

**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 ALLISON BARKWELL
A MEMBER OF THE LAW SOCIETY OF ALBERTA**

Hearing Committee

Ken Warren, KC – Chair and Benchers
Levonne Louie – Lay Benchers
Matthew Woodley – Lawyer Adjudicator

Appearances

Sakeb Nazim – Counsel for the Law Society of Alberta (LSA)
Janice Agrios, KC – Counsel for Allison Barkwell

Hearing Date

August 17, 2026

Hearing Location

Virtual Hearing

HEARING COMMITTEE REPORT

Overview

1. The following citations were directed to hearing by the Conduct Committee on July 16, 2024:
 - 1) It is alleged that Jay Allison Barkwell failed to conduct herself with integrity in her personal litigation matter and that such conduct is deserving of sanction.
 - 2) It is alleged that Jay Allison Barkwell acted in a conflict of interest and that such conduct is deserving of sanction.
 - 3) It is alleged that Jay Allison Barkwell acted contrary to her clients' instructions and in breach of her fiduciary duties and that such conduct is deserving of sanction.
2. Ms. Barkwell was admitted as a member of the LSA on August 17, 2006. On the day of the hearing, she was an active practicing member of the LSA, focused primarily on estate planning and administration. She has no previous discipline record with the LSA.

3. On August 17, 2026, the Hearing Committee (Committee) convened a hearing into the conduct of Ms. Barkwell to address the above citations.
4. At the start of the hearing, counsel for the LSA advised that citation 2 was not being pursued and was withdrawn. Counsel for Ms. Barkwell confirmed that understanding.
5. Counsel presented a Statement of Admitted Facts and Admission of Guilt (SAF) that dealt with citations 1 and 3. Ms. Barkwell confirmed that she made her admissions voluntarily and free of undue coercion, she unequivocally admits guilt to the two citations, she understood the nature and consequences of her admissions, and she understood the Committee is not bound by any joint submission on sanction. The Committee found it to be in an acceptable form in accordance with section 60(2)(b) of the *Legal Profession Act*, RSA c. L-8 (*Act*). Pursuant to section 60(4)(b) of the *Act*, that resulted in a deemed finding for all purposes that Ms. Barkwell's admitted conduct was deserving of sanction. Accordingly, based on the SAF, submissions and arguments of the LSA and counsel for Ms. Barkwell, the Committee finds Ms. Barkwell guilty of conduct deserving of sanction on citations 1 and 3.
6. The Committee also finds that, based on the facts of this case and the authorities considered, the appropriate sanction is a reprimand and a fine of \$10,000.00 in accordance with sections 72(1)(c) and 72(2)(b) of the *Act*.
7. In addition, pursuant to section 72(2)(c) of the *Act*, the Committee orders the payment of costs by Ms. Barkwell in the amount of \$6,000.00.

Preliminary Matters

8. There were no objections to the constitution of the Committee or its jurisdiction.
9. A private hearing application was submitted by counsel for Ms. Barkwell on May 8, 2026, considered by the Committee and dismissed on July 2, 2026. As a result, a public hearing into Ms. Barkwell's conduct proceeded.

Agreed Statement of Facts

10. The SAF outlines that Ms. Barkwell had different roles with respect to the two citations. Citation 1 arose from Ms. Barkwell's conduct as a litigant, not as counsel. She was a party in divorce and matrimonial property proceedings between her and her then husband and was found by Justice Belzil, of the Court of King's Bench of Alberta, to have committed "serious litigation misconduct" in those proceedings. Citation 2 arose from Ms. Barkwell's conduct as counsel. Justice Belzil found that Ms. Barkwell failed to follow instructions from her client husband several years before the commencement of the matrimonial proceedings.

Citation 1 Admitted Facts

11. Ms. Barkwell and her husband, DM, separated in 2015 after about 10 years of marriage. Divorce and matrimonial property proceedings were commenced between Ms. Barkwell and DM in June 2017. They exchanged financial disclosure in June 2016 as required pursuant to a Notice to Disclose. The Notice to Disclose required that Ms. Barkwell provide copies of all bank account statements solely or jointly in her name for the most recent six months.
12. Ms. Barkwell's Notice to Disclose did not disclose two specific bank accounts (accounts [X] and [Y]). In January 2017, DM's counsel wrote to Ms. Barkwell's counsel inquiring about accounts [X] and [Y] and whether they belonged to her. No response was provided to DM's counsel.
13. During questioning in October 2018, DM's counsel asked Ms. Barkwell whether she had any other accounts during her marriage which had not been disclosed. She falsely stated that she had no other accounts.
14. During further questioning in January 2021, DM's counsel asked Ms. Barkwell whether she had other bank accounts that had not been disclosed. She stated that she did not.
15. In March 2021, DM's counsel advised Ms. Barkwell's counsel that a joint bank account of Ms. Barkwell and DM indicated a number of transfers to accounts [X] and [Y]. DM's counsel inquired again whether those accounts belonged to Ms. Barkwell. No response was provided.
16. On March 31, 2021, pursuant to an authorization provided by Ms. Barkwell, DM's counsel obtained statements from accounts [X] and [Y] which showed that the accounts belonged solely to Ms. Barkwell.
17. On November 24, 2021, Justice Belzil issued a decision in the divorce and matrimonial property proceedings in which he made findings about Ms. Barkwell's credibility, particularly in regard to her evidence about accounts [X] and [Y]. At trial, Ms. Barkwell testified that she "forgot" about accounts [X] and [Y]. The trial judge noted that the accounts had been used for many transactions involving thousands of dollars over a number of years. Justice Belzil found that Ms. Barkwell had failed to truthfully disclose at questioning the existence of accounts [X] and [Y] and that she was not forthright when questioned under oath about the existence of other bank accounts.
18. On March 16, 2022 Justice Belzil issued a costs decision in which he concluded that Ms. Barkwell engaged in serious litigation misconduct by failing to disclose accounts [X] and [Y] at the 2018 questioning and that the nondisclosure of those two bank accounts caused serious prejudice to DM. Ms. Barkwell's misconduct was a factor cited by the trial judge in awarding enhanced costs to DM. Justice Belzil further found that Ms. Barkwell's

concealment of the two accounts justified DM's retention of an expert to conduct a tracing analysis. DM was entitled to recover from Ms. Barkwell the full amount of the expert's significant costs.

19. Ms. Barkwell appealed both the trial decision and the costs decision to the Alberta Court of Appeal. The appeal was allowed in part, but the Court of Appeal did not overturn any of the findings in relation to Ms. Barkwell's lack of credibility and serious litigation misconduct.

Citation 3 Admitted Facts

20. The will of DM's mother directed that funds from her estate be distributed to DM and a sibling. Ms. Barkwell drafted DM's letter of direction which was signed by him and instructed that a portion of his funds be deposited into a bank account in his sole name.
21. In early 2011, a bank draft payable to DM was sent to DM's attention at the home of DM and Ms. Barkwell. Contrary to the instructions in the letter of direction that the funds be deposited into a bank account in DM's sole name, Ms. Barkwell deposited the funds into a bank account jointly held by her and DM.
22. One of the issues during the divorce trial in 2021 was the exemptions DM was claiming and whether DM intended to keep the inheritance funds separate from Ms. Barkwell. Justice Belzil drew an adverse inference against Ms. Barkwell that she did not seek DM's approval to deposit the inheritance funds into their joint bank account as she knew that he would not have agreed. The trial judge's finding was not overturned by the Court of Appeal.

The Joint Submission

23. Early in the hearing, the parties tendered a joint submission consisting of a reprimand, a \$10,000.00 fine and costs in the amount of \$6,000.00, comingling issues of sanction and costs. When a member executes a statement of facts and admission of guilt, the issues of sanction and costs may be put before the hearing committee in three ways:
 - a) No joint submission on sanction or costs, leaving the decisions for argument and exercise of the hearing panel's discretion;
 - b) A joint submission on sanction but not on costs, requiring consideration of the joint submission on sanction under the principles discussed below and leaving any costs award for argument and exercise of the hearing panel's discretion; or
 - c) A joint submission on sanction and a joint submission on costs (also referred to as a joint submission on sanction and costs), requiring consideration of the joint

submission on sanction and the joint submission on costs under the principles discussed below.

24. Costs do not form part of the sanction. In *Charkhandeh v. College of Dental Surgeons of Alberta*, 2025 ABCA 258, a five-person appeal panel addressed costs in professional disciplinary proceedings in a “fresh manner” and set out an analytical framework to guide decision makers. A helpful and thorough summary of the *Charkhandeh* framework and its application to discipline proceedings under the Act is found in *Law Society of Alberta v. Scott*, 2025 ABLS 21. *Charkhandeh* provides at paragraph 138 that a costs award is not intended to be another form of sanction. The intention of a costs award is to allocate the costs of the process and proceedings. A costs award is discretionary and requires discretion to be exercised in a principled, transparent and reasonable manner (*Charkhandeh* at paragraph 132).
25. Section 72(1) of the Act authorizes a hearing committee to make an order of either disbarment (72(1)(a)), suspension (72(1)(b)) or reprimand (72(1)(c)). Section 72(2) then provides that the hearing committee may make one or more additional orders imposing conditions and requirements, including conditions on the member’s suspension or practice (72(2)(a)), requiring payment of a penalty (i.e. fine) of not more than \$10,000.00 per citation (72(2)(b)) and requiring payment of all or part of the costs of the proceeding within the time prescribed by the order (72(2)(c)). Orders under sections 72(1)(a), 72(1)(b), 72(1)(c), 72(2)(a) and 72(2)(b) are sanction orders. An order under section 72(2)(c) is a costs order and is not part of an order on sanction.
26. Joint submissions on sanction are regularly, and quite appropriately, employed in discipline proceedings under the Act. Joint submissions on costs are also frequently seen. The LSA Pre-Hearing and Hearing Guideline (2026) (Hearing Guideline) summarizes the benefits to both the member and the LSA of a joint submission on sanction:
 - a) it is a more efficient means of concluding the proceedings, saving time, costs and resources;
 - b) it provides the parties with certainty regarding the outcome, particularly in cases where either party faces challenging evidentiary issues;
 - c) complainants and other witnesses are spared from having to testify publicly;
 - d) complainants may perceive the lawyer's Admission as an important acknowledgment of responsibility or an expression of remorse;
 - e) an admission and a joint submission on sanction provides the lawyer with an opportunity to demonstrate accountability for their conduct.

27. The Hearing Guideline does not address the possibility of a joint submission on costs, stating at paragraph 217 that costs may be determined at the conclusion of the sanction hearing or at a separate hearing at the discretion of a hearing committee.
28. The Hearing Guideline at paragraphs 210-212 confirms the applicability of the “public interest test”, established by *R. v Anthony-Cook*, 2016 SCC 43, when considering a joint submission on sanction. The joint submission should be accepted by the hearing committee unless the proposed sanction would bring the administration of justice into disrepute or is otherwise contrary to the public interest. The Hearing Guideline provides at paragraph 210 that a judge (although in the Committee’s view, this applies to all decision makers) should consider the following questions in applying the public interest test:
- a) Is the joint submission so markedly out of line with the expectations of reasonable persons aware of the circumstances of the offence and the offender that the joint submission would be viewed as a breakdown in the proper functioning of the criminal justice system?
 - b) Would the joint submission cause an informed and reasonable public to lose confidence in the institution of the courts?
 - c) Is the joint submission so unhinged from the circumstances of the offence and the offender that its acceptance would lead reasonable and informed persons, aware of all the relevant circumstances, including the importance of promoting certainty in resolution discussions, to believe that the proper functioning of the justice system had broken down?
29. A thorough analysis of *Anthony-Cook* and its application in professional discipline settings is found in *Law Society of Alberta v. Goldsworthy*, 2025 ABLS 22.
30. A hearing committee considering a joint submission on sanction follows a well-established procedure in which it considers the evidence, facts, authorities and arguments of the member and the LSA. Hearing committees are not bound by precedent, but paragraph 206 of the Hearing Guideline provides that undue disparity with the sanctions imposed in other cases is to be avoided. Consideration of those factors is not a formulaic exercise but enables the hearing committee to determine a window, or range, of sanctions that would satisfy the public interest test. A hearing committee need not explicitly define the upper or lower limits of the range. *Anthony-Cook* requires the hearing committee to accept a joint submission on sanction if it is satisfied that the joint submission falls within the window. If the hearing committee concludes that the joint submission falls outside the window, it must be rejected.
31. As noted in *Goldsworthy*, the LSA hearing committee cases before *Charkhandeh* were not consistent in their consideration of joint submissions on costs:

- “Actual Costs” of the hearing were awarded without regard to their amount or reasonableness, presumably following the LSA’s then default position that a member guilty of conduct deserving of sanction pays the actual costs of the hearing: *Law Society of Alberta v. Moughel*, 2016 ABLs 38 and *Law Society of Alberta v. Peddie*, 2016 ABLs 49.
 - Arbitrary modification by the hearing committee of the time to pay costs provided in the joint submission: *Law Society of Alberta v. Welz*, 2020 ABLs 28.
 - Consideration of the pre-*Charkhandeh* Alberta appellate authorities to conclude that the joint submission on costs was within the reasonable range: *Law Society of Alberta v. Farrell*, 2024 ABLs 11.
 - Reluctant deference to a joint submission amount that the hearing committee felt was at the very low end of the range: *Law Society of Alberta v. Emiloju*, 2025 ABLs 3.
 - Acceptance of the joint submission on costs without express reference to its reasonableness or to the public interest test: *Law Society of Alberta v. Tiwana*, 2025 ABLs 17.
32. *Charkhandeh* did not involve any joint submission and the facts were exceptional. A dentist, SC, following a lengthy hearing, was found guilty by that hearing tribunal of five counts of unprofessional conduct involving non-consensual sexual misconduct with a staff member. His registration was cancelled, he was fined \$10,000.00 (the maximum fine) on each of the five counts, and he was ordered to pay 75% of the hearing costs (about \$350,000.00). An appeal panel of the Council of the College upheld the hearing tribunal’s orders on sanction and costs and ordered SC to pay 75% of the costs of the appeal (about \$80,000.00). The total costs liability of SC was about \$430,000.00.
33. On further appeal, the Court of Appeal allowed the appeal on sanction and costs. The deregistration and fines were replaced by a three-year license suspension. The costs award was reduced to \$60,000.00. The court found it necessary to address costs in professional disciplinary proceedings “in a fresh manner” due to prior inconsistent decisions by the Court and the magnitude of customary discipline proceeding costs. The Court stated at paragraph 131, “The jeopardy for costs was never intended by the Legislature to overwhelm the disciplinary framework or impede the ability of a regulated professional to mount a defence to allegations of unprofessional conduct.”
34. The *Charkhandeh* framework identifies four issues to be decided by the decision maker when addressing costs in a professional disciplinary proceeding (at paragraphs 134-154, with specific references below in brackets):

- a) Where should the costs burden fall? There is no presumption that a disciplined member of the profession should bear the costs. The decision maker must in every case consider whether costs are warranted and, if so, their quantum (135-136). It follows that the default position of the LSA, as set out in paragraph 221 of the Hearing Guideline, that the actual costs of the hearing should be paid by a lawyer found guilty of conduct deserving of sanction, is unsustainable.
- b) What factors are relevant when awarding costs? The factors, which cannot be listed exhaustively, must be relevant to the competing alternatives of allocating costs between the LSA and the member, including: the length and extent of the hearing, which may be affected by the seriousness of the citations, and the conduct of the parties at the hearing (140); unreasonable, wasteful or inefficient litigation conduct of either party, such as introducing unnecessary or irrelevant evidence overcharging by the LSA, refusing to admit uncontested facts or uncontested records, bringing unnecessary applications, delaying proceedings, or failing to meet reasonable deadlines (142); the relative success of the parties. The seriousness of the citations is relevant to sanction but not to costs (138-141). The member who successfully defends some of the charges should not be overburdened with costs and the member who is substantially successful should not pay any costs (137).
- c) What are the limits on quantum of costs? The expenses must be reasonably incurred regarding the nature of the investigation and the allegations in the hearing process. The quantum paid by the LSA must be fair and reasonable. It must not only have been reasonable for the LSA to have incurred the costs but it must also be reasonable to transfer the burden of those costs to the member. 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 (144). A hearing committee should not make an “in gross” percentage award of costs without having a clear idea of what is included in those costs (146). The ultimate award could not be unduly onerous or place a crushing burden on the member. The potential of a punitive costs award should not deprive a member of the opportunity to make full answer in defence nor to prompt them to admit responsibility for conduct which they do not agree is unprofessional (147). The ability to pay does not make a costs award reasonable (148).
- d) What types of costs can fairly be imposed on the professional? The decision maker must have a reasonable idea of the types of expenses that are included in the costs sought and make an assessment of whether those expenses were reasonably incurred (146). The professional should not have to pay all or significant portion of the expenses associated with the infrastructure of the hearing (150). The costs sought from the member should be those discretely associated with the hearing and the pre-hearing process. Legal fees must be examined for reasonableness, including hourly rate, number and seniority of

counsel, and duration and intensity of preparation (152). Except in the most complex cases, it is not reasonable to seek more than the cost of one lawyer, of mid-level seniority, at appropriate rates (153). Expenses that are properly part of the regulatory function, as inherent in the self-regulation model, ought not to be charged to the member (150).

35. There is no authority equivalent to the *Charkhandeh* framework that might guide a hearing committee when considering the public interest test in the context of a joint submission on sanction. As a result, in crafting a joint submission on sanction and in considering the acceptance of a joint submission on sanction, the parties and hearing committee have more flexibility in considering a supportive analytical framework. However, when dealing with a joint submission on costs, the parties must follow the *Charkhandeh* framework.
36. There is no principled reason not to apply the public interest test to joint submissions on costs. The benefits of a joint submission on sanction set out in paragraph 26 above apply, some more forcefully than others, to joint submissions on costs.
37. A hearing committee considering the acceptability of a joint submission on costs must consider the *Charkhandeh* framework and post-*Charkhandeh* authorities in determining the range of appropriate costs awards in all the circumstances. Pre-*Charkhandeh* authorities on costs will have little precedential value. Consideration of the *Charkhandeh* factors and applying them to the facts is not a formulaic exercise. There will be a range of acceptable costs awards. If the joint submission falls within the range, the hearing committee will defer to the joint submission and accept it. Acceptance of a joint submission that offends the *Charkhandeh* framework will bring the administration of justice into disrepute.
38. Counsel have an obligation to provide the hearing committee with a full account of all the material circumstances when making a joint submission on sanction or on costs. In *Anthony-Cook*, the court referred to paragraph 54 to a corollary obligation of counsel to “amply justify their position on the facts of the case” because of the stringent test to be met for the judge to depart from the joint submission. Argument supporting a joint submission on costs should address the four issues in the *Charkhandeh* framework. The parties should not rely on other facts, not in the record, that support the joint submission. When that occurs, there will be a risk that the joint submission will not be accepted. See *Law Society of Alberta v Kramar*, 2020 ABLS 31, at paragraph 37.

Joint Submission on Sanction

39. The parties tendered a joint submission consisting of a reprimand and a \$10,000.00 fine. Counsel submitted five authorities for consideration by the Committee. Adding the \$6,000.00 proposed costs, Ms. Barkwell’s financial liability would total \$16,000.00. The

joint submission provided for \$8,000.00 to be paid by September 30, 2026 and \$8,000.00 to be paid by February 28, 2027.

40. The Committee was directed to five authorities in support of the joint submission on sanction.
41. In *Law Society of Alberta v. Martin*, 2023 ABLS 21, the citations were similar to those here. The two citations were that Martin had failed to be honest and candid with his client and another lawyer and that Martin had consented to a costs order without his client's knowledge or instructions. There was an agreed statement of facts and admission of guilt, and a joint submission on sanction and costs that provided for a reprimand, a fine of \$4,500.00 and costs to be capped at \$2,500.00. The joint submission was accepted by the hearing committee. Martin had been practising about 12 years and was suffering from an undiagnosed health condition when the misconduct occurred. That hearing committee's view was that similar misconduct was not likely to recur.
42. In *Law Society of Alberta v. Scott*, 2025 ABLS 21, the two citations were that Scott caused or permitted a false affidavit to be filed and that he failed to be candid with the LSA. There was an agreed statement of facts and admission of guilt, and a joint submission on sanction that provided for a reprimand and a fine of \$10,000.00. The joint submission was accepted by the hearing committee, which also awarded costs in the amount of \$5,033.50, about \$2,000.00 less than sought by the LSA. Scott had practiced about 30 years without a disciplinary record. When the misconduct occurred, Scott was suffering from a significant stress and anxiety due to family illness and his judgement was affected by prescription medication.
43. In *Law Society of Alberta v. Terrigno*, 2013 ABLS 14, while an articling student, Terrigno was charged criminally for obstruction of justice based on events a few years earlier while he was a university student. The single citation was that Terrigno had breached the LSA Code of Conduct in giving evidence at his criminal trials. Although there were numerous criticisms of Terrigno's testimony and credibility by the courts, the hearing committee found only that Terrigno had misled the court in a single matter. It ordered a reprimand, a \$10,000.00 fine and 'actual costs' of the hearing (about \$14,000.00). The hearing committee proceeded on the basis that this was Terrigno's first discipline proceeding.
44. In *Law Society of Alberta v. Botan*, 2016 ABLS 8, the parties tendered an agreed statement of facts in which Botan admitted guilt to three citations: failing to carry on the practice of law with integrity; failing to represent himself within the limits of the law; and misstating facts or law or suppressing what ought to have been disclosed. Botan had been disciplined by way of reprimand previously. Applying the step-up principle, the hearing committee ordered a one-day suspension and actual costs of the hearing.

45. In *Law Society of Alberta v. Saleem*, 2023 ABLS 3, the parties tendered an agreed statement of facts in which Saleem admitted guilt to two citations, failing to act honorably and with integrity and failing to provide legal services to the standard of a competent lawyer. He neglected to take steps in his client's matrimonial matters and lied to his client as to what he had actually done, which was very little. The hearing committee accepted the joint submission on sanction and costs that called for a one-month suspension, a fine of \$5,000.00, and costs capped at about \$5,000.00.
46. Counsel for the LSA cited as aggravating factors Ms. Barkwell's seniority at the bar, her failure to correct her misstatements despite numerous opportunities to do so and the prejudice her misconduct caused her ex-husband. Mitigating factors were Ms. Barkwell's lack of a discipline record and her cooperation in the discipline process, including her agreement to facts and admissions of guilt. Ms. Barkwell's counsel made no submission.

Decision on Sanction

47. The Hearing Guideline provides that the fundamental purposes of sanctioning are to ensure the public is protected from acts of professional misconduct and to protect the public's confidence in the integrity of the profession. Reprimands are appropriate when it is not necessary to limit a lawyer's right to practice, through disbarment or suspension. Payments of penalties are generally imposed when a reprimand alone is insufficient as a sanction but a suspension is excessive. A hearing committee may consider additional factors that have either an aggravating or mitigating effect on the appropriate sanction.
48. The Hearing Guideline states, at paragraphs 201 and 202:
- Integrity is the most important attribute of any lawyer. Lawyers must discharge all duties owed to clients, the court, other members of the profession and the public with integrity. Integrity on the part of lawyers is essential to the effective operation of the legal system and the regulation of the legal profession.
- Dishonorable conduct by a lawyer in either professional practice or private life reflects adversely on the public's perception of the integrity of the profession and the administration of justice. If the conduct would bring the public's perception of the legal profession into disrepute, impair a client's trust in the lawyer or otherwise bring into question the lawyer's integrity, the Law Society may take disciplinary action.
49. The Hearing Guideline, at paragraph 198, further provides that the "prime determinant" of the appropriate sanction is the seriousness of the misconduct. A finding of serious litigation conduct is consequential for any person but especially damning when made against a lawyer, whether they were acting as lawyer or as party litigant, as in this case. Ms. Barkwell committed an egregious breach of her integrity duty with respect to the facts underlying citation 1. Her lapses of judgement may be explained, perhaps

charitably, but not excused as arising from her personal engagement in her contested matrimonial proceedings.

50. Respecting citation 3, the Committee has no explanation on the record for Ms. Barkwell's failure to comply, years before she and her husband separated, with the clear instruction in the letter of direction she had drafted. Again, her judgement may have been clouded by the fact she was dealing with her husband and not an arm's length client.
51. The Committee does not feel that a suspension is necessary in order to protect the public. Ms. Barkwell has no prior discipline record and there is no evidence before us of any discipline concerns since the matters in question arose. Repetition of misconduct of this nature by Ms. Barkwell is in the Committee's view unlikely.
52. As outlined above, the public interest test requires the Committee to give significant deference to a joint submission on sanction. The Committee is satisfied, based on the facts and authorities, that a reprimand and \$10,000.00 fine is a reasonable, proportionate and appropriate sanction that is in the public interest and that will not bring the administration of justice into disrepute.
53. The following reprimand was delivered to Ms. Barkwell during the hearing:

Ms. Barkwell, I acknowledge your cooperation with the Law Society leading up to today and resolving these citations by admitting guilt and by facilitating a hearing not requiring the attendance of any witnesses

The authorities provide that a joint submission on sanction in a professional discipline proceeding is to be given significant deference. You have admitted guilt to two citations which evidence very serious conduct matters. However, your cooperation in proceeding with the process today helped to avoid unnecessary hearing costs and avoid time and inconvenience to various parties and witnesses, as well as process costs. The Hearing Committee concludes that, in light of all these circumstances and considerations, it is in the public interest to accept the joint submission on sanction, this reprimand and a \$10,000.00 fine. The Hearing Committee also accepts the joint submission requiring the payment of \$6,000.00 in costs.

Your admissions of facts and guilt have permitted the two citations to be resolved on a more efficient basis, which is not just a benefit to you, but it is a benefit to the public and to the Law Society.

Ms. Barkwell, the right to practice law in the province of Alberta is a privilege that has been bestowed upon you by the Law Society of Alberta under the exercise of its authority under the *Legal Profession Act*. Your conduct in regard

to the two citations in this matter is cause for concern. You have a responsibility to act with integrity and to follow client instructions at all times. You failed in this case to do so.

This failure represents the type of thing that the Law Society strives to avoid. The courts and the public must be confident that they will be treated by our members conscientiously, and with honesty and with integrity. You failed in this case and must do better in the future.

As a member of this Law Society, you will be expected to look at what you have done to determine whether or not you can improve on what has happened, learn from this particular matter and, of course, to move forward. Membership in our profession requires you to understand the obligation you have to the public and to the Law Society and to its members. You must demonstrate the conduct of an exemplary professional who represents those interests.

In these matters, you tarnished your professional reputation and integrity and put your client's interests at risk. In making these comments and in expressing the 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 diligence that we must all demonstrate to protect our clients' interests and to maintain our reputation and the reputation of this profession.

One of the purposes of a reprimand is to express the profession's denunciation of your conduct. I expect these proceedings, this hearing and this reprimand will have caused you significant embarrassment, as they should. I am optimistic that the circumstances that led you to behave the way you did, in breach of your professional obligations, are behind you. You know that what you did was wrong. The Hearing Committee's expectation is that you will resume your practice and that this will be the only blemish that stains your professional conduct record.

Joint Submission on Costs

54. Counsel tendered a joint submission that proposed costs payable by Ms. Barkwell in the amount of \$6,000.00. The LSA submitted an Estimated Statement of Costs in the amount of \$13,938.75. The Committee, pursuant to section 72(2)(c) of the *Act* and Rule 99 of the Rules of the LSA, may order a lawyer found guilty of conduct deserving of sanction to pay all or part of the costs of the conduct proceedings. The Committee may also determine the deadline for payment of any costs awarded.

55. Counsel did not cite *Charkhandeh* or provide any analysis using the *Charkhandeh* framework. The over 50% reduction from the Estimated Statement of Costs was based in part on the withdrawal of citation 2 by the LSA at the start of the hearing.

Decision on Costs

56. The Committee considers the *Charkhandeh* framework's four issues as follows:
- a) Where should the costs burden fall? A costs award against Ms. Barkwell is warranted. She admitted guilt to two citations that necessitated these proceedings. A third citation was withdrawn at the hearing. Ms. Barkwell should not bear all of the costs.
 - b) What factors are relevant when awarding costs. Ms. Barkwell's admissions of fact and guilt enabled the hearing to proceed very efficiently and demonstrated accountability for her misconduct.
 - c) What are the limits on quantum of costs? The starting point for the discussion on costs, the LSA's Estimated Statement of Costs, is modest when compared to the costs in *Charkhandeh*. The costs award proposed is proportionate to the issues involved, the circumstances of the member and the overall burden it places on Ms. Barkwell. In the Committee's view, it does not place an unduly onerous or crushing burden on her.
 - d) What types of costs can fairly be imposed on the professional? The types of expenses that are included in the costs sought appear reasonable to the Committee. The costs sought are limited to those discretely associated with the hearing and the pre-hearing process and are not expenses associated with the infrastructure of the hearing. The Committee finds the hours and hourly rates for the pre-hearing phase and hearing, with one exception, to be reasonable having regard to the materials and issues. The Committee struggles in the circumstances here to understand the 45 hours for Disclosure based on an "Estimate of previous Counsel's time" and would not allow recovery of the entire amount. The Committee notes the increase in counsel's hourly rate for the hearing, in contrast to rate for the prior steps. The \$125.00 per hour rate had been in effect since 1999 and was markedly out of touch with the inflationary increase in market legal rates since that time. The \$300.00 hourly rate became effective on June 1 of this year. Counsel for the LSA at the hearing has been at the Alberta bar about 12 years. The Committee finds the LSA's current counsel rate to be reasonable in this case.
57. In considering the acceptability of the joint submission on costs, the Committee considered the *Charkhandeh* framework and two post-*Charkhandeh* authorities that considered costs, *Goldsworthy* and *Scott*. The costs awards were \$8,224.13 in

Goldsworthy and \$5,033.50 in *Scott*. Both cases involved joint submissions on sanction but only *Goldsworthy* involved a joint submission on costs as well. The hearing committee in *Goldsworthy* deferred to the joint submission, finding it to be in the public interest. The hearing committee in *Scott* reduced the amount sought by the LSA by about 28%. Consideration of the *Charkhandeh* factors and applying them to the facts is not a formulaic exercise. There will be a range of acceptable costs awards. If the joint submission falls within the window, the hearing committee is bound to accept the joint submission.

58. The Committee finds the proposed costs award of \$6,000.00 falls within the *Charkhandeh* range and defers to the joint submission. The Committee notes the representation of Ms. Barkwell, an experienced lawyer, by respected senior counsel. Absent obvious disregard of the *Charkhandeh* framework by the parties, the Committee's expectation is that a hearing committee will defer to a costs submission agreed to jointly by the parties, particularly when the member is represented by counsel.

Concluding Matters

59. Pursuant to section 72 of the *Act*, the Committee orders that Ms. Barkwell stand reprimanded, pay a fine in the amount of \$10,000.00 and costs in the amount of \$6,000.00. The fine and costs awards are to be paid in two tranches, \$8,000.00 to be paid by September 30, 2026 and \$8,000.00 to be paid by February 28, 2027.
60. A Notice to the Attorney General is not required.
61. There shall be no Notice to the Profession.
62. 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 Ms. Barkwell will be redacted and further redactions will be made to preserve client confidentiality and solicitor-client privilege (Rule 98(3)).

Dated October 6, 2026.

Ken Warren, KC

Levonne Louie

Matthew Woodley