

**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 KEVIN SCOTT
A MEMBER OF THE LAW SOCIETY OF ALBERTA**

Single Benchers Hearing Committee

Erin Runnalls, KC – Chair

Appearances

Will Cascadden, KC – Counsel for the Law Society of Alberta (LSA)

Jim Butlin, KC – Counsel for Kevin Scott

Hearing Date

May 15, 2025

Hearing Location

Virtual Hearing

HEARING COMMITTEE REPORT - SANCTION

Overview

1. The following citations were directed to hearing by the Conduct Committee Panel on May 14, 2025:
 - 1) It is alleged that Kevin Scott caused or permitted a false affidavit to be filed with the Court and that such conduct is deserving of sanction.
 - 2) It is alleged that Kevin Scott failed to be candid with the Law Society of Alberta and that such conduct is deserving of sanction.
2. Mr. Scott sought a fiat from the Court to file a second Affidavit from his client in place of an originally filed Affidavit. Mr. Scott made changes to the original Affidavit, and instead of having his client swear the second Affidavit, he attached the execution page from the original Affidavit to the second Affidavit. Mr. Scott then filed the second Affidavit.

3. Mr. Scott was subsequently dishonest with the LSA in the course of the LSA investigation regarding the nature of the sworn execution page of the second Affidavit.
4. The LSA and Mr. Scott entered into a Statement of Admitted of Admitted Facts and Exhibits, and Admission of Guilt (Agreed Statement) in relation to Mr. Scott's conduct. The Conduct Committee found the Agreed Statement acceptable. Accordingly, pursuant to section 60(4) of the *Legal Profession Act*, RSA 2000, c L-8 (*Act*), it is deemed to be a finding of this Hearing Committee (Committee) that Mr. Scott's conduct is deserving of sanction in relation to the above two citations.
5. As provided by section 60(3) of the *Act*, once the Agreed Statement was accepted by the Conduct Committee, the hearing into the appropriate sanction could be conducted by a single Benchers. As a result, I was appointed as the Committee to conduct the sanction hearing.
6. On May 15, 2025, the Committee convened a hearing into the appropriate sanction.
7. After reviewing all of the evidence and exhibits, and hearing the submissions of the LSA and Mr. Scott regarding the joint submission on sanction, for the reasons set out below, the Committee has determined that the appropriate sanction is a reprimand and a fine in the amount of \$10,000.00, payable within 10 months of the hearing date of May 15, 2025.
8. The Committee also ordered \$5,033.50 in costs against Mr. Scott.

Preliminary Matters

9. There were no objections to the constitution of the Committee or its jurisdiction, and a private hearing was not requested, so a public hearing into the appropriate sanction proceeded.

Agreed Statement

10. Pursuant to section 60(4) of the *Act*, each admission of guilt in the Agreed Statement is deemed to be a finding by this Committee that Mr. Scott's conduct is deserving of sanction under section 49 of the *Act*.
11. The Committee finds that (1) Mr. Scott caused or permitted a false affidavit to be filed with the Court and that such conduct is deserving of sanction; and (2) Mr. Scott failed to be candid with the LSA and that such conduct is deserving of sanction. Mr. Scott's conduct is deserving of sanction in breach of sections 2.1-1, 2.1-2, 5.1-1, and 7.1-1 of the LSA's Code of Conduct (Code).
12. Mr. Scott has practiced as a lawyer in Alberta since 1993 without a disciplinary record.

13. In November 2021, Mr. Scott sought a fiat from the Court to file a second Affidavit from his client in place of an originally filed Affidavit. Mr. Scott made changes to the original Affidavit, and instead of having his client swear the second Affidavit, he attached the execution page from the original Affidavit to the second Affidavit. Mr. Scott then filed the second Affidavit.
14. The changes to the second Affidavit were not substantive changes relevant to the issues in dispute in the litigation.
15. The purported Affiant did not swear or attest to the second Affidavit.
16. Mr. Scott was subsequently dishonest with the LSA in the course of the LSA investigation regarding the nature of the sworn execution page of the second Affidavit.
17. Mr. Scott did not admit to the dishonest act of attaching the execution page from the original Affidavit to the second Affidavit until faced with the evidence of the purported Affiant and Mr. Scott's inability to produce the original execution page for the second Affidavit.
18. At the time of these events, Mr. Scott was suffering from significant stress and anxiety due to caring for his brother suffering from a terminal disease. Mr. Scott's brother subsequently passed away.
19. Mr. Scott was also taking a prescription medication at the time, which had a negative influence on Mr. Scott's judgment.
20. Mr. Scott no longer requires the prescription medication. Mr. Scott provided undertakings to the LSA in conjunction with his Agreed Statement that he will not in the future take this prescription medication or any other mood-altering drug or substance, whether with or without a prescription.
21. Mr. Scott acknowledges that he made significant errors of judgment and that he is responsible for those errors.

Joint Submission on Sanction

22. The LSA and Mr. Scott made a joint submission on sanction to the Committee. The joint submission on sanction is for a reprimand and a fine of \$10,000.00, payable within 10 months of the hearing date.
23. Counsel for the LSA and Mr. Scott presented the case of *LSA v. Gish* (*Gish*)¹ as the most analogous case for the purposes of sanction. The lawyer in *Gish* was found to have sworn a false Affidavit of Execution. The lawyer was advised to self-report to the

¹ *Law Society of Alberta v Gish*, [2006] LSDD No 132.

LSA and delayed in doing so. However, before the hearing, the lawyer submitted an agreed statement of facts and admission of guilt. After contested sanction submissions were made by the parties, the Committee in *Gish* issued a reprimand and levied the highest fine permitted, in the amount of \$10,000.00.

24. Counsel also referred to the following decisions: *LSA v Ackah*² and *LSA v Amantea*³. The cases were put forward by counsel to demonstrate where a maximum fine was found to be more appropriate than a suspension. However, the Committee did not find the facts in these cases to be analogous to Mr. Scott's case.

Decision on Sanction

25. Counsel for the LSA and Mr. Scott confirmed their understanding that the Committee is not bound by a joint submission on sanction. That said, the public interest test sets out that a Committee is required to give significant deference to a joint submission and should not depart from a joint submission on sanction unless it would bring the administration of justice into disrepute or is otherwise contrary to the public interest.⁴
26. These are serious citations found against Mr. Scott. However, on the basis of the public interest test and the mitigating factors discussed further below, the Committee finds that a reprimand and a fine pursuant to section 72(2) of the *Act*, in the amount of \$10,000.00 payable is a reasonable and appropriate sanction, would not bring the administration of justice into disrepute, and is in the public interest.
27. Mr. Scott was dishonest with the Court and the other party to the litigation by making changes to the original Affidavit, and instead of having his client swear the second Affidavit, attaching the execution page from the original Affidavit to the second Affidavit. This was an intentional act of dishonesty for the inappropriate reason of efficiency, which erodes the public's confidence in the legal profession.
28. Mr. Scott was then dishonest with the LSA during the LSA investigation to conceal his actions. It was not until faced with the evidence of the purported Affiant and Mr. Scott's inability to produce the original execution page for the second Affidavit that Mr. Scott admitted guilt. This also raises serious concerns about governance of Mr. Scott by the LSA.
29. These grave failures of judgment by Mr. Scott amounting to serious misconduct and governance concerns are aggravating circumstances in the Committee's sanction considerations.

² *Law Society of Alberta v Ackah*, 2013 ABLS 2.

³ *Law Society of Alberta v Amantea*, 2020 ABLS 14.

⁴ *R v Anthony-Cook*, 2016 SCC 43; *LSA v Billing*, 2024 ABLS 1, paragraph 14.

30. The Committee also finds a number of mitigating circumstances in its sanction considerations:
- 1) Mr. Scott has practiced since 1993 without a disciplinary record. Mr. Scott assured the Committee at the hearing that this isolated failure of integrity would never happen again. It was clear at the hearing that Mr. Scott was remorseful for his conduct.
 - 2) Mr. Scott has admitted guilt, albeit not at the outset of the LSA investigation. Mr. Scott acknowledges that he made significant errors of judgment and that he is responsible for those errors.
 - 3) Dealing with this matter through the Agreed Statement avoided an unnecessary contested hearing, witness inconvenience, and process costs. Mr. Scott also cooperated with the LSA to make a joint submission on sanction.
 - 4) At the time of these events, Mr. Scott was suffering from significant stress and anxiety due to caring for his brother suffering from a terminal disease.
 - 5) Mr. Scott was also taking a prescription medication at the time, which had a negative influence on Mr. Scott's judgment. Mr. Scott voluntarily provided undertakings to the LSA that he will not in the future take this prescription medication or any other mood-altering drug or substance, whether with or without a prescription.
31. The purpose of the sanctioning process is to ensure that the public is protected, and that the public maintains a high degree of confidence in the legal profession.
32. Towards the aim of the protection of the public, this was an isolated failure of integrity in Mr. Scott's long legal career. The timing and limited nature of these failures are explained by the confluence of personal family and medical circumstances that Mr. Scott was facing at the time. Mr. Scott has voluntarily provided the LSA with undertakings to ensure those circumstances giving rise to a negative influence on Mr. Scott's judgment cannot happen again in the future.
33. The Committee is not bound by the *Gish* decision, but it was found to be analogous and instructive in reviewing the reasonableness and proportionality of the joint submission on sanction for Mr. Scott with the fundamental purpose of the sanctioning process in mind.
34. In *Gish*, the LSA hearing committee concluded that:
- [A] suspension would be unwarranted in the circumstances and that a significant fine [the highest amount permitted] would have the effect of deterrence as well as being evidence to the public that the Law Society

recognizes the faith that they put in the honesty and integrity of the Members of the Society and any transgression of that trust would be met with serious repercussions, even when mitigating factors exist and even if the Panel is satisfied that the incident is isolated.⁵

35. For the above rationale and reasons, the Committee accepts the joint submission on sanction of a reprimand and noting the importance of levying the highest permissible fine pursuant to section 72(2) of the *Act* against Mr. Scott in this case. Mr. Scott will have 10 months from May 15, 2025 to pay the fine in the amount of \$10,000.00.

Reprimand

36. Mr. Scott was issued his oral reprimand by the Committee at the hearing, as follows:

The Law Society of Alberta takes a purposeful approach to sanctioning a member who has been found guilty of conduct deserving of sanction. The fundamental purpose of sanctioning is the protection of the interests of the public and the protection of the reputation and standing of the legal profession.

Mr. Scott, I acknowledge your co-operation with the Law Society leading up to today and resolving these complaints by admitting guilt, making a joint submission on sanction, and by proceeding with a single Benchers hearing. Your admissions and joint submission have permitted these citations to be resolved on a more efficient basis, which is not just a benefit to you, but is a benefit to the public and to the Law Society.

Mr. Scott, you are an experienced lawyer, having practiced since 1993. It is clear to me that you have had a long and principled career having no previous disciplinary record. Your career has been exemplary until these citations. I note that these citations arose during a very difficult time in your personal life. I also note that you have given undertakings to ensure that this situation does not occur again to impact your professional life in the future.

I appreciate your recognition of remorse for your actions, and I expect that facing these citations now, at this stage of your career, is an enormous disappointment. You have admitted guilt on two citations. Those citations are very serious and go to the heart of your obligations of honesty and integrity.

In these matters, you put your professional reputation and integrity at risk. In making these comments today and in expressing this

⁵ *Gish*, paragraph 22.

reprimand today, I urge you to constantly have at the forefront of your mind and your practice the integrity required of all of us as members of this profession and the need to maintain our reputation and the reputation of this profession to uphold the public's trust in us given the important role we play in the administration of justice.

In concluding, I wish you the best as you move forward from these very difficult circumstances, express my sincere condolences for your loss, and thank you for your attendance today.

Costs Award

Costs Submissions

37. Counsel for the LSA seeks full costs for the LSA investigation and hearing in the total amount of \$6,977.25, including:
- Investigation costs of \$2,677.50 – 25.5 hours at \$100/hr;
 - LSA counsel preparation costs of \$3,543.75 – 27 hours at \$125/hr;
 - LSA counsel hearing costs of \$250.00 – 2 hours at \$125/hr;
 - Court Reporter costs of \$231.00; and
 - Per diem hearing expenses of \$262.50.
38. Counsel for the LSA submitted that the costs for the hearing are minimal as a result of Mr. Scott's Agreed Statement and cooperation in making the joint submission on sanction.
39. Counsel for the LSA cited *KC v College of Physical Therapists of Alberta (KC)* in support of an award for full costs:

The fact that the Act and Regulation permit the recovery of all hearing and appeal costs does not mean that they must be ordered in every case. Costs are discretionary, with the discretion to be exercised judicially. ... Costs awarded on a full indemnity basis should not be the default, nor, in the case of mixed success, should costs be a straight mathematical calculation based on the number of convictions divided by the number of charges. In addition to success or failure, a discipline committee awarding costs must consider such factors as the seriousness of the charges, the conduct of the parties and the reasonableness of the amounts. Costs are not a penalty, and should not be awarded on that basis. When the magnitude of a costs award delivers a crushing financial blow, it deserves careful scrutiny: ... If costs

awarded routinely are exorbitant they may deny an investigated person a fair chance to dispute allegations of professional misconduct: ... Costs are often treated as an afterthought and an inevitability in professional discipline matters under the *Health Professions Act*.⁶

40. Counsel for Mr. Scott argued that a cost award is not warranted in this case. Counsel cited a line in the decision of Justice Khullar (now Chief Justice of the Court of Appeal of Alberta) concurring in the result of the majority in *Alsaadi v Alberta College of Pharmacy* for this proposition as follows:

A more deliberate approach to calculating the expenses that will be payable is necessary. Factors such as those described in [*KC v College of Physical Therapists of Alberta*, 1999 ABCA 253 at para 94] should be kept in mind. A hearing tribunal should first consider whether a costs award is warranted at all. If so, then the next step is to consider how to calculate the amount. What expenses should be included? Should it be the full or partial amount of the included expenses? Is the final amount a reasonable number? In other words, a hearing tribunal should be considering all the factors set out in KC, in exercising its discretion whether to award costs, and on what basis. And of course, it should provide a justification for its decision [emphasis added].⁷

The Charkhandeh Decision

41. Subsequent to the hearing, on July 24, 2025 the Alberta Court of Appeal released its decision in *Charkhandeh v College of Dental Surgeons of Alberta*, 2025 ABCA 258 (*Charkhandeh*). The Court of Appeal sat in a panel of five for the *Charkhandeh* appeal. Chief Justice Khullar took the opportunity in *Charkhandeh* “to address the issue of costs in professional disciplinary proceedings in a fresh manner.”⁸

42. Importantly, the Court of Appeal in *Charkhandeh* held as follows:

Going forward, costs in disciplinary proceedings should be awarded based on the wording of the statute, and the principles set out in these reasons. The approach in *Jinnah* should not be used.⁹

43. The Committee follows the law as set out in *Charkhandeh* in its costs decision in this case.

⁶ *KC v College of Physical Therapists of Alberta*, 1998 ABCA 213 (KC), paragraph 94.

⁷ *Alsaadi v Alberta College of Pharmacy*, 2021 ABCA 313, paragraph 120.

⁸ *Charkhandeh v College of Dental Surgeons of Alberta*, 2025 ABCA 258 (*Charkhandeh*), paragraph 129

⁹ *Charkhandeh*, paragraph 168.

44. The key issues to be decided by the Committee regarding the award of costs in this disciplinary proceeding are as follows:

- (a) Where should the [costs] burden fall?
- (b) Application of the relevant factors when awarding costs
- (c) Limits on quantum of costs
- (d) Types of costs that can fairly be imposed on the professional¹⁰

(a) The Costs Burden

45. The Act provides as follows with respect to costs in the LSA's disciplinary proceedings:

51(1) The Benchers may make rules ...

(g) respecting the determination of costs that may be attributed to proceedings under this Part and the powers and duties of a Hearing Committee or the Benchers, as the case may be, in making orders under this Part against a member or former member for the payment of all or part of those costs;

(2) Rules under subsection (1)(g) may, without limitation, include in the classes of costs attributable to proceedings under this Part reasonable costs for the indemnification of the Society for the cost of services performed in connection with those proceedings by any of its salaried employees.

...

72(1) If a Hearing Committee finds that a member is guilty of conduct deserving of sanction, the Committee shall either ...

(2) In addition to an order under subsection (1), the Hearing Committee may make one or more of the following orders: ...

(c) an order requiring the payment to the Society of all or part of the costs of the proceedings within the time prescribed by the order.

...

¹⁰ *Charkhandeh*, paragraph 134.

(5) The Society may, by an action in debt, recover any penalties or costs payable under an order made pursuant to subsection (2) from the person required to pay them.

46. The Rules of the LSA (Rules) provide as follows:

90.4(1) This Rule applies to hearings commenced under section 59 of the Act. ... (10) When exercising its discretion in the calculation of costs, a Hearing Committee may consider whether a party denied the truth of a fact or the authenticity of a document under this Rule that was subsequently proven at the hearing.

...

99(1) Unless the Hearing Committee directs that there will be no order for costs, or the member is found to be not guilty of conduct deserving of sanction on all citations, the Executive Director shall, as soon as possible after the conclusion of its hearing, prepare a statement of costs showing the following charges, costs and expenses incurred in connection with the proceedings against the member to that time:

- (a) investigators' and audit professionals' fees and expenses incurred in carrying out any inquiries or investigations;
- (b) hearing charges at a rate prescribed by the Benchers or by the Audit and Finance Committee, per day or half day of hearing, or part thereof;
- (c) any other expenses incidental to the hearing including, without limitation:
 - (i) fees and expenses of all witnesses, including experts
 - (ii) fees and expenses incurred in preparing and serving any documents on any person pursuant to Division 1 of Part 3 of the Act,
 - (iii) court reporter fees and charges for transcripts;
- (d) fees and expenses of the counsel for the Society, other than the Society's Discipline Counsel,
- (e) reasonable costs for the indemnification of the Society for the cost of services performed by the Society's Discipline Counsel in connection with proceedings, other than those referred to in clause (g),

(f) adjournment charges at a rate or rates prescribed by the Benchers or by the Audit and Finance Committee; and

(g) if the Hearing Committee has directed the Executive Director to include them in the statement, any costs and expenses incurred by the Society in connection with all or any proceedings respecting the member's conduct under section 54, 56, 58, 60, 61 or 63 of the Act, including reasonable compensation for the indemnification of the Society for the cost of services performed by investigators, audit professionals, the Society's Discipline Counsel or other counsel for the Society in connection with those proceedings.

(2) A Hearing Committee's order for costs

(a) may be made on the basis of the statement of costs prepared by the Executive Director or may be otherwise referable to that statement and

(b) in a case where the Committee orders payment of the costs of the proceedings,

(i) shall be based on the costs and expenses referred to in subrule (1)(a) to (f), and

(ii) may, where the Committee so directs, include all or part of the costs and expenses described in subrule (1)(g).

(3) The Audit and Finance Committee may prescribe an hourly rate to be used to determine the cost to the member of services performed by counsel, investigators or audit professionals, for the purposes of subrule (1).

(4) A statement of costs under this Rule shall be signed by the chair or any other member of the Hearing Committee or, in the absence of all the members of the Hearing Committee from their usual places of business, the chair of the Conduct Committee.

(5) The Executive Director shall send the signed statement of costs to the member or the member's counsel.

(6) If a question arises as to the accuracy of a signed statement of costs, the Hearing Committee shall, on application made within 15 days after the date on which the statement was sent to the member or the member's counsel, review the statement and, on completing the review, may amend or replace the statement and, if necessary, amend or replace the order for costs to reflect the change in the statement.

(7) If a member is suspended for non-payment pursuant to section 79 or 93 of the Act, that member shall remain suspended until any costs incurred by the Law Society in any custodianship during that suspension and in preparing and mailing any notices about that suspension are paid in full by that member, unless the Conduct Committee otherwise directs. The Executive Director shall determine the amount of those subsequent costs and send a statement of those costs to the member or the member's counsel. On application by the member, the Conduct Committee may review that statement of subsequent costs and may confirm, amend or replace it.

47. In *Charkhandeh*, the Court of Appeal held that the statutory language of the *Health Professions Act* only provided a basic framework. The *Act* is similar to the *Health Professions Act* in this regard:

- (a) The granting of costs is not mandatory.
- (b) The legislative framework is tilted towards the LSA and away from the regulated professional.
- (c) The language is intentionally broad, including a wide range of expenses covering both the investigative and hearing stages.
- (d) The *Act* does not provide for an external body to review an award of costs (such as an assessment officer).
- (e) Only the professional who is found guilty of unprofessional conduct can be ordered to pay costs to the LSA. There is no power to award costs to the professional.
- (f) Any amount owing is recoverable as a debt pursuant to section 72(5) of the *Act*.¹¹

48. The Court of Appeal in *Charkhandeh* in relation to the *Health Professions Act* held that:

There is no presumption in the statutory language one way or another. Therefore, it would be an error for a hearing tribunal or appeal panel to award costs based on a presumption that costs should be awarded, or that either the disciplined member or the College should bear the costs. In every case the decision maker must carefully consider whether, first of all, costs are warranted, and second, the quantum of costs.¹²

¹¹ *Charkhandeh*, paragraphs 133-135.

¹² *Charkhandeh*, paragraph 136.

49. The Committee finds that while costs are not presumed against Mr. Scott, costs are warranted in this case. Mr. Scott did not admit guilt at the outset of the LSA investigation. Mr. Scott undermined the investigation by being dishonest with the investigator in an attempt to conceal his misconduct. It was not until faced with the evidence of the purported Affiant and Mr. Scott's inability to produce the original execution page for the second Affidavit that Mr. Scott admitted guilt. Mr. Scott's actions caused the investigation costs and certain of the LSA counsel costs to be incurred, which could have been avoided if Mr. Scott had been forthright in admitting to his conduct and cooperating in the LSA's governance and conduct processes.

(b) The Relevant Factors

50. Costs are not intended to be a form of sanction. They are only intended to allocate the costs of the process and proceedings.¹³

51. The Court of Appeal in reversing *Jinnah* has clearly stated that the seriousness of the charges is not a relevant consideration in awarding costs:

The quantum and type of the costs will likely be impacted by the seriousness of the allegations, but the length and extent of the hearing and the conduct of the parties at the hearing are what is relevant, not seriousness per se.¹⁴

52. The costs in this case were increased due to the conduct of Mr. Scott during the investigation as summarized in paragraph 49 above. However, Mr. Scott did admit guilt, albeit at a late stage, and cooperated to make a joint submission on sanction. On this basis, full costs are not appropriate in the circumstances.

(c) The Limits on Quantum

53. Regarding the reasonableness and proportionality of the quantum of any costs awarded, the Court of Appeal in *Charkhandeh* provided the following direction:

- (a) The expenses must be reasonably incurred having regard to the nature of the investigation, the allegations and the hearing process;
- (b) The quantum paid by the regulator must be fair and reasonable;
- (c) It must not only have been reasonable for the College to have incurred the costs (in substance and as to quantum) but it must also be reasonable to transfer the burden of those costs to the professional. As stated in *Barkwell v McDonald*, 2023 ABCA 87 at para. 59, 479 DLR (4th) 560, the issue is not only whether the costs were reasonably

¹³ *Charkhandeh*, paragraph 138.

¹⁴ *Charkhandeh*, paragraph 140.

incurred, “but whether the quantum represents an amount that the losing party in the litigation should reasonably be expected to pay to the winning party.”

- (d) The costs award must be proportionate to the issues involved, the circumstances of the member, and the overall burden it places on him or her.¹⁵

- 54. In terms of the large costs awards that the Court of Appeal in *Charkhandeh* was concerned with, the \$6,977.25 costs award sought by the LSA in this case is a number that is magnitudes smaller.
- 55. Regarding proportionality, the submissions of counsel for Mr. Scott at the hearing were that the \$10,000.00 sanction fine would already be a financial burden on Mr. Scott, such that he would appreciate any costs award likewise being payable within 10 months of the hearing date.

Types of Costs

- 56. The Court of Appeal in *Charkhandeh* provided the following directions on the types of costs that can fairly be imposed on the professional:
 - (a) The decision maker must have a reasonable idea of the types of expenses that are included in the costs sought and make some assessment of whether those expenses were reasonably incurred.¹⁶
 - (b) A professional should not have to pay all or a significant portion of the expenses associated with the infrastructure of the hearing. The professional should only be expected to pay those costs discretely associated with the hearing itself.¹⁷
 - (c) Legal fees must be examined for reasonableness, including hourly rate, number and seniority of counsel, and duration and intensity of preparation.¹⁸
- 57. The Committee had before it at the hearing an Estimated Statement of Costs which the LSA relied upon in seeking the \$6,977.25 in costs, as summarized at paragraph 37 above.
- 58. Applying the above principles, the *per diem* hearing expenses of \$262.50 are not recoverable against Mr. Scott, because these are associated with the infrastructure of

¹⁵ *Charkhandeh*, paragraph 144.

¹⁶ *Charkhandeh*, paragraph 146.

¹⁷ *Charkhandeh*, paragraph 150.

¹⁸ *Charkhandeh*, paragraph 152.

the hearing process. However, the Court Reporter fees of \$231.00 is discretely associated with Mr. Scott's hearing and is properly recoverable against Mr. Scott.

59. Regarding the hourly rate paid by the LSA for investigation and LSA counsel costs, these are notably very low hourly rates. The LSA is in the best position of all of the professional regulators in Alberta to determine appropriate hourly rates for legal fees that a professional should reasonably be expected to pay.
60. The Committee does not take issue with the 25.5 hours for the investigation or the 2 hours for the hearing. Mr. Scott's actions as set out in paragraph 49 above caused the investigation costs to be incurred, and the efficient hearing was due to the Agreed Statement and joint submission on sanction. However, the Committee does not think that all of the LSA counsel costs for preparation should be the burden of Mr. Scott to pay, because Mr. Scott made an Agreed Statement reducing costs going forward. The Committee holds that Mr. Scott should be responsible for 15 hours of LSA counsel preparation time, as opposed to 27 hours.

Costs Award against Mr. Scott

61. Mr. Scott is directed to pay the following costs to the LSA:
 - Investigation costs of \$2,677.50 – 25.5 hours at \$100/hr;
 - LSA counsel preparation costs of \$1,875.00 – 15 hours at \$125/hr;
 - LSA counsel hearing costs of \$250.00 – 2 hours at \$125/hr; and
 - Court Reporter costs of \$231.00.
62. The Committee finds the costs award of \$5,033.50 against Mr. Scott to be reasonable and proportionate to this investigation and hearing.
63. The Committee has applied the law as set forth by the Court of Appeal in *Charkhandeh* to award a partial costs award against Mr. Scott in the amount of \$5,033.50, likewise payable within 10 months of the hearing date of May 15, 2025.

Concluding Matters

64. In summary, the Committee has determined that the appropriate sanction is a reprimand and a fine in the amount of \$10,000.00. Costs in the amount of \$5,033.50 were also ordered. The fine and costs are payable within 10 months of the hearing date of May 15, 2025.
65. No notice to the Attorney General is required.

66. No Notice to the Profession is required.
67. 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. Scott will be redacted and further redactions will be made to preserve client confidentiality and solicitor-client privilege (Rule 98(3)).

Dated August 7, 2025.

Erin Runnalls, KC