authorities did contain several cases that were reviewed by the Committee including *McHenry* already referenced above and the following:
 - a. *Law Society of Alberta v. Peterson*, 2011 ABLs 10, involved admitted guilt to misleading or attempting to mislead a client and a failure to provide competent services. A one-month suspension was ordered with the hearing panel noting a number of mitigating factors including cooperation with the LSA, only one prior discipline matter, significant efforts made to remedy the problems caused and the adequacy of a one-month suspension from a deterrence point of view; and

Submission on Costs

31. LSA counsel referenced the decision in *Jinnah v Alberta Dental Association and College*, 2022 ABCA 336, noting that it was applicable to a health professional regulator. LSA counsel suggests that *Jinnah* could be restricted to the *Health Professions Act* since its applicability to the legal profession was currently before the Alberta Court of Appeal in the case of *Law Society of Alberta v Beaver*, 2021 ABCA 163. In any event, counsel argued that this case would fall within one of the noted exceptions in *Jinnah* as a matter involving serious misconduct. Counsel also noted the significant preparation and investigation time incurred prior to the SOAF and adjournment of the scheduled three-day hearing just before it was to commence.
32. Sangha agreed that the investigation costs cited in the Costs exhibit were reasonable. He argued his partial success on citation 2 should warrant a cost reduction. His principal argument on costs related to the fact that, as referenced in the Merits Decision, the LSA had chosen to call witnesses at the Merits Hearing on matters where admissions had already been made in the SOAF. He also suggested that since the current LSA counsel had come on the file later in the proceedings, there should be a reduction for some suspected redundancy.
33. Sangha referred to two cases in relation to the question of costs. In *Law Society of Alberta v. Ingimundson*, 2014 ABLS 52, the LSA presented an estimated statement of costs in an amount of just over \$10,000.00 but the hearing panel awarded costs of \$5,000.00 based on an unexpected adjournment not attributable to the member and costs associated with a new LSA counsel assuming conduct of the matter.
34. Sangha also included the case of *Law Society of Alberta v. Torske*, 2016 ABLS 27, where the hearing committee was dealing solely with the issue of costs. The decision is a comprehensive summary of the proper considerations guiding the deliberations of a hearing committee on an award of costs against a member found guilty of conduct deserving of sanction. The decision was of considerable assistance to this Committee in the application of the default rule on costs awards, and which in that case resulted in the hearing panel confirming in full the costs sought by the LSA. The default rule on costs is described in paragraph 221 of the LSA Pre-Hearing and Hearing Guideline, June 2022 version (Guideline) which provides that when a lawyer is found guilty of conduct deserving of sanction, the full costs of the hearing should be paid by that lawyer, as it was the lawyer's conduct that resulted in the exercise of the LSA's statutory obligations.
35. In response to the submissions of Sangha, LSA counsel noted that the prior LSA counsel in the matter recorded only 20 hours on disclosure and 24 hours on the particulars, but that no time was included for that counsel with respect to putting together a draft of the SOAF, hearing preparation or dealings with Sangha's counsel. Reference was also made to the very recent case of *Law Society of Alberta v Zang*, 2024 ABLS 18

where the member had been sanctioned by the Alberta Securities Commission for what it considered to be serious misconduct. The hearing committee in that case ordered a four-month suspension. LSA counsel argued that the case was similar to Sangha's in that it was also a three-day hearing in the middle of which a Statement of Agreed Facts was concluded and the hearing then proceeded in an analogous matter. The hearing committee found that the conduct of Zang was deliberately designed to benefit him personally and that he knowingly made efforts to improperly circumvent Alberta Securities laws. Accordingly, the hearing committee, similar to the argument of LSA counsel here, felt that it did not have to address *Jinnah* principles given the pending *Beaver* appeal, but held that nevertheless, the serious conduct would fall within the exceptions in *Jinnah* and awarded full costs to the LSA in applying the default rule.

Submissions on a Reference to the Attorney General

36. LSA counsel referred to section 366 of the *Criminal Code*, RSC 1985, C. c-46 (*Criminal Code*) which deals with forgery. Even though the Committee held that the forgery by Sangha himself had not been proven, the forgery by his assistant was admitted by the assistant as having been done at the direction of Sangha and that by commissioning her affidavit knowing it was false, he was participating in a forgery. She also argued that section 21 of the *Criminal Code* was applicable as Sangha was party to a criminal act.
37. Sangha referred to *Amantea* where he suggested that the reference was made by the hearing panel only very reluctantly and sought to distinguish that case on the basis that *Amantea* had commissioned the affidavit without the individual being present, while here Sangha's assistant had been present before him at the time of the signing. Sangha argued that an element of mens rea was required to be proved and based on *Gish*, that the test for swearing a false affidavit required an intention to deceive.

Analysis and Decision on Sanction

38. The Guideline was referenced by the Committee as setting forth both the general and specific purposes of sanction in conduct proceedings. Paragraph 185 of the Guideline confirms that "the fundamental purposes of sanctioning are to protect the public from acts of professional misconduct and to protect the public's confidence in the integrity of the profession".
39. Paragraph 186 of the Guideline sets forth some other specific purposes of sanctioning as including:
 - a. specific deterrence of the lawyer;
 - 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, and
- e. denunciation of the misconduct.

40. Paragraph 191 of the Guideline indicates that:

Suspension is appropriate for the denunciation of serious or repeated misconduct where it is reasonable to believe that temporarily removing the lawyer from the profession will result in compliance with professional standards in the future. Aggravating and mitigating factors may be recognized in determining the length of the suspension.

41. Based upon the way respective counsel had made their submissions on sanction by segregating the arguments into three general categories, the Committee determined to assess sanction in relation to each of these categories independently, as opposed to attempting to determine an overall aggregate sanction without such a specific examination.
42. Dealing firstly with the conduct principally related to citation 1 - the inappropriate, abusive and offensive comments and communications of Sangha - the Committee considered the many case authorities cited by counsel. Predictably, none of the case authorities is particularly on "all fours" with the facts of this case, and in any event and as noted by the Guideline, the Committee is not bound by past decisions but is directed to avoid undue disparity with previous decisions. As it happens, counsel were not that far apart on the applicable sanction for this behaviour. Sangha acknowledged a suspension of up to six weeks was appropriate, while LSA counsel argued that at least two months was warranted. In cases such as *Combes* and *Fernando*, the suspensions of one or two months were the result of a joint submission where a very high bar is set for not accepting a joint submission and where there are always elements of compromise. However, in *Fernando* the hearing committee noted that the range of penalties for such behaviour had been increasing over time and specifically disagreed with the suggestion that a proper range of suspension in a case such as this was limited to one to three months, but rather that the expected range could exceed three months. In the result the joint submission was accepted as not qualifying as unreasonable or unconscionable.
43. The LSA also cited several other cases where the primary elements involved sexual misconduct or sexual harassment, but which the Committee found to be of limited applicability and utility in the particular facts of this case.

44. The Committee based its determination of a two-month suspension for this behaviour largely upon the weighing of the aggravating and mitigating factors in comparison with the case authorities cited. The aggravating factors in this case included:
- a. the particularly offensive and abusive comments and communications by Sangha with his staff and articling students, some of which sought violent demonstrations of loyalty through acts which would be clearly criminal in nature;
 - b. the toxic work environment fostered by the comments and behaviour of Sangha, leaving the individuals feeling intimidated and constantly uncertain as to what was expected of them and who they would be meeting when dealing with Sangha on a day-to-day basis;
 - c. the significant personal impacts upon the individuals as evidenced by the exhibits entered at the Hearing and the direct testimony of the affected individuals at the Hearing. These impacts adversely affected their mental and physical health, their sense of self-worth and their sense of personal safety and security;
 - d. the extended period over which the actions took place and were repeated;
 - e. the misconduct involved taking advantage of vulnerable parties. Much of the conduct occurred during COVID-19 when articling positions, and indeed staff employee positions, were challenging to obtain and maintain. The conduct preyed upon the insecurities of these individuals in a situation where there was a clear and significant imbalance of power; and
 - f. the absence of any apologies made directly to the individuals affected and the lack of genuine sincerity in the few expressions of remorse made during the Merits Hearing of this Sanctions Hearing. While Sangha stated in his submissions on this issue during the Merits Hearing that "I was not happy with my actual conduct at the time", and under cross examination that he was very ashamed of his comments to his employee R, his expressions of remorse were often seemingly made begrudgingly and in a qualified manner. Throughout the Merits Hearing, it appeared to the Committee that Sangha and his counsel were repeatedly attempting to resile from the statements in the SOAF, while also repeatedly then stating that they were not.
45. Mitigating factors included:
- a. The absence of a prior discipline record; and
 - b. Some measure of cooperation through the SOAF and adjournment of the originally scheduled hearing.

46. Neutral factors included the absence of any explanatory medical evidence and the engagement with Practice Review. The PR involvement was geared to helping Sangha with issues of practice management, as opposed to dealing with the human relations issues which dominated the Hearings.
47. In terms of the case authorities, several of those cited by the LSA, including *Davison* and *Rogerson* (where more significant suspensions were ordered), had the added element of sexual harassment or misconduct which was not present here. Cases cited by Sangha in support of a shorter suspension also had limiting factors such as (i) *Rauf* where the actions involved an isolated incident, (ii) *Wagman* where Sangha acknowledged the actions in his emails were worse, (iii) *Robson* where the criticisms were largely of other outside lawyers; and (iv) *Hansen* which was clearly not relevant to this issue. The Committee concluded that a two-month suspension in respect of this behaviour reflected both the evolving higher standards of conduct expected in such relationships with staff and students, and the need for denunciation of the offensive conduct of Sangha.
48. The second sanctioning element considered was in relation to the false Revocation and the swearing of a false affidavit by Sangha. LSA counsel cited *Amantea* and *Gish* as representing the low end of the spectrum involving respectively a one-month suspension and a reprimand. The Committee distinguished *Amantea* on the basis of the prior 40-year unblemished record of the member and the joint submission, and *Gish* on the basis that it was a somewhat dated case where the member self-reported and cooperated throughout, had no discipline record and had impressive character references demonstrating that the conduct was an isolated incident. At the other end of the spectrum, LSA referred to a number of cases where significant suspensions were handed out, including *Rutschmann* (two years), *McKay* (four months), *Yungwirth* (one year) and *Phillion* (one year). The Committee noted that some of the lengthier suspensions involved significant other conduct deserving of sanction, or aggravating factors, which contributed to the longer periods.
49. Sangha argued that his partial success on citation 2 should justify a lesser period of suspension or merely a reprimand in respect of his involvement in the false Revocation. In support he cited *Martens* and *Nijhawan* as cases where the hearing committee was satisfied that a reprimand was sufficient. The Committee notes however that those were the results of joint submissions where there were significant distinguishing factors, mitigating the sanction, which were not operative here. He further argued that *Amantea* involved more serious misconduct since Amantea had not been present for the swearing while Sangha had. The Committee determined this to be a distinction without a material difference. Sangha cited *McHenry* as a very recent LSA case involving document alteration where only a one-month suspension was ordered. The Committee viewed the conduct in question there to be of lesser severity in comparison to the integrity issues raised by Sangha's conduct.

50. In determining that this element of misconduct by Sangha should attract a two-month suspension, the Committee looked at a number of distinguishing factors which indicated that something more than a one-month suspension or a mere reprimand was the appropriate sanction. Sangha commissioned a false affidavit, knowing it to be false and then knowingly submitted that false document to the Land Titles office. That would have a misleading effect in that it purported to show his employee as having signed as witness before she even became an employee. His conduct was designed to cover up his failures in relation to a mortgage registration and involved his own employee in the falsification and cover up. It was clearly designed for his own personal benefit. *Martens* was distinguishable on the basis that it involved a falsification of a lesser nature in relation to the timing of a fax and the sanction of a reprimand and a fine of \$2,500.00 was as a result of a joint submission where the hearing panel noted that normally the falsification of documents would result in a suspension. In addition, the member had been absent from practice for a considerable period, had no present intention to return to practice and was prepared to provide a written undertaking in that regard.
51. The third sanctioning element involved the misleading of a client in the conduct of her matter. This was not just one instance of misleading but multiple incidents over an extended period involving false information on the status of her matter, and repeated lies about the filing of documents, hearing dates, the filing of orders and the enforcement of orders. This was further exacerbated by Sangha submitting an account for work he had not done and then proceeding to take funds from trust to pay for an account when it had not actually been rendered. LSA counsel cited *Sangha* and *McKay* as cases of misleading clients that led to suspensions of three and four months respectively, but the Committee noted that there was other conduct in issue there which may have led to the longer suspensions. Cases cited on the low-end included *Field*, *Murtaza* and *Lacourciere*, but the Committee determined there were factors distinguishing each of those cases from Sangha's conduct here. In *Field*, the conduct was limited to advising a client that an Order had been submitted for filing when it had not. In *Murtaza*, the parties made a joint submission for a fine and reprimand which the hearing panel felt bound to accept. The Committee found the reasoning in *Lacourciere* to be not particularly instructive in that the hearing panel there found the conduct to be serious and raising concerns about the protection of the public but chose to impose a substantial fine instead of suspension on the basis that they had not been presented with a case with similar circumstances. This Committee does not have those concerns in this case. Sangha's misleading conduct was of a "cradle to grave" nature whereby he initiated the misleading near the commencement of the file and then proceeded over an extended time period to perpetuate the lies and misleading, topping it off by paying himself before rendering an account, but which account included charging for work not done.

52. In rejecting the more substantial periods of suspension, the Committee noted the mitigating factor of Sangha's cooperation throughout the investigation in relation to the misleading citation.

Costs

53. The Committee was mindful of, and helpfully guided by, many of the comments in *Torske* concerning the application of the default rule (found in paragraph 221 of the Guideline) in considering the costs as reflected in the Estimated Statement of Costs before the Committee. Briefly put, the default rule provides that the actual costs of the hearing should be paid by the lawyer whose conduct is under scrutiny.
54. In considering the application of the default rule, the Committee also considered comments of the Alberta Court of Appeal in a number of cases concerning the awarding of costs. A case often referred to as a starting point for cost awards by self-regulated professions is *K.C. v. College of Physical Therapists of Alberta*, 1999 ABCA 2053. The ABCA in that case noted that, notwithstanding a default position of full indemnity for costs, the award is a discretionary exercise and must not constitute a further penalty or deliver a crushing financial blow. *K.C.* set out a number of factors to be considered, including the seriousness of the charges, the conduct of the parties and the reasonableness of the amounts. *K.C.* and the factors set out therein were cited with approval in *Alsaadi v. Alberta College of Pharmacy*, 2021 ABCA 313 by Justice Khullar in her concurring decision. That decision also indicated that the exercise should not be a simple mathematical exercise of applying some percentage of total costs but should weigh the various factors and then provide a justification for the award.
55. *K.C.* and *Alsaadi* were both referred to in a subsequent Alberta Court of Appeal decision in *Tan v. Alberta Veterinary Medical Association*, 2022 ABCA 221 (*Tan 1*), where the Court noted at paragraph 42:
- Professions in Alberta are extended the privilege of self-regulation. With that comes the responsibility to supervise and, when necessary, discipline members. The disciplinary process must necessarily involve costs, and any professional regulator must accept some of those costs as an inevitable consequence of self-regulation.
56. *Tan 1* was followed closely by the Alberta Court of Appeal decision in *Jinnah*. There the Court made similar comments as in *Tan 1* concerning the assumption of some of the burden of the costs of investigations and hearings by the professional regulator. The Court proposed a general principle that the regulator should bear a significant portion of the costs unless there was a compelling reason not to do so. Paragraph 141 of that decision sets forth compelling reasons that can be summarized as (i) a member who engages in serious unprofessional conduct; (ii) a member who is a serial offender who

engages in unprofessional conduct on two or more occasions; (iii) a member who fails to cooperate with the investigators and forces the regulator to expend more resources than is necessary to ascertain the facts related to a complaint; and (iv) a member who engages in hearing misconduct, being behavior that unnecessarily prolongs the hearing or otherwise results in increased costs of prosecution that are not justifiable.

57. The Committee notes that some subsequent hearing panels, including the appeal panel in *Law Society of Alberta v. Beaver*, 2023 ABLS 4, have declined to apply *Jinnah* on the basis that it should be restricted to decisions involving professionals who are subject to regulation under the *Health Professions Act*. However, in *Tan v. Alberta Veterinary Medical Association*, 2024 ABCA 94, at paragraph 34, the Court took the position that:

...professional regulatory bodies should not automatically order costs against a member, even where the allegations are sustained. The decision-maker must consider both whether a costs award is appropriate and, if so, the quantum. Costs are not supposed to be punitive or a sanction: *Jinnah* at paras 124 and 127.

58. In considering any application of the default rule, the Committee considered it appropriate to take into account the principles and factors mandated by the above decisions. While the conduct of Sangha could be said to fall under the first exception in *Jinnah*, the Committee noted two considerations in this case which mitigated against the full application of the default rule. The principal and most significant factor was the decision by the LSA to call witnesses at the Merits Hearing in respect of citation 1, but where Sangha had admitted guilt. While this was a tactical call which the LSA was entitled to make, the Committee accepted some of the concerns of Sangha in the impact that it had on the length of the Merits Hearing. The Committee also gave some consideration to Sangha's partial success on citation 2, although not a major factor.
59. However, the Committee rejected Sangha's arguments that the costs were materially impacted by the change in counsel for the LSA as the LSA had clearly shown that this had already been considered in the preparation of the Estimated Statement of Costs. The Committee made its own calculation as to the estimated extra time incurred in the Merits Hearing and determined to award costs to the LSA in the aggregate amount of \$38,039.77, to be payable within one-year of Mr. Sangha's reinstatement.

Referral to the Attorney General

60. The Committee reviewed the provisions of section 366 of the *Criminal Code* to make a determination on this question. As LSA counsel noted, we are not talking simply about a false commissioning. The witness R testified unequivocally that she both affixed a forgery signature to the Revocation and then, at the direction of Sangha, swore that she had witnessed a signature as of a date that was even before she became an employee

of Sangha. Sangha's testimony was inconsistent in that he both says he knows who signed the Revocation and then also says he did not. While the Committee was unable to say definitively that he had forged one of the signatures, by signing the jurat he participated in the forgery by another. His actions seem to fall within the provisions of section 366(2)(b) through the false attestation and taking steps to induce a false signature to be acted upon. Accordingly, the Committee was of the opinion that there are reasonable and probable grounds to believe that Sangha committed a criminal offence, and orders that a referral to the Attorney General be made pursuant to section 78(6) of the *Act*.

Concluding Matters

61. The Committee orders that Sangha be suspended for a period of six months, commencing September 17, 2024 and must pay costs to the LSA of \$38,039.77 within one year of his reinstatement.
62. Notice to the Profession pursuant to section 85 of the *Act* is required and was issued on September 19, 2024.
63. The Committee directs that the Executive Director of the LSA send a copy of the hearing record to the Attorney General.
64. 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 Sangha will be redacted and further redactions will be made to preserve client confidentiality and solicitor-client privilege (Rule 98(3)).

December 5, 2024

Cal Johnson, KC

Glen Buick

Levonne Louie