

**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 GURPREET GILL  
A MEMBER OF THE LAW SOCIETY OF ALBERTA**

**Hearing Committee**

Bud Melnyk, KC – Chair  
Louise Wasylenko – Lay Bencher

**Appearances**

Shanna Hunka – Counsel for the Law Society of Alberta (LSA)  
Simon Renouf, KC – Counsel for Gurpreet Gill

**Hearing Date**

March 12, 2025

**Hearing Location**

Virtual Hearing

**HEARING COMMITTEE REPORT – SANCTION PHASE**

**Overview**

1. A hearing was held on January 29, 30, 31, 2024, February 1, 2024 and April 3, 2024 (Merits Hearing) and for the reasons set out in its decision (Merits Decision<sup>1</sup>), dated December 13, 2024, the Hearing Committee (Committee) found Gurpreet Gill guilty of conduct deserving of sanction. This Committee was convened on March 12, 2025, pursuant to section 59(1)(b) of the *Legal Profession Act (Act)*, to hear evidence and arguments regarding the appropriate sanction against Mr. Gill.
2. Mr. Gill obtained his law degree from India and after practicing law in that country, he and his family emigrated to Canada. Mr. Gill articulated with an Edmonton lawyer in 2009, and he started his legal practice in September of 2009 as a sole practitioner. Mr. Gill's practice consisted of immigration law, criminal, family and real estate law. Mr. Gill's current status with the LSA is non-practicing, after he voluntarily became inactive in 2021.
3. After reviewing all of the evidence and exhibits and hearing the testimony and arguments of the LSA and Mr. Gill, for the reasons set out below, the Committee finds that, based on the facts of this case, the appropriate sanction is disbarment. In

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<sup>1</sup> *Law Society of Alberta v Gill*, 2024 ABLS 25.

accordance with section 72 of the *Act*, the Committee orders that Mr. Gill be disbarred, effective immediately.

4. In addition, pursuant to section 72(2) of the *Act*, the Committee orders costs of \$60,311.79, payable upon reinstatement.

### **Preliminary Matters**

5. As noted in the Merits Decision, cited above, there were no objections to the constitution of the Committee, or its jurisdiction and a public hearing proceeded. No objections or private hearing applications were made during the sanction phase of the hearing, so the hearing continued before this Committee in public.
6. To be noted is that Justice Ryan Anderson was a Committee member at the time of the hearing but was appointed as a Justice of the Alberta Court of Justice effective May 1, 2025.

### **Merits Hearing Findings**

7. The Committee found Mr. Gill guilty of conduct deserving of sanction on citations 1, 2, 3, 5, 6 and 8 and not guilty on citations 4 and 9. Citation 7 was dismissed as the LSA did not call any witnesses. The facts related to sanctionable conduct are set out in the Merits Decision. This phase of this hearing is to consider the appropriate sanction for that conduct.
8. The particulars are set out in the Merits Decision, but for ease of reference the conduct and citations are summarized in the following paragraphs.

#### *Citation 1*

9. Mr. Gill, following an interview with a prospective employee, SM, sent that individual two sexually explicit videos (Videos). The Committee found that Mr. Gill's actions amounted to sexual harassment in that the Videos were clearly sexual in nature, those Videos were very unwelcomed by SM, and the Videos had a detrimental impact on the mental and emotional well-being of SM.

#### *Citation 2*

10. One of the participants in the Videos, GS, was a client of Mr. Gill, but Mr. Gill failed to obtain the consent of GS to have the Videos released to SM. Accordingly, Mr. Gill was found guilty of disclosing confidential client information.

### *Citation 3*

11. Mr. Gill was found guilty of interfering with a LSA investigation. This citation involved two different aspects. In the first instance, as a result of the complaint by SM, the LSA sought confirmation from Mr. Gill that GS had consented to the release of the Videos. In response Mr. Gill produced a consent form which he claimed had been prepared by GS. This consent form was alleged to have been signed by GS at a date that was before the initial complaint by SM. The Committee found that it was Mr. Gill who had prepared the consent and not GS, and further that GS did not know or understand the nature of the consent which he had signed.
12. The second aspect of this interference involved two response emails. Upon receiving the GS signed consent, the LSA investigators followed up with GS to confirm that he had signed the consent to release the Videos. In response to emails and telephone messages from the LSA investigators, there were two emails purportedly sent by GS to the investigators. The Committee concluded that Mr. Gill had drafted and prepared both emails and not GS.

### *Citation 5*

13. The Committee found that Mr. Gill failed to comply with Rule 119.43 of the Rules of the LSA (Rules) by failing to properly handle undisbursable trust money. Mr. Gill failed to locate and contact clients regarding trust money which he had held in trust for more than two years, and also failed to remit undisbursable trust money to the LSA.

### *Citation 6*

14. Mr. Gill failed to comply with the Rules that set out the requirements for client identification and verification.

### *Citation 8*

15. Mr. Gill was found guilty of sexually harassing an employee, BW, who had been working with Mr. Gill as part of her internship for her undergraduate degree. During the course of the internship Mr. Gill discussed personal matters with BW, sent text messages that were sexually suggestive and purchased personal gifts for BW.

### **LSA Submissions on Sanction**

16. The LSA sought disbarment and full costs.

17. The LSA submitted that the findings of Committee fell into the four following distinct categories: sexual harassment, disclosure of confidential client information, interference with the LSA investigation, dealings with undisbursed trust funds and client identification. In addition, the LSA argued that there was a serious concern about Mr. Gill's governability. LSA counsel provided the Committee with authorities for each type of conduct and argument.

### *Sexual Harassment*

18. In respect of citation 1, LSA counsel argued that the sexual harassment was not just limited to the Videos but involved other findings of harassment. As regards citation 8, counsel for the LSA points out that the harassment was not just focused on the events at the restaurant but also involved other acts of harassment.
19. LSA counsel noted that there was a four-year span between the events in citation 1 in 2016 and those in citation 8 in 2020. The conduct involved junior or vulnerable individuals. The LSA emphasized the impact on the victims, the power imbalance and reputational harm to the profession.
20. The LSA provided the following authorities for this type of conduct, which show sanctions ranging from suspension to disbarment.
21. In the matter of *Law Society of Alberta v. Jeffrey Plantje*<sup>2</sup> the member had been found guilty of engaging in improper sexual conduct with two female employees at his place of employment. This included making inappropriate sexual comments about sexual activity to a legal assistant. Similar discussions took place with a second legal assistant and with whom the member engaged in sexual activity in the office and elsewhere. The member had no prior disciplinary record, had sought counselling and acknowledged that his conduct was inappropriate. The member was suspended for 30 days. The member admitted the conduct in an agreed statement.
22. The case of *Davison (Re)*<sup>3</sup>, dealt with a member who had engaged inappropriately with several employees at his place of employment. In particular, the member made unwelcome sexual remarks and engaged in unwanted conduct of a sexual nature. This included making comments or gestures of a sexual nature, engaging in unwelcome sexual advances and touching an employee without consent. The member would greet staff with a hug or a kiss on the forehead or cheek, massaging an employee's shoulders, suggesting that they get a room together for a family law conference, making jokes and comments of a sexual nature. The member also made remarks of a racist or discriminatory nature to several employees. A joint submission of a suspension of four and one-half months was accepted by the panel along with practice conditions including

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<sup>2</sup> *Law Society of Alberta v. Jeffrey Plantje*, 2007 LSA 22.

<sup>3</sup> *Davison (Re)*, 2022 LSBC 23.

the requirement to implement anti-sexual harassment and anti-discrimination policies and procedures at the workplace.

23. In *Johnston (Re)*<sup>4</sup>, the lawyer had sexually harassed two employees at his firm which included making comments and gestures of a sexual nature, engaging in unwelcome sexual advances and touching without consent. In respect of one employee the member commented at a company social that he thought “that with her eyes they would make a really good baby together.” During this same summer company social the lawyer made a motion to another female employee with a “downward gesture with his hand, miming a sexually suggestive act involving a head moving towards the [lawyer’s] crotch.” At all times the member was intoxicated. The panel suspended the lawyer for six weeks pursuant to a joint submission on sanction.
24. In the case of *Law Society of Upper Canada v Venn*<sup>5</sup>, the member had engaged in sexually inappropriate behaviour over a number of years. This included sexually harassing numerous women by leering and making unwelcome suggestive comments and advances. The member had entered therapy regarding his behaviour, but had not expressed any remorse for his conduct. The member also had a past history of discipline for sexual harassment and the panel found that: “Despite the Lawyer’s avowals made in 2003, we are presented with a pattern of relentless sexual harassment by the Lawyer of many female colleagues within his legal community which has persisted over several years.” There were no mitigating factors. In this case the lawyer was disbarred.
25. The case of *Law Society of Ontario v Suh*<sup>6</sup>, was an appeal by the Law Society of Ontario, regarding dismissal of part of the conduct application as well as from the award of costs. The hearing panel found the member’s conduct toward one complainant (FJ) was conduct unbecoming but dismissed the allegations as they related to a different complainant (MT). In respect of FJ, a former employee, the member was found guilty (which was upheld by the appeal panel) of making unwelcome sexually suggestive and/or degrading comments and engaging in unwanted sexual touching. The appeal only dealt with the allegations made by MT. The hearing panel suspended the lawyer for three months.

#### *Disclosure of Confidential Information*

26. LSA counsel submitted that disclosure of confidential information is serious misconduct. Confidentiality is the core of the relationship between a lawyer and client. Lawyers must maintain confidentiality. Further, the Videos were of a very sensitive nature, and the disclosure was to a member of the public. The client clearly struggled with the English language, and he thus had an extra layer of trust in Mr. Gill.

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<sup>4</sup> *Johnston (Re)*, 2023 LSBC 16.

<sup>5</sup> *Law Society of Upper Canada v Venn*, 2016 ONLSTH 72.

<sup>6</sup> *Law Society of Ontario v Suh*, 2024 ONLSTA 20.

27. The LSA provided a couple of cases to demonstrate how other LSA hearing committees had handled such matters.
28. In *Law Society of Alberta v Francoise Belzil*<sup>7</sup>, the member was found guilty of acting in a conflict of interest and disclosing confidential information of a former client. The member had previously acted for a company, which placed her in a conflict of interest, and she then disclosed confidential information of that company to other clients. The member had disclosed her unpaid statement of account notwithstanding the confidential nature of that document. The member received a reprimand and fine.
29. In the matter of *Law Society of Alberta v Ribidoux*<sup>8</sup>, the member had disclosed client confidential information about a candidate's campaign, which resulted in a published article. The member exacerbated the situation by attempting to cover-up the improper disclosure by relying on journalist-source privilege as a shield. That hearing committee ordered a four-month suspension based on a joint submission on sanction.

#### *Interference with the LSA Investigation*

30. Mr. Gill misled the client, enticed him to come to the office, advised the client not to cooperate with the LSA and drafted emails purporting to be from the client. The LSA submitted that the conduct was intended to conceal his misconduct. The LSA contended that Mr. Gill's interference with the LSA investigation demonstrated lack of integrity, candour and governability. This is the principal reason for the LSA seeking disbarment.
31. The decision in the *Law Society of Alberta v Wayne Coultry*<sup>9</sup>, provided by LSA counsel, involved findings of guilt by the member for misappropriating trust funds, interfering with an LSA investigation, misleading the LSA auditor and withdrawing funds from trust before rendering statements of account. The gist of the first citation was that the member was writing cheques from unrelated client funds directly to third parties to satisfy the member's own personal obligations. In this case the member was disbarred.
32. A further case provided by LSA counsel, *Law Society of Ontario v Fuhgeh*<sup>10</sup>, involved a member who knowingly drafted, commissioned and filed a client affidavit that was false in numerous aspects. Thereafter the member threatened his ex-partner with a professional disciplinary complaint if she did not withdraw her complaint against him. The panel found that these actions by the member were dishonest, and the member's license was revoked.

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<sup>7</sup> *Law Society of Alberta v Francoise Belzil*, 2009 LSA 27.

<sup>8</sup> *Law Society of Alberta v Ribidoux*, 2014 ABL 5.

<sup>9</sup> *Law Society of Alberta v Wayne Coultry*, 2007 LSA 25.

<sup>10</sup> *Law Society of Ontario v Fuhgeh*, 2021 ONLSTH 61.

### *Undisbursed Trust Funds and Client Identification*

33. The undisbursed trust funds and failures in client identification verification were aggravated by a prior audit and express undertaking to correct accounting issues, according to LSA counsel. The LSA argued that while typically such conduct attracts lesser sanction, this conduct reinforced concerns about Mr. Gill's governability when combined with the other misconduct as part of this hearing.
34. In *Law Society of Alberta v Terry Britton*<sup>11</sup>, a case provided by LSA counsel, the member was not present at the hearing or represented by counsel. The member was found guilty of failing to follow accounting rules, failing to cooperate with an LSA investigation and failing to respond to the LSA on a timely basis. These citations arose from an audit by the LSA where the member had not filed the necessary accounting forms with the LSA. The audit report noted a number of accounting deficiencies by the lawyer, including undisbursable trust money. That hearing committee found the breaches to be serious and the member was disbarred.
35. In another case provided by LSA counsel, *Law Society of Alberta v Kaczkowski*<sup>12</sup>, the member was found guilty of failing to comply with the Rules involving his trust accounts. By way of joint submission, the member was reprimanded and received a fine.

### *Cases: Ungovernability*

36. LSA counsel provided the following authorities for ungovernability.
37. The hearing committee in *Law Society of Alberta v Enge*<sup>13</sup>, found, among other things, that the member failed to properly account to his client when he had received funds on behalf of the client's children, that he charged legal fees in excess of the amounts in the contingency fee agreement, that he failed to respond to LSA enquiries or investigations and that the member failed to honour trust conditions. The hearing committee found that the member's "inaction in the face of inquiries and investigations to the point of elusiveness, makes him ungovernable" and the lawyer was disbarred.
38. The Alberta Court of Appeal in *Virk v Law Society of Alberta*<sup>14</sup>, upheld both the findings of guilt and the disbarment sanction of the hearing committee. The member was found guilty of acting in a conflict of interest when he failed to advise his client of a prior sexual relationship with an opposing party. The member persistently denied the sexual relationship with his client, the trial court and the LSA. A further matter involved a situation at trial where the lawyer tendered a binder of documents as evidence. The

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<sup>11</sup> *Law Society of Alberta v Terry Britton*, 2009 LSA 1.

<sup>12</sup> *Law Society of Alberta v Kaczkowski*, 2019 ABL 3.

<sup>13</sup> *Law Society of Alberta v Enge*, 2009 ABL 36.

<sup>14</sup> *Virk v Law Society of Alberta*, 2022 ABCA 2.

member advised the Court that all the documents had been previously provided to opposing counsel, but this was in fact not true.

39. The case of *Law Society of Alberta v Peterson*<sup>15</sup>, involved a finding of guilt on two citations. In the first instance, the member misled his clients about working on their claim, when in fact no work had been done. A second finding of guilt arose from the failure of the member to respond to the LSA. The member had a prior disciplinary record involving failing to keep clients informed, failing to respond, failing to follow instructions, failing to attend court, failing to be honest, creating a fraudulent document, failing to respond to the LSA and practicing while suspended. That hearing committee disbarred the member, concluding that he had demonstrated that he could not be governed.

### *LSA Argument*

40. LSA counsel submitted that there were a number of factors to consider when sanctioning. She turned to the *Peterson* case to outline some of the factors that were relevant here: the risk to the public, the risk to the reputation of the profession, the impact on the LSA's ability to govern its members, and the risk of harm to clients and victims. LSA counsel noted that Mr. Gill acted with intention when he disclosed the Videos and then, in her words, "manufactured and engineered consent by his client".
41. LSA counsel also made the following specific points in her submissions generally and referred to the case law she relied upon:
- a. Mr. Gill made no apologies or indication of remorse. It is not an aggravating factor, but the absence of a mitigating factor. It shows lack of understanding and a possible propensity to reoffend.
  - b. He is an experienced lawyer who ought to have known better. He covered up his conduct for personal gain.
  - c. Findings of the Committee were serious and touch on integrity and governability and referred to the *Peterson* and *Virk* cases. A purposeful approach is required – disbarment is not reserved for the most serious cases. A wholistic approach should be taken to sanctioning.
  - d. Both *Coultrey* and *Fuhgeh* lead to disbarment and included misleading the LSA.
42. LSA counsel then turned to the numerous character references provided by Mr. Gill and referred to the instructive English Court of Appeal case of *Bolton v. The Law Society*<sup>16</sup>, to assert that character references can be taken into account, but she argued that none touched upon issue of trustworthiness and integrity. LSA counsel further relied upon *Law*

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<sup>15</sup> *Law Society of Alberta v Peterson*, 2022 ABLS 25.

<sup>16</sup> *Bolton v. The Law Society*, [1993] EWCA Civ 32.

*Society of Alberta v Wheat*<sup>17</sup>, in which the member provided a number of character references, but the hearing committee stated that even the most honorable lawyers can cross the line.

43. LSA counsel stated she was looking for general and specific deterrence and denunciation.
44. LSA counsel addressed some of the arguments put forward by Mr. Gill's counsel in his written submissions in advance of the hearing:
  - a. The *Law Society of Alberta v Rauf*<sup>18</sup> case put forward by Mr. Gill has less severe facts.
  - b. The *Law Society v Sangha*<sup>19</sup> case was similar in some respects such as misleading clients. In that case the member was suspended for 6 months but the Statement of Admitted Facts was a mitigating factor.
  - c. LSA counsel addressed the delay issue raised by Mr. Gill. She stated that one citation related to events in 2016 and admittedly it was a bit outdated – but the others took place in in 2020 and 2021. Mr. Gill obtained extensions which consumed almost all of 2022. Her position was that Mr. Gill could not ask the Committee to consider delay when Mr. Gill contributed to the delay.
  - d. Mr. Gill will argue that the *Hall* factors do not apply. LSA counsel asserts that most of the *Hall* factors<sup>20</sup> do apply to Mr. Gill, specifically: Repetitive failure to respond was demonstrated by telling his client not to respond and misleading behaviour toward a client and the LSA.
45. The LSA sought full costs at the time of the hearing.<sup>21</sup>

### **Mr. Gill's Submissions on Sanction**

46. Mr. Gill's counsel sought a three-month suspension, two fines and no award of costs.

### ***Sexual Harassment***

47. On the issue of sexual harassment, Mr. Gill referred to the decision in *Law Society of Alberta v Rauf*.<sup>22</sup> In that case the member was found to have acted uncivilly by

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<sup>17</sup> *Law Society of Alberta v Wheat*, 2022 ABLs 9.

<sup>18</sup> *Law Society of Alberta v Rauf*, 2022 ABLs 1 and 2021 ABLs 24.

<sup>19</sup> *Law Society v Sangha*, 2024 ABLs 24 and 2024 ABLs 10.

<sup>20</sup> See paragraph 78 and note 44.

<sup>21</sup> Costs will be dealt later in the decision. An Alberta Court of Appeal decision came out after the hearing took place and therefore, further submissions from the parties were received in August 2025.

<sup>22</sup> *Ibid*, note 18.

repeatedly swearing at staff at the Edmonton Remand Centre. Despite the lawyer's prior record, and the fact that the member denied the conduct, the member was reprimanded and ordered to pay costs of \$2,000.00.

48. In addition to the authorities cited by the LSA, Mr. Gill also referred to the following cases dealing sexual harassment:
- a. *Law Society of Alberta v Sparling*<sup>23</sup> involved a case where the member was found to have sexually harassed his client during a meeting, which included hugging the client at least twice. In this case there was an Agreed Statement of Facts and by way of joint submission the member received a reprimand and costs of \$1,000.00. In addition, the member was subject to a number of conditions, including that he was to immediately submit a resignation application.
  - b. *Law Society of Alberta v Nguyen*.<sup>24</sup> In this matter the member had a preliminary meeting with a potential client during which meeting the lawyer, after finding out that the person was in a same sex relationship, asked unprofessional and offensive comments about the person's private relations with their partner. In the first instance the member denied making the comments, however at the hearing an Agreed Statement of Facts and Admission of Guilt was exhibited. By way of joint submission, the member received a reprimand, fines totaling \$3,000.00 and costs of \$8,000.00.
  - c. In the case of *Law Society of Alberta v Sangha*, 2024 ABLs 24,<sup>25</sup> the member was found guilty of a number of matters, including acting in an inappropriate manner with his students and employees, participating in the creation of false information in a revocation of a power of attorney and filing of same at Land Titles, commissioning an affidavit knowing that is was false, failing to provide three separate clients with thorough, conscientious and diligent service, providing false information to a client regarding the status of the client's matter and breaching accounting Rules by withdrawing trust funds prior to billing the client. The harassment in this case was of a non-sexual nature. In this case the member was suspended for six months and ordered to pay costs of \$38,039.77. This matter was referred to the Attorney General.

### *Client Confidentiality*

49. On the issue of breaching client confidentiality by disclosing a client's sexually explicit material to an employment applicant, Mr. Gill refers to the decision in *Law Society of*

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<sup>23</sup> *Law Society of Alberta v Sparling*, 2014 ABLs 11.

<sup>24</sup> *Law Society of Alberta v Nguyen*, 2019 ABLs 1.

<sup>25</sup> *Ibid*, note 19.

*Alberta v. Ovaici*.<sup>26</sup> This was a matter where the lawyer submitted an explicit video, recorded without the knowledge of the subjects, to the Court. Ms. Ovaici was acting for a wife in a family law proceeding. The video was a recording of the complainant and the husband of Ms. Ovaici's client engaging in sexual activity. The lawyer entered the video into a Statement of Admitted Facts and Exhibits and Admissions of Guilt. The member received a reprimand and ordered to pay costs of \$3,000.00.

50. Also referred to by Mr. Gill was the matter of the *Law Society of Alberta v Macdonald*.<sup>27</sup> In that case the member distributed an intimate image without the consent of all persons depicted in the image, in an Affidavit of Records. The image showed one of the individuals partially nude. In this case, the member received a reprimand and costs payment of \$1,500.00.

#### *Interference with LSA Investigation*

51. Mr. Gill acknowledges that this is the most serious finding and does call for a significant sanction. He did point out that no expert evidence was called regarding this citation. On this issue, Mr. Gill was unable to find any decision which was on point but acknowledged that a suspension would be appropriate for this type of conduct.

#### *Breach of Accounting Rules*

52. Mr. Gill argues that LSA sanctions are rarely imposed solely for a breach of accounting rules. One case that was referenced was *Law Society of Alberta v Darius Aperocho*<sup>28</sup>, where the member was found guilty of failing to follow accounting rules. In this instance the member was reprimanded and ordered to pay costs.
53. Mr. Gill notes that there were no findings of any detriment or risk of detriment to clients or to the public. The breaches in this case related to failure to take steps to distribute some client funds that remained in trust. Furthermore, Mr. Gill argues that there was no evidence that the breach of client identification rules resulted in Mr. Gill's accounts being used by clients or others, to affect an improper purpose.

#### *Effect of Delay*

54. Mr. Gill's matters arose in 2016 and 2020, and it is his argument that delay is a mitigating factor. In support of this argument, Mr. Gill references a very recent decision by the Alberta Court of Appeal in *Kherani v Alberta Dental Association*<sup>29</sup> where the Court stated:

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<sup>26</sup> *Law Society of Alberta v Ovaici*, 2025 ABLs 6.

<sup>27</sup> *Law Society of Alberta v McDonald*, 2025 ABLs 5.

<sup>28</sup> *Law Society of Alberta v Darius Aperocho*, 2009 LSA 25.

<sup>29</sup> *Kherani v Alberta Dental Association*, 2025 ABCA 2 at paragraphs 50-51.

When considering delay as a mitigating factor, what is relevant is the time between the misconduct alleged and the sanction, not the time between the complainant realizing they had a claim and sanction, or the time between the actual complaint and the hearing. Where all else is equal, the question is whether a finding of unprofessional conduct from a decade ago requires the same sanction as unprofessional conduct from two years ago. In this case, delay should have been mitigating.

### *Ungovernability*

55. Mr. Gill argues that he was an active and respectful participant in the proceedings, and he further contributed to the efficiency of the process by way of an agreed book of exhibits.
56. Mr. Gill further argues that most of the factors (referred to as the “Hall Factors”) which can individually or collectively give rise to a finding of ungovernability do not apply to him. Mr. Gill asserts that of the seven Hall Factors (which will be discussed later in this decision), most do not apply to Mr. Gill, and in particular:
  - a. Mr. Gill did not fail to respond to the LSA’s inquiries and indeed was acquitted of one allegation to that effect.
  - b. There is no element of neglect of duties or obligations to the LSA with respect to this matter.
  - c. There is no failure or refusal to attend at the disciplinary proceedings.

### *Mitigating Factors*

57. Mr. Gill argues that he has a clean disciplinary record and a history of positive contributions to the legal profession.
58. Mr. Gill also submitted some 31 reference letters which were from former clients, friends, co-workers and other lawyers. Authors of the letters shared the following:
  - a. A psychologist said he presented as a determined, forthright man.
  - b. Three employees said he was positive and supportive, a friend. They appreciated the lunches, team-building activities and professional development opportunities he provided.
  - c. Eight lawyers commented that Mr. Gill was a good mentor, had a good work ethic and was a committed advocate for the vulnerable. Those who referred clients to

Mr. Gill received feedback that he provided legal services with kindness, care and competence.

- d. Real estate and business clients said they received sound legal advice. They appreciated Mr. Gill's clear explanations of the law and legal processes and that he always safeguarded their "trade secrets".
  - e. Family law clients found Mr. Gill empathetic, competent and a source of tremendous emotional support.
  - f. Immigration law clients said he treated them with respect, confidentiality and sensitivity.
  - g. Eleven references, from representatives of various community groups recognized Mr. Gill's contributions of pro bono legal services in community organizations, schools and businesses, his generous donations to vulnerable groups and his human rights advocacy skills.
59. Below is a sampling of comments from a handful of the references:

*"Mr. Gill became more than just my lawyer, he became a source of guidance, strength, and hope. I have referred numerous people in distress to Mr. Gill, and every one of them has received the same outstanding service and care that I did. His integrity and compassion are unmatched, and he truly embodies the qualities of a great lawyer and an even greater human being. As someone who has worked with Mr. Gill, I can confidently say that he has always acted with highest level of integrity and in full compliance with the law."*

*"From the beginning of his career as a lawyer, Mr. Gill has always been known for his professionalism and dedication to his clients. He was an active donor for the annual Majha get-together and supported various initiatives, including providing free directory services for newcomers to Canada."*

*"Mr. Gill handled my case in an extremely professional, empathetic and competent manner. He did an excellent job in protecting the confidentiality of me and my children as clients in a very professional and confidential manner. I referred him to multiple clients which included my employer and my father each of whom appreciated the quality of legal services."*

*"Mr. Gill offered unforgettable legal services pro bono, demonstrating exceptional dedication and compassion from January to April 2021. Mr. Gill provided clear and understandable explanations regarding my claim, the grounds for protection, gender-based considerations, and the protocols for translating documents."*

*“As soon as I hired Mr. Gill as my lawyer, I began to feel a sense of comfort and relief that I hadn’t felt in a long time. He provided expert advice, emotional support, negotiation skills, and court representation which were sensitive to the unique challenges that mental health can bring to family law cases.”*

*“Mr. Gill was not only an excellent employer but also a mentor and teacher who played a significant role in my professional development. As a young professional in my twenties, I learned valuable skills from him that have shaped my career and life. He demonstrated his appreciation for the team’s contributions through various initiatives including staff appreciation lunches, team-building activities, and occasional gifts.”*

*“His communication to both his professional work and his voluntary contributions has been exceptional, particularly through his involvement with the Gurdwara and Khalsa School. He has been a generous contributor and donor to a range of sports events, including volleyball, cricket, soccer, kabaddi, as well as cultural events akin to foster talent and build community.”*

*“Mr. Gill’s commitment to supporting young individuals facing challenges is evident throughout his work with young offenders. Mr. Gill has also supported numerous international students, especially those who were financially struggling to pay for their education.”*

*“I have known Mr. Gill since 2009 and have referred him to numerous refugee clients from the Somali community. Mr. Gill represented them for refugee claims, spousal sponsorship, criminal inadmissibility issues, humanitarian and compassionate ground applications in a very professional manner.”*

*“Throughout my articling experience, Mr. Gill provided rigorous training rooted in legal knowledge, ethics, and professionalism. He fostered a merit-based environment that emphasized client confidentiality, integrity, and accountability.”*

### **Sanctioning Considerations**

60. Counsel for Mr. Gill argued that a fundamental aspect of sanctioning was that hearing committees cannot impose sanction for conduct that is not part of the citation. Specifically, Mr. Gill’s counsel asserted that LSA counsel referred to the breach of undertakings when discussing his breach of accounting rules finding but that undertakings breach was never an allegation against Mr. Gill. Therefore, the Committee cannot consider breaches of undertakings, as they were never part of allegations against Mr. Gill.
61. Mr. Gill’s counsel further submitted the following arguments:

- a. That the Committee should look at an appropriate sanction for each individual citation first, and then look globally.
- b. The following quote from *Jinnah v. Alberta Dental Association and College*<sup>30</sup> was presented by Mr. Gill's counsel for the notion that absence of intent can mitigate sanction, that is, an actor who does not appreciate his actions are wrong (lacks intent):

...we follow the lead of the criminal law. Section 19 of the Criminal Code declares that "[i]gnorance of the law by a person who commits an offence is not an excuse for committing that offence. But this provision does not preclude a finding that an actor who does not appreciate that a course of conduct is wrong or unlawful is less blameworthy than a person who does.

Mr. Gill's counsel argued that if less blameworthy, that should be taken into account in the sanctioning phase.

- c. That Mr. Gill has no prior disciplinary record is significant and should be considered a mitigating factor. Mr. Gill participated in a Mandatory Conduct Advisory after events in this case.
- d. That the LSA must be sensitive in its disciplinary processes to the reality of systemic discrimination against persons of colour. The Benchers of the LSA have acknowledged the existence of systemic discrimination.

### Costs

62. Mr. Gill's position is that section 72(2)(c) of the *Act*, which provides that a hearing committee may order costs, deliberately leaves open the question of whether costs should be awarded. At the time of the hearing, Mr. Gill's counsel applied the costs principles as set out by the leading Alberta Court of Appeal authority at the time of *Jinnah*<sup>31</sup>. Applying the *Jinnah* factors, Mr. Gill's counsel submitted that Mr. Gill's conduct does not fall within any of these criteria and that any costs order would be unreasonable and disproportionate<sup>32</sup>.

### Sanctioning Factors and Purpose

63. The Committee's task is to impose a sanction that protects the public, maintains confidence in the integrity of the legal profession, and ensures the LSA can effectively govern its members. The LSA Pre-Hearing and Hearing Guideline (Guideline) identifies

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<sup>30</sup> *Jinnah v Alberta Dental Association and College*, 2022 ABCA 336 at paragraph 121.

<sup>31</sup> *Ibid*, note 30 at paragraph 121.

<sup>32</sup> As stated above, costs will be dealt later in the decision. An Alberta Court of Appeal decision came out after the hearing took place and therefore, further submissions from the parties were received in August 2025.

public protection and preservation of public confidence as the fundamental purposes of sanctioning, supported by specific and general deterrence, prevention (through suspension or disbarment where necessary), effective governability, and denunciation of misconduct. Sanctions must be purposeful and the factors most closely tied to these purposes carry the greatest weight.<sup>33</sup>

64. In assessing sanction, the Committee considers the seriousness of the misconduct with reference to (among other things) risk to the public and to the profession's reputation; effects on the legal system's proper functioning (including duties to the regulator); breach of trust; actual and potential harm; number of incidents; and the length of time involved. The lawyer's state of mind—intentional, knowing, reckless or negligent—is also relevant, recognizing that in some cases protection of the public or maintenance of public confidence may require a particular sanction regardless of mens rea.<sup>34</sup>
65. The Guideline further underscores that the LSA's ability to govern is essential to self-regulation and must be "strongly denounced" when undermined by failures of candour, cooperation, or honesty with the regulator.<sup>35</sup>
66. In addition to the above, a hearing committee may consider the following additional factors that may have either an aggravating or mitigating effect:
  - a. prior discipline record;
  - b. length of time the lawyer has been in practice;
  - c. acknowledgment of wrongdoing including self-reporting and admission of guilt;
  - d. level and expression of remorse;
  - e. level of cooperation during the conduct proceedings such as attendance at PHCs, adherence to the pre-hearing rules, etc.;
  - f. medical, mental health, substance abuse or other personal circumstances that impacted the lawyer's conduct;
  - g. restitution made, whether partial or in full;
  - h. rehabilitation since the time of the misconduct;
  - i. the extent to which the lawyer benefitted from the misconduct; and

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<sup>33</sup> Law Society of Alberta Pre-Hearing and Hearing Guideline at paragraphs 185-187.

<sup>34</sup> Ibid, note 33 at paragraphs 198-199.

<sup>35</sup> Ibid, note 33 at paragraph 200.

- j. whether the misconduct involved taking advantage of a vulnerable party.
67. The decision in *Jaswal v Newfoundland Medical Board*<sup>36</sup> was recently cited with approval by the Alberta Court of Appeal in *Charkhandeh* as setting out a non-exhaustive list of factors relevant to sanctioning. The factors and considerations were described in *Charkhandeh* as follows:<sup>37</sup>
- a. *Seriousness of the conduct*: nature and gravity of the proven allegations; number of times the offence occurred; the degree to which the offensive conduct was clearly regarded, by consensus, as being the type of conduct that would fall outside the range of permitted conduct, not an “error of judgment”.
  - b. *Factors relating to the fundamental purpose of sanctions*: the need for deterrence; protection of the public; confidence in the integrity of the profession. These often overlap with the seriousness of the conduct.
  - c. *Character and personal attributes of the professional*: the age and experience of the offending professional; previous character; presence or absence of prior complaints or convictions.
  - d. *Impact on the complainant*: age and mental condition of the complainant; impact of the incident on the complainant.
  - e. *Mitigating factors*: specifically, acknowledgement of responsibility, but others are recognized, including some that reduce the gravity of the misconduct.
  - f. *Impact of the sanction on the professional*: collateral financial or other penalties as a result of the allegations.
  - g. *Parity*: the range of sanctions in other similar cases.

68. *Charkhandeh* confirms that:

The primary purpose of sanctions in professional disciplinary cases is protection of the public. Denunciation, retribution and punishment are not primary objectives of the sanctioning process, except to the extent that they serve the objective of protection of the public...Sanctions will often have a punitive effect which enhances protection of the public by deterrence and maintenance of professional standards, but that is an effect of the sanction, not a standalone motivation. Further, proportionality, restraint, and enabling rehabilitation are important.<sup>38</sup>

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<sup>36</sup> *Jaswal v Medical Board (Nfld.)*, 1996 CanLII 11630 (NL SC).

<sup>37</sup> *Ibid*, note 12 at paragraph 86.

<sup>38</sup> *Ibid*, note 37 at paragraph 93.

69. In *Charkhandeh*, the Court of Appeal also stressed central importance of the principle of proportionality as follows:

The sanction imposed should be aimed at protection of the public, but also proportionate to the gravity of the offence, and the moral culpability of the professional. In accordance with the principle of restraint, the most lenient sanction that would serve the legitimate purposes of the sanctioning process should be selected. Specifically, even though cancelation of registration might serve the secondary purposes of denunciation, deterrence and protection of the reputation of the profession, the Hearing Tribunal must also consider whether any lesser sanction would have substantially the same impact. Where there is no measurable risk to the public, the sanction should also not be so onerous as to preclude rehabilitation of the professional, or unnecessarily prevent a trained professional from providing a valuable service to the public, including his other patients.<sup>39</sup>

### **Analysis on Sanction**

70. Section 72(1) of the *Act* sets out three sanctioning options:

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

- (a) order that the member be disbarred,
- (b) order that the membership of the member be suspended during the period prescribed by the order, or
- (c) order that the member be reprimanded.

### *Seriousness of the Misconduct*

71. The Committee approaches sanction on a global, cumulative basis. The findings encompass: (1) sexual harassment of junior and vulnerable individuals, (2) disclosure of highly sensitive confidential client information to a member of the public, (3) deliberate interference with the LSA's investigation through fabrication and deception, and (4) trust accounting and client identification/verification deficiencies.
72. Viewed together, this pattern reflects abuse of professional power, breach of core fiduciary and confidentiality duties, and obstructive dishonesty aimed at evading regulatory scrutiny. The conduct was not inadvertent or isolated; it was repeated across

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<sup>39</sup> Ibid, note 37 at paragraph 95

multiple domains of professional obligation and extended over time. The cumulative seriousness places this matter at the most severe end of the sanction spectrum, particularly given the reputational harm to the profession and the risks to vulnerable persons.

### *Integrity*

73. Integrity is a foundational condition of practice and “is essential to the effective operation of the legal system and regulation of the legal profession”<sup>40</sup>. The Guideline includes intentional interference with the administration of justice, intentional misrepresentation to a client or the LSA, false swearing, and any misconduct involving dishonesty or deceit as violations of that core obligation.<sup>41</sup>
74. Mr. Gill intentionally misrepresented the true nature and provenance of a purported client authorization and consent. This was an attempt by Mr. Gill to cover up the breach of solicitor-client confidentiality and the continuing attempts to mislead and misrepresent what was happening by the two emails that he sent to the LSA. This was clearly an attempt to misrepresent the true state of affairs to the LSA.
75. There was an element of dishonesty in fabricating both the authorization and the two reply emails. This act of dishonesty was further aggravated by the active attempts to mislead the LSA about the true nature of the authorization. Mr. Gill failed to own up to his breach of solicitor-client confidentiality and then took intentional steps to deceive the LSA by sending the two emails - intentional dishonesty toward both client and regulator.
76. Given these findings, the case engages integrity in a way that is dispositive for sanction: purposeful fabrication and deception directed at the regulator are incompatible with the trust placed in a member of the profession and fundamentally undermine public confidence.

### *Governability*

77. The Alberta Court of Appeal in *Alsaadi*<sup>42</sup> has defined ungovernability as follows:

... A professional can be said to be ungovernable if he or she fails to accept the authority of the professional organization or intimates that he or she is not bound by rules and standards of the profession ...

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<sup>40</sup> Ibid, note 33 at paragraph 201.

<sup>41</sup> Ibid, note 33 at paragraph 203.

<sup>42</sup> *Alsaadi v Alberta College of Pharmacy*, 2021 ABCA 313, 33 Alta LR (7th) 14 at paragraph 68.

78. Of further guidance is the decision in *Law Society of Upper Canada v. Shifman*<sup>43</sup> where the Appeal Division of the Law Society of Upper Canada set out a two-part test for ungovernability:

We find it helpful to restate the principles to be considered in relation to ungovernability as a two-part analysis:

- (1) Is the nature, duration and repetitive character of the licensee's present and past misconduct sufficiently serious that it suggests an unwillingness or inability to be governed by the Law Society, notwithstanding progressively increased penalties for repeated incidents of misconduct?
- (2) If so, in light of all of the circumstances, is revocation appropriate? This involves balancing the nature of the misconduct and disciplinary history against mitigating factors including:
  - a. any character evidence;
  - b. the existence of remorse and a recognition and understanding of the seriousness of the misconduct;
  - c. evidence that the licensee is willing to be governed by the Society;
  - d. medical or other evidence that explains (although does not excuse) the misconduct;
  - e. the likelihood of future misconduct, having regard to any treatment or other remedial efforts undertaken;
  - f. the licensee's ongoing co-operation with the Society in addressing the outstanding matters that are the subject of the misconduct and other regulatory matters.

79. The Committee has also considered the case of *Law Society of British Columbia v. Lessing*<sup>44</sup> and in particular the "Hall" factors as described therein. The *Lessing* hearing panel wrote:

Because the term "ungovernability" is not defined in the Rules, counsel for the Law Society referred the Panel to a number of Law Society case authorities in which hearing panels reviewed the concept and indicia of ungovernability. A finding of ungovernability is made where there is evidence of a consistent unwillingness to comply with the Law Society as a regulator, or a wanton

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<sup>43</sup> *Law Society of Upper Canada v. Shifman*, 2014 ONLSTA 21 at paragraph 25.

<sup>44</sup> *Lessing (Re)*, 2022 LSBC 7 at paragraph 11-12.

disregard and disrespect for the regulatory processes that govern the lawyer's conduct.

In *Law Society of British Columbia v. Hall*, 2007 LSBC 26, at paras. 27 and 28, a number of factors were identified that can individually or collectively give rise to a finding of ungovernability when present, as follows:

- (a) a consistent and repetitive failure to respond to the Law Society's inquiries;
- (b) an element of neglect of duties and obligations to the Law Society with respect to trust account reporting and records;
- (c) some element of misleading behaviour directed to a client and/or the Law Society;
- (d) a failure or refusal to attend at the discipline hearing convened to consider the offending behaviours;
- (e) a discipline history involving allegations of professional misconduct over a period of time and involving a series of different circumstances;
- (f) a history of breaches of undertaking without apparent regard for the consequences of such behaviour; and
- (g) a record or history of practicing law while under suspension.

80. The Committee sees no material distinction between the ungovernability definitions and factors in the *Alsaadi*, *Shifman* or *Lessing* decisions. The common aspects of these definitions are that there is a (1) failure by a member to accept the authority of the profession and an unwillingness or inability to be governed by the law society or that (2) the member wantonly disregards and disrespects the rules and regulatory processes of the law society.

81. Following the *Alsaadi* decision, and with the adoption of the *Lessing* (i.e. *Hall Factors*) and *Shifman* factors, this Committee adopts the following test and factors for a finding of ungovernability:

Has the member failed to accept the authority of the Law Society, has the member intimated that he or she is not bound by the rules and standards of the profession or has the member shown a wanton disregard and disrespect for LSA regulatory processes as maybe evidenced by the following, non-exhaustive, factors:

- 1) The nature, duration and repetitive character of the misconduct such that the member has shown a consistent and repetitive failure to respond to the Law Society's inquiries.
- 2) Does the member have a discipline history involving allegations of professional misconduct over a period of time and involving a series of different circumstances.
- 3) Does the member have a history of breaches of undertaking without apparent regard for the consequences of such behaviour.
- 4) Has the member shown an element of neglect of duties and obligations to the Law Society with respect to trust account reporting and records.
- 5) Are some elements of any misleading behaviour directed to a client, the courts, other counsel and/or the Law Society.
- 6) Has there been a failure or refusal by the member to attend at the discipline hearing convened to consider the offending behaviours.
- 7) Does the member have a record or history of practicing law while under suspension.

82. A finding of ungovernability may often result in disbarment. However, there are considerations as described in the *Alsaadi*, *Lessing* and *Shifman* decisions which would mitigate against disbarment, including such non-exhaustive factors as the following:

- a. Any character evidence.
- b. Is there a past discipline record.
- c. The existence of remorse and a recognition and understanding of the seriousness of the misconduct.
- d. Evidence that the licensee is willing to be governed by the Society and the degree of willingness to be governed by the Society.
- e. Medical or other evidence that explains (although does not excuse) the misconduct.
- f. The likelihood of future misconduct, having regard to any treatment or other remedial efforts undertaken.

- g. The member's ongoing co-operation with the Society in addressing the outstanding matters that are the subject of the misconduct and other regulatory matters.
  - h. Has the member admitted a number of the allegations against him.
83. Applying the above factors, the Committee finds that Mr. Gill's deliberate fabrication of a client authorization and preparation of deceptive emails to investigators, undertaken to obstruct the LSA's inquiries, evidence a refusal to submit to the regulator's authority. Such conduct strikes at the heart of self-regulation and falls within the clearest indicia of ungovernability identified in the jurisprudence. However, the Committee will still consider the mitigating factors in the following sections.

### *Character Evidence*

84. While character evidence can be of assistance, the Committee is mindful of the decision in *Bolton v. The Law Society*<sup>45</sup>, where the English Court of Appeal stated:

Because orders made by the Tribunal are not primarily punitive, it follows that considerations which would ordinarily weigh in mitigation of punishment have less effect on the exercise of this jurisdiction than on the ordinary run of sentences imposed in criminal cases. It often happens that a solicitor appearing before the tribunal can adduce a wealth of glowing tributes from his professional brethren. He can often show that for him and his family the consequences of a striking off or suspension would be little short of tragic. Often he will say, convincingly, that he has learned his lesson and will not offend again. On applying for restoration after striking off, all these points may be made, and the former solicitor may also be able to point to real efforts made to re-establish himself and redeem his reputation. All these matters are relevant and should be considered. But none of them touches on the essential issue, which is the need to maintain among members of the public a well-founded confidence that any solicitor whom they instruct will be a person of unquestionable integrity, probity and trustworthiness. Thus it can never be an objection to an order of suspension in an appropriate case that the solicitor may be unable to re-establish his practice when the period of suspension is past. If that proves, or appears likely to be so, the consequences for the individual and his family may be deeply unfortunate and unintended. But it does not make suspension the wrong order if it is otherwise right. The reputation of the profession is more important than the fortunes of any individual member. Membership of a profession brings many benefits, but that is a part of the price.

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<sup>45</sup> Ibid, note 16 at paragraph 16.

85. Mr. Gill tendered 31 character reference letters from former clients, colleagues, community members, and former employees. These letters describe him as hardworking, ethical, compassionate, professional, generous, and deeply involved in community service. The references consistently emphasize his volunteerism, mentorship, pro bono service, and longstanding support of vulnerable individuals. Many refer to experiences of Mr. Gill demonstrating empathy, diligence, and exceptional advocacy, and several affiants expressly state that they were aware of the Merits Decision before providing their letters.
86. The Committee has carefully reviewed all reference materials. The breadth and sincerity of the letters demonstrate that Mr. Gill has made meaningful contributions to clients and his community, and that he has positively impacted many people over the course of his career. As such, the Committee accepts that Mr. Gill has strengths and achievements that members of his community hold in high regard.
87. However, as noted in *Bolton*, character evidence—no matter how compelling—cannot override the central issue in sanctioning: the need to maintain public confidence that lawyers are persons of “unquestionable integrity, probity and trustworthiness.” The *Bolton* principle applies with particular force where misconduct involves dishonesty, fabrication, misleading the regulator, or breaches of core obligations of lawyers.
88. In this case, while Mr. Gill’s character references attest to many positive qualities, none of the letters speak meaningfully to the issues of honesty, candour, integrity, or governability that lie at the heart of the Committee’s findings. Indeed, LSA counsel correctly observed during submissions that none of the letters address the concerns arising from the misconduct proved—namely, the intentional fabrication of documents, the preparation of false communications to the LSA, the breach of client confidentiality involving sensitive material, or the sexual harassment findings.
89. Moreover, the Committee must assess character evidence in light of the *Bolton* admonition that even glowing testimony cannot mitigate conduct fundamentally incompatible with continued practice. The key issue is not whether Mr. Gill has done good work in the past—which the Committee accepts—but whether the proven misconduct is reconcilable with ongoing membership in a self-governing profession.
90. Given the seriousness of the conduct, including dishonesty and the interference with the regulatory process, the Committee concludes that the character evidence, while sincere and positive, does not meaningfully mitigate the core concerns of integrity and governability. Accordingly, the character evidence does not mitigate the sanction required to protect the public, maintain confidence in the legal profession, or uphold the integrity of the regulatory process.

### *Additional Mitigating and Contextual Considerations*

91. The Committee has weighed the mitigating and contextual factors fully.
92. With regard to Mr. Gill's not having prior discipline and the substantial character evidence, the Committee acknowledges Mr. Gill's absence of a prior record and the numerous positive reference letters regarding his service, professionalism, and community involvement. However, as stated in *Bolton*, such evidence carries limited weight where the central question is maintaining public confidence in the profession's integrity, probity, and trustworthiness. That principle is directly engaged where proven dishonesty is aimed at concealing misconduct and thwarting the regulator.
93. With regard to delay that was raised by Mr. Gill's counsel, the Committee has considered delay as a potential mitigating factor. As noted by Mr. Gill, the decision in *Kherani*<sup>46</sup> held that delay can be a mitigating factor, and a hearing panel must consider the time between the alleged misconduct and the sanction. The *Kherani* decision stated:<sup>47</sup>

We agree that the Tribunal erred in its approach to delay as a mitigating factor. As outlined in *Wachtler v College of Physicians and Surgeons of Alberta*, 2009 ABCA 130 at para 48, "time operates to disconnect the event from the penalty" because the conduct eventually "become[s] some vague matter arising within the professional's practice from long ago". Sanctions for unprofessional conduct are concerned with preventing future unprofessional conduct. However, this concern diminishes with the passage of time because the professional may have already addressed the problem. Further, delay weakens the strength of the denunciation by distancing the penalty from the proven conduct. In addition, the remedial lessons learned from involvement in the disciplinary process cannot be underestimated. This occurs while a professional reasonably exercises their right to dispute allegations of unprofessional conduct. Trying to protect one's professional reputation is not inconsistent with learning from the process.

94. Here, the passage of time does not attenuate the seriousness of the intentional dishonesty or the concerns about governability, and aspects of the timeline were attributable to the member's own extensions. Accordingly, delay carries limited mitigating force in this case.
95. Lastly, the Committee notes the absence of a meaningful apology or acknowledgment of wrongdoing, is not as an aggravating factor per se, but as the absence of mitigation, which reinforces concerns about future compliance and governability.

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<sup>46</sup> Ibid, note 29.

<sup>47</sup> Ibid, note 29 at paragraph 49.

## *Other Considerations*

### Historical Criminal Matter

96. Certain criminal history regarding Mr. Gill was raised and addressed by the parties at the hearing. Mr. Gill was found guilty of an offence under the Criminal Code but received an absolute discharge. LSA counsel made certain submissions regarding the same. Mr. Gill appealed the finding of guilt to the Alberta Court of Appeal, which was allowed and a new trial was ordered. More recently, the Crown has confirmed stay of the charge and that effectively brought the proceedings to an end. The Committee's view is that these criminal proceedings have no impact on their review, analysis or findings on sanction.

### Systemic Discrimination

97. The Committee acknowledges the broader context of systemic discrimination that can affect members of equity-deserving groups within the legal profession. The Benchers of the LSA have publicly recognized this reality, and the Committee accepts that systemic barriers may influence aspects of a member's professional experience. However, while such contextual factors can be relevant in assessing credibility, process, or mitigation, they cannot displace the Committee's core mandate: protection of the public, maintenance of confidence in the profession, and preservation of the integrity of self-regulation.
98. In this case, Mr. Gill did not provide evidence that systemic discrimination played a causal role in the misconduct found, nor that it contributed to the decisions to fabricate documents, mislead the regulator, breach client confidentiality, or engage in sexual harassment. Systemic discrimination cannot excuse intentional dishonesty or conduct that undermines the LSA's ability to regulate its members. Nor can it diminish the seriousness of misconduct that strikes at foundational duties of integrity, candour, and respect for vulnerable individuals.
99. While the Committee remains alive to issues of systemic inequality within the profession, the proven misconduct in this case is inconsistent with the standards required of all members—regardless of background—and engages concerns that cannot be mitigated by reference to systemic factors. Accordingly, systemic discrimination does not meaningfully reduce sanction in this matter.

### Delay

100. Although approximately 11 months elapsed between the March 12, 2025 sanction hearing and the release of this decision, the Committee finds that this delay did not result in any prejudice to Mr. Gill. Several intervening factors reasonably contributed to the timing, including the loss of a Committee member due to judicial appointment, the

release of the *Charkhandeh* decision and the resulting need to solicit supplemental submissions from the parties, and the overall complexity and volume of the evidentiary record. More importantly, unlike cases where delay weakens the connection between past conduct and present sanction, the findings against Mr. Gill involve core issues of honesty, integrity, and governability—matters for which the passage of time does not diminish their relevance to public protection or the integrity of the profession. As Mr. Gill has been non-practising since 2021, the timing of the decision does not affect his ongoing ability to practise or impose incremental professional consequences beyond those arising from the misconduct itself. There is therefore no basis to conclude that the delay impaired fairness, increased the severity of any sanction, or otherwise caused prejudice to Mr. Gill. Accordingly, the Committee is satisfied that the delay was neither inordinate nor prejudicial in the circumstances.

### *Proportionality and the Inadequacy of Lesser Sanctions*

101. Sanction must be proportionate, restrained, and selected to achieve the purposes of protection, deterrence, and maintenance of professional standards. In this case, the Committee is of the view that a reprimand cannot address intentional dishonesty toward the regulator and multiple serious breaches of core duties. A suspension presupposes that, following a finite period, the member can be trusted to comply with regulatory requirements. Given the findings on integrity and governability, the Committee cannot place such trust in Mr. Gill. Conditions and practice restrictions are inadequate where the core deficits are honesty and willingness to be governed, not remediable skills or knowledge gaps.
102. In light of the seriousness factors recognized in the Guideline and the centrality of integrity and governability to self-regulation, the Committee concludes that no sanction short of disbarment would sufficiently protect the public, maintain confidence in the administration of justice, or vindicate the LSA's ability to govern.
103. Accordingly, the Committee orders Mr. Gill be disbarred, effective immediately.

### **Costs**

104. Since the Sanction Hearing took place, the Alberta Court of Appeal provided further clarity on the issue of costs in its decision of *Charkhandeh v College of Dental Surgeons*<sup>48</sup>. The Court of Appeal felt compelled to address the principles of costs afresh for two reasons:<sup>49</sup>
  - a. The “guiding principles have become unclear” arising from inconsistent approaches taken between the decisions in *K.C. v College of Physical Therapists*

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<sup>48</sup>ibid, note 37.

<sup>49</sup> Ibid, note 37 at paragraph 129.

of *Alberta*<sup>50</sup> and *Alsaadi v Alberta College of Pharmacy*<sup>51</sup> and the recent decision of *Jinnah v Alberta Dental Association and College*.<sup>52</sup>

- b. Costs awards “have become so large and disconnected from first principles”.
105. The Court in *Charkhandeh* held that “costs in disciplinary proceedings should be awarded based on the wording of the statute, principles set out in these reasons.”<sup>53</sup> The Court enumerated those principles as follows:
- a. Does the statutory language create a presumption that either the member should bear the costs, or should the costs be borne by the governing professional body?
  - b. What factors are relevant when awarding costs?
  - c. What limits are there on quantum?
  - d. What types of costs can fairly be imposed on the professional?

#### *Relevant Factors*

106. *Charkhandeh* held that relevant factors can be wide ranging, and one cannot “list exhaustively all of the factors that will be relevant in a particular case to an award of costs.”<sup>54</sup> Some of the factors listed by the Court will include the following:
- a. The number of allegations and overall success are relevant.<sup>55</sup>
  - b. “Costs are not intended to be a form of sanction. ... Costs relate to the process of the hearing, not the substance of the charges.”<sup>56</sup>
  - c. “There is an inconsistency between costs not being a sanction, and using seriousness to determine where the burden should fall. ... The seriousness of the charges is primarily relevant to the sanction, not costs.”<sup>57</sup>
  - d. “But costs are not intended to denounce conduct. Despite what has been said on the topic in prior decisions of the Court the time has come to recognize that seriousness of the charges is relevant to the sanction, but is not a relevant consideration in awarding costs. The quantum and type of costs will likely be

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<sup>50</sup> *K.C. v College of Physical Therapists of Alberta*, 1999 ABCA 253.

<sup>51</sup> *Ibid*, note 42.

<sup>52</sup> *Ibid*, note 31.

<sup>53</sup> *Ibid*, note 37 at paragraph 168.

<sup>54</sup> *Ibid*, note 37, paragraph 143.

<sup>55</sup> *Ibid*, note 37, paragraph 137.

<sup>56</sup> *Ibid*, note 37, paragraph 138.

<sup>57</sup> *Ibid*, note 37, paragraph 139.

impacted by 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. Moral indignation towards the underlying conduct is not a principled basis for awarding costs.”<sup>58</sup>

- e. “An important factor is whether costs have been increased due to the unreasonable or inefficient litigation conduct of either party.”<sup>59</sup>

### *The Limits on Quantum*

107. *Charkhandeh* addressed the quantum of costs as follows:

In the end, the quantum of any costs awarded must be reasonable (at three levels) and proportionate:

- (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 incurred, “but whether the quantum represents an amount that the losing party in the litigation should be 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.

108. Other considerations and factors noted by the *Charkhandeh* Court:

- a. The focus should not be on the “global amount of the costs, without any attention being paid to the components of those costs awards.”<sup>60</sup>
- b. “A tribunal should not make an “in gross” percentage award of costs without having a clear idea of what is included. ... While the tribunal need not know the details of every dollar spent, it must have a reasonable idea of the types of

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<sup>58</sup> Ibid, note 37, paragraph 140.

<sup>59</sup> Ibid, note 37, paragraph 142.

<sup>60</sup> Ibid, note 37, paragraph 145.

expenses that are included and make some assessment of whether those expenses were reasonably incurred.”<sup>61</sup>

- c. “An important factor is that, however the costs are calculated, the ultimate award cannot be unduly onerous or “crushing” burden on the professional. This factor effectively puts a cap on what would be a proportionate costs award in many cases.”<sup>62</sup>

### *Costs that Can be Fairly Imposed*

109. The Court in *Charkhandeh* concluded that “the types of expenses that the professional should be expected to pay are those costs discretely associated with the hearing itself.”<sup>63</sup> This expressly means that “generally a professional should not have to pay all or a significant portion of the expenses associated with the infrastructure of the hearing, for example travel expenses and daily allowance for the tribunal members.”<sup>64</sup>
110. On the matter of legal fees, which tend to be the majority of expenses, the Court in *Charkhandeh* held:

[152] The bulk of the expenses tend to be legal fees, and they must be examined for reasonableness. The College is entitled to retain as many lawyers as it wishes, at any level of seniority, but it does not follow that those costs can reasonably be transferred to the professional. Relevant to a reasonable costs award are things like the hourly rates being charged, whether those rates were appropriate given the seniority and experience of counsel involved, whether the duration and intensity of preparation were appropriate or excessive or disproportionate, and whether the ultimate charges were proportionate to the issues.

### *Decision on Costs*

111. As stated above, at the hearing, LSA counsel submitted that, based on the case law at the time, full costs of \$75,948.52 should be ordered against Mr. Gill. Counsel for Mr. Gill submitted that no costs order should be directed.
112. Following the issuance of the *Charkhandeh* decision, the Committee asked the parties to provide updated submissions on costs of the hearing. LSA counsel revised the previous costs statement in response to the *Charkhandeh* decision. The difference between the revised statement and the previous one was that 1) the *per diem* hearing expenses and Court Reporter fees had been removed; 2) the time entries had been particularized and

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<sup>61</sup> Ibid, note 37, paragraph 146.

<sup>62</sup> Ibid, note 37, paragraph 147.

<sup>63</sup> Ibid, note 37, paragraph 150.

<sup>64</sup> Ibid.

3) the hours of junior counsel had been removed. The revised costs statement set out total costs of \$60,311.79 comprising investigation costs, LSA Counsel fees and disbursements (at \$125 per hour) in the pre-hearing, merits and sanction phases and translator costs. LSA counsel submitted:

- a. These proceedings were complex, comprising five (5) hearing days, nine (9) witnesses in addition to Mr. Gill, and over 40 exhibits. The investigation costs are warranted in their entirety due to the complexity of the investigations and the audit task which was made more difficult due to the interference of Mr. Gill.
- b. The LSA was successful in establishing the more serious citations on which it called evidence. On the two contested citations on which it was not successful (citation 4 and 9), minor hearing time was consumed. All costs are appropriate and are neither unduly onerous nor a crushing burden.

113. Mr. Gill's counsel, in applying *Charkhandeh*, emphasized the following in his supplementary submissions on costs.

At paragraphs 144-148 of *Charkhandeh*, the Court discusses limitations on the quantum of costs. Expenses must be reasonably incurred, having regard to the nature of the investigation, the allegations and the hearing process. The quantum paid by the regulator must be fair and reasonable. It must not only have been reasonable for the LSA to have incurred the costs in substance and as to quantum but it must be reasonable to transfer the burden of those costs to the member (paragraph 144(c)). Finally, the costs must be proportionate to the issues involved, the circumstances of the member and the overall burden it places on him. Importantly, at paragraph 145, the Court of Appeal re-states that full indemnity is neither the starting point nor the default award. It is significant that in Mr. Gill's case, success was divided, and Mr. Gill had to prepare to defend against allegations that were not proven.

In *Charkhandeh* total costs of the hearing were assessed at over \$400,000.00 and were reduced by the Court of Appeal to \$50,000.00. The Court of Appeal reminds us at paragraph 149 that discretion must be exercised judicially and transparently, based on relevant considerations. At paragraph 150 the Court stresses that the member should not have to pay all or a significant portion of the expenses associated with the infrastructure of the hearing. At paragraph 151 the Court stresses the need for restraint with respect to the use of experts. Legal fees are discussed at paragraphs 152-154.

114. Based on the *Charkhandeh* decision, Mr. Gill's counsel held steadfast to his original position and urged the Committee to award no costs to the LSA.

115. Section 72(2)(c) of the *Act* permits a hearing committee to “order the payment to the Society of all or part of the costs of the proceedings within the time prescribed by the order.” The statute does not create a presumption in favour of awarding costs to either the LSA or the member.
116. Accordingly, the Committee must exercise its discretion judicially, transparently, and in accordance with the principles recently clarified by the Alberta Court of Appeal in *Charkhandeh*.
117. In the Committee’s view, costs are warranted for the following reasons:
- a. The LSA proved the most serious citations involving dishonesty, interference, confidentiality breaches, and sexual harassment. These findings required significant hearing time, supported complex evidentiary records, and fundamentally informed the sanction outcome. While some citations were dismissed, they consumed minimal incremental time.
  - b. The revised costs statement is reasonable in light of the revisions made. The Committee is satisfied that the costs were reasonably incurred in relation to the investigation, preparation, and hearing of the serious citations proven.
  - c. The investigation was made more complex and resource-intensive because Mr. Gill fabricated a client authorization and misled investigators. This interference directly increased the workload of the investigator and counsel. Consistent with *Charkhandeh* where a member’s conduct materially increases hearing costs, it is appropriate that the member bears those additional costs.
  - d. The Committee must avoid a crushing burden. The LSA did not seek full indemnity and removed several categories of costs. The resulting total reflects only those costs fairly attributable to prosecuting the serious misconduct proven.
118. Given the gravity of the findings, the length and complexity of the proceedings, the LSA’s success on the most serious allegations, the seriousness of Mr. Gill’s interference with the investigation and his role in increasing investigative costs, and the principle that costs relate to the process, not punishment, the Committee concludes that requiring Mr. Gill to pay the LSA’s revised amount upon reinstatement, rather than immediately, appropriately addresses proportionality concerns.

### **Concluding Matters**

119. The Committee orders Mr. Gill disbarred, effectively immediately. Mr. Gill shall pay costs to the LSA in the amount of \$60,311.79. Payment shall be due upon any future application for reinstatement, and shall form a condition precedent to reinstatement.

120. The Committee has determined that a referral to the Attorney General is not required.
121. A Notice to the Profession is required.
122. 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. Gill will be redacted and further redactions will be made to preserve client confidentiality and solicitor-client privilege (Rule 98(3)).

Dated February 23, 2026.

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Bud Melnyk, KC

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Louise Wasylenko