2022 LSBC 43
Hearing File No.: HE20200117
Decision Issued: November 9, 2022
Citation Issued: January 7, 2021

THE LAW SOCIETY OF BRITISH COLUMBIA TRIBUNAL

HEARING DIVISION

BETWEEN:

THE LAW SOCIETY OF BRITISH COLUMBIA

AND:

SAMUEL KWADWO ANSONG OSEI

RESPONDENT

DECISION OF THE HEARING PANEL

Hearing date:	July 21, 2022
Panel:	Catherine W. Chow, Chair Michael Dungey, Public representative Paul Pearson, Lawyer
Discipline Counsel:	Robert Cooper, KC and Ray Power
Appearing on his own behalf:	Samuel Osei
Written reasons of the Panel by:	Paul Pearson

OVERVIEW

[1] The Respondent, Samuel Kwadwo Ansong Osei, was a new lawyer who disbursed over $2.1 million dollars through his trust account in circumstances where he did not make appropriate inquiries about the source or use of the funds, and provided little or no legal work on the transactions. He was also involved in three transactions where he failed to adhere to his professional duties to unrepresented persons.

[2] The Respondent admits that his actions constitute professional misconduct. He and the Law Society jointly submit that a four-month suspension and $3,500 in costs is the appropriate disciplinary action.

[3] The Panel accepts the Respondent's admission of professional misconduct.

[4] The Panel also accepts the jointly proposed disciplinary action of a four-month suspension, along with costs of $3,500.

ALLEGATIONS

[5] The citation in this matter (the "Citation") originally contained five allegations summarized as follows:

(a) In or between April 2016 and December 2017, the Respondent used his trust account to receive and disburse $2,147,311.92 from his client, MP, and MP's associated companies, which constitutes professional misconduct in that the Respondent failed to:

(i) provide substantial or any legal services;

(ii) make reasonable inquiries about the scope of his retainer, the source of the funds, the purpose of the transactions, or the reason for the use of his trust account; and/or

(iii) make a record of any such inquiries

(collectively, the "Funds Verification" allegations).

(b) In or between March 2016 and June 2018, the Respondent engaged in activity in relation to his client, MP, that he knew or ought to have known could assist or encourage in dishonesty, crime or fraud, contrary to rule 3.2-7 of the *Code of Professional Conduct for British Columbia*

(the "*BC Code*"), which constitutes professional misconduct in that the Respondent did one or more of the following:

(i) entered into a monthly flat-fee legal services agreement with MP;

(ii) failed to obtain, record and verify MP's identification information, contrary to one or more of Rules 3-100, 3-102 and 3-105 of the Rules;

(iii) disbursed funds from his trust account in circumstances where reasonable steps to verify the identity of MP were not taken;

(iv) made representations to various "investment firms" to the effect that money paid to them on behalf of MP belonged to MP or such other entity, when sufficient inquiries had not been made; and

(v) facilitated a suspicious transaction between MP and AC, when at the request of MP, the Respondent witnessed the exchange of $200,000 in cash and later accepted a bank draft in the amount of $210,000, which was deposited and disbursed from the Respondent's trust account

(collectively, the "Money Laundering" allegations).

(c) In or about December 2017, the Respondent failed in three separate instances to comply with the requirements of rule 7.2-9 of the *BC Code* by failing to urge the unrepresented parties, AC, DL and JL, to obtain other independent legal representation, and make it clear that the Respondent was acting exclusively in the interests of MP (the "Unrepresented Parties" allegations).

[6] At the start of the hearing, counsel for the Law Society withdrew the Money Laundering allegations, and the hearing proceeded on the basis that the Citation was amended to remove them with the consent of the parties.

[7] The Respondent admits that his conduct in relation to the Funds Verification allegations and the Unrepresented Parties allegations constitutes professional misconduct pursuant to s. 38(4) of the *Legal Profession Act*, SBC 1998 c. 9 (the "*Act*").

[8] The Law Society and the Respondent jointly propose:

(a) a four-month suspension; and

(b) $3,500 in costs

pursuant to Rule 5-6.5 of the Rules, which states in part:

> **5-6.5** (1) The parties may jointly submit to the hearing panel an agreed statement of facts and the respondent's admission of a discipline violation and consent to a specified disciplinary action.
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> …
>
> (3) The panel must not impose disciplinary action under subrule (2) (b) that is different from the specified disciplinary action consented to by the respondent unless
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> …
>
> (b) imposing the specified disciplinary action consented to by the respondent would be contrary to the public interest in the administration of justice.

[9] The issues for this Panel are:

(a) Did the Respondent's actions constitute professional misconduct; and

(b) Is a four-month suspension and $3,500 in costs "contrary to the public interest in the administration of justice"?

FACTS

[10] The hearing proceeded by way of a detailed agreed statement of facts (the "ASF"), in which the Respondent admits the facts underlying the Funds Verification allegations and the Unrepresented Parties allegations. The Panel's ruling is based largely on the Respondent's admissions, along with oral evidence provided by the Respondent at the hearing in this matter.

[11] The Respondent was called to the British Columbia bar in 2014. Prior to his call to the bar, he had relatively little employment or life experience.

[12] After his call, the Respondent worked primarily on litigation files defending ICBC at a firm in Prince George, BC. The Respondent left that work after approximately two years, and in March 2016, he moved to the Lower Mainland and began practising as a sole practitioner.

[13] There is evidence that the Respondent shared office space with at least one other lawyer, but his exposure to mentorship from senior counsel is unclear.

[14] One month after starting to practise as a sole practitioner, another lawyer with whom the Respondent shared office space referred MP to him. In April 2016, the Respondent entered into a legal services agreement with MP, which set out a flat-fee payment of $5,000 per month.

[15] The Respondent did not obtain identification from MP. It appears the Respondent took the position that since MP was referred from another lawyer, the Respondent did not have to confirm his identification. The Respondent eventually obtained a photo of MP's passport, but only after a Law Society audit that gave rise to these allegations.

[16] The Respondent agrees that at the beginning of his practice, the payments from MP were the "lion's share" of his income.

[17] The $5,000 per month flat-fee arrangement lasted until August 2017, approximately 16 months.

[18] Between May 2016 and December 2017, the Respondent worked on a variety of legal issues provided by MP. Between May 2016 and April 2018, the Respondent billed almost 400 hours of time on MP's files. However, some of the transactions involving MP's affairs involved little to no legal work.

The Funds Verification allegations

[19] The Funds Verification allegations relate to transactions involving MP's trust funds, as summarized here:

(a) Between May and July 2016, the Respondent received into trust settlement funds from a dispute over corporate shareholdings. MP instructed the Respondent to act on behalf of four numbered companies. The Respondent performed some legal work in bringing about a settlement. A total of $204,939.96 was paid into trust to the benefit of MP.

(b) Between February 2017 and April 2017, funds were deposited into the Respondent's trust account, purportedly to facilitate investments in a limited partnership and a foreign bank. The Respondent's only legal work in relation to the limited partnership had been in November and December 2016, and totalled less than ten hours. On February 3, 2017,

acting on instructions from MP, the Respondent transferred $40,791 out of trust to the limited partnership.

(c) On February 20, 2017, the Respondent, on instructions from MP, prepared a non-binding letter of intent regarding the purchase of an interest in the foreign bank. In March and April 2017, the Respondent received $390,000 in trust from two numbered companies. The Respondent was not aware of any tangible connection between the numbered companies and MP. The Respondent treated the funds as effectively belonging to MP. The Respondent was not aware of whether the letter of intent was ever sent to the foreign bank or whether the transaction completed. The funds were ultimately never paid out for the purpose of purchasing an interest in the foreign bank.

(d) In May 2017, the Respondent paid $15,104 out of trust, at MP's direction, to a European luxury watch dealer. The Respondent did not know at the time, but later learned, that the payment was for the purchase of a wristwatch. The Respondent billed MP 1.6 hours for "basically just going to the bank for the wire transfer." The Respondent performed no other legal work in respect of this payment.

(e) In mid-2017, the Respondent made payments totalling $425,000 to three investment firms at the direction of MP. The Respondent performed no legal work in connection with those transactions. In some instances, he prepared cover letters advising the investment firms that the funds belonged to MP and/or MP's company.

(f) In July 2017, the Respondent was asked to attend a meeting between MP and a prospective cryptocurrency purchaser ("AC"), who the Respondent knew from the Respondent's youth. On July 13, 2017, prior to that meeting, the Respondent received and deposited into trust a $200,000 bank draft from AC. The Respondent understood the $200,000 to be a "good faith gesture" by the purchaser. At the meeting, the Respondent saw AC provide $210,000 in cash to MP, which was then counted using a money spinner. The Respondent then observed MP transfer cryptocurrency to AC. Following the meeting, the Respondent paid the $200,000 out of trust back to AC, with the memorandum "Return of Security for Transaction". The Respondent did not prepare any legal documents in connection with this transaction.

(g) On July 20, 2017, MP provided the Respondent with a $200,000 bank draft without instructions. The Respondent sought instructions on the

purpose of the money and was told that the funds were related to "C Ltd.". The Respondent subsequently prepared two letters of intent. One of those letters of intent provided for the sale, by MP's company, of "the brand and IP, all rights to Q Corp." for $20 million dollars. To the Respondent's knowledge, these letters of intent were never executed. The $200,000 was not subsequently used in relation to C Ltd.

(h) In early October 2017, the Respondent received a $150,000 bank draft from MP or one of MP's assistants. This draft was drawn on the account of a numbered company; the Respondent was unaware of any relationship between MP and that numbered company. The Respondent deposited this bank draft into trust to the benefit of MP, without instructions regarding the purpose of the funds. On October 12, 2017, MP directed the Respondent to pay $31,037 out of trust to a limited partnership in order to pay a capital call. The Respondent did so. Other than work done in November and December 2016 concerning a review of the limited partnership's documents (less than ten hours in total), the Respondent performed no legal work in respect of this $31,037 payment.

(i) On November 27, 2017, MP instructed the Respondent to draft a one-page contract for the purchase of $50,000 of cryptocurrency from "DL". The Respondent prepared this contract. The same day, the Respondent obtained a $50,000 bank draft from his trust account. The Respondent then met with DL on December 1, 2017 to check his identification, witness his signature, and provide DL with the $50,000 bank draft. Other than MP's instructions, the Respondent was not provided with anything to confirm that the cryptocurrency transaction had occurred.

(j) In early December 2017, the Respondent was instructed to, and did prepare a one-page agreement respecting the purchase of $459,079.86 of cryptocurrency from "JL". The Respondent billed 0.5 hours for preparing this agreement. The Respondent never obtained an executed copy of the agreement. On December 23, 2017, the Respondent was instructed by MP to provide JL with $390,000 from trust. The Respondent obtained a bank draft and sent it to JL by UPS shipment. The Respondent never met or communicated with JL.

[20] The Law Society emphasizes that these facts are made more concerning by a number of "red flags" that should have caused the Respondent to make further inquiries about the source and use of the money flowing through his trust account:

(a) MP's involvement in the unregulated area of cryptocurrency should have been a warning sign to the Respondent to be vigilant.

(b) In July 2016, MP paid a $10,000 bonus to the Respondent. The Respondent had not requested this bonus, and it appears to have been unrelated to any significant result achieved or work done by the Respondent. The bonus payment amounted to an extra two full months of fees under the $5,000 per month flat-fee retainer agreement.

(c) In the spring of 2017, $390,000 was received into trust from two numbered companies. The Respondent was not provided with instructions from those companies, did not verify the source of the funds, and was not aware of any tangible relationship between MP and the numbered companies.

(d) The $390,000 was notionally for the purchase of an interest in a foreign bank, but it was instead paid out to investment firms, with the Respondent providing no associated legal work.

(e) In late 2016, MP gave the Respondent inconsistent instructions about MP's relationship with a one of his associated corporations.

(f) On July 20, 2017, MP provided the following instructions: "All $324,549.57 currently in trust is for the purpose of the [corporation] deal." Yet as the retainer progressed, these funds were not used for their initially stated purpose.

(g) The July 2017 $200,000 cash transaction involving MP and AC, where the cash was counted with a money spinner.

(h) The Respondent received an email from a Canadian bank that MP had been refused an account because he did not have a social insurance number, and because a credit bureau report indicated potential fraud.

(i) MP left instructions in September 2017 about what to do with funds held in trust in the event that the Respondent could not contact MP.

(j) In mid-November 2017, the Respondent, in issuing a demand letter in respect of allegedly defamatory statements about MP, learned of further claims that MP had engaged in unscrupulous activity.

[21] On July 19, 2017, three months into his representation of MP, the Respondent reviewed *Law Society of BC v. Gurney*, 2017 LSBC 15, where a hearing panel

found it was professional misconduct for a lawyer to allow $26 million dollars in overseas funds to pass through the lawyer's trust account when there were many red flags that raised "a reasonable suspicion that the transactions may involve illegality" (at para. 84). The panel in *Gurney* also confirmed that "lawyers have a number of duties to fulfill before allowing their trust accounts to be used" (at paras. 78 and 79).

[22] The Respondent was concerned enough with what he read in *Gurney* that he contacted a Law Society practice advisor the next day. He told the practice advisor that he had "no indication that the funds [from MP] are illegally gained, but from my review of the Gurney decision last night, that doesn't matter" (Respondent's notes of conversation, p. 1111 of ASF). Significantly, the practice advisor suggested to the Respondent that he cease acting for MP.

[23] The Respondent did not cease acting for MP. The Respondent did send an email to MP immediately after speaking to the practice advisor stating:

> We write to advise that it has come to our attention that we are not permitted to disburse funds in trust to other parties without acting as both an advisor and facilitator of the corresponding transaction, as such we will no longer partake in such activities.

[24] As the Law Society points out, notwithstanding the Respondent's apparent realization that he had not been in compliance with his professional responsibilities, and his email confirming he would "no longer partake in such activities", the Respondent continued to allow MP to deposit and disburse funds in his trust account, all the while performing little or no legal work. The transactions after the Respondent's July 20, 2017 consultation with the practice advisor involved almost $500,000.

[25] During his representation of MP, the Respondent was involved in transactions with AC, DL and JL purchasing cryptocurrency from MP. During these transactions, the Respondent was not aware, or did not inquire, if the parties purchasing the cryptocurrency were represented by counsel. During the transactions, the Respondent:

(a) knew AC and DL were not represented by counsel in the transaction, and made no inquiry if JL was represented by counsel;

(b) had no discussion with them about their status as unrepresented persons, and in particular, did not advise them to obtain independent legal advice; and

(c) did not advise them that the Respondent was acting only on behalf of MP.

[26] The transactions involving the Funds Verification allegations came to light in a 2018 compliance audit by the Law Society.

[27] The Respondent's professional conduct record ("PCR") contains a single, unrelated Conduct Review Report from November 2, 2020. The Law Society confirmed it was not seeking to have this Panel consider the Respondent's PCR in assessing the appropriate disciplinary action in this matter.

ANALYSIS

Was this professional misconduct?

[28] Because the term "professional misconduct" is not defined in the *Act*, the Rules or the *BC Code,* we must look to the leading case, *Law Society of BC v. Martin,* 2005 LSBC 16. In *Martin* at para 171, the panel defined professional misconduct to mean "whether the facts as made out disclose a marked departure from that conduct the Law Society expects of its members."

[29] The hearing panel in *Gurney* set out a lawyer's duties regarding the use of their trust accounts (at para. 79):

> (a) A lawyer's trust accounts are to be used for legitimate commercial purposes for which they are established, the completion of a transaction, where the lawyer plays the role of legal advisor *and* facilitator. They are not to be used as a convenient conduit. Even where other authorities, such as FINTRAC, may be aware of the source of the funds entering an account, the effect of solicitor-client privilege is that the parties to whom the funds are disbursed and the purpose for which the funds are disbursed are shielded by the privilege. It is for this reason that a lawyer's trust account cannot be used only for the purpose of facilitating the completion of a transaction, but the lawyer must also play a role as a legal advisor with regard to the transaction. This is the requirement to provide legal services.
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> (b) The Court of Appeal in *Elias*, quoted the Bencher review decision at para. 9: 'where the circumstances of a proposed transaction are such that a member should reasonably be suspicious that there are

> illegal activities involved under Canadian law or laws of other jurisdictions, it is professional misconduct to become involved until such time as inquiries have been made to satisfy the member on an *objective* test that the transaction is legitimate.' [emphasis added] It is clear that the duty to make inquiries is triggered prior to the lawyer becoming involved in the transaction, and the lawyer must be satisfied on an objective basis that the transaction is legitimate.
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> (c) The lawyer's duty to investigate arises when, on an objective basis, he becomes suspicious that the transaction is illegitimate. Professional misconduct can be found even if the underlying transaction cannot be proved to be illegitimate. A lawyer cannot delegate the duty to inquire to a third party such as a client and rely upon the client's assurance as to the legitimacy of the transaction.

[30] The Law Society points to the following factors that it submits constitute professional misconduct:

(a) the Respondent failed to obtain client identification from MP;

(b) the Respondent demonstrated a lack of knowledge, and disregard, for the source of funds that he allowed to be deposited into his trust account;

(c) when MP changed his instructions regarding the payout of significant sums of money, the Respondent made no inquiries or no substantial inquiries;

(d) the Respondent made no inquiries as to why MP paid a large $10,000 bonus near the outset of their retainer and for no apparent reason; and

(e) at separate meetings with MP and AC, DL and JL, the Respondent in each instance failed to urge the unrepresented party to obtain independent legal representation, and failed to make it clear to AC, DL and JL that he was acting exclusively in the interests of MP only.

[31] The Respondent effectively allowed MP to use the Respondent's trust account as a bank account. The Respondent received and disbursed $2,147,311.92 in funds under circumstances where little or no legal work was performed on the transactions and where the Respondent had little to no knowledge of the corporate identities involved, or even had identification from MP. This conduct is a marked departure from that conduct the Law Society expects of lawyers.

[32] The Respondent failed to identify the situations in meetings with MP and unrepresented parties that he ought to have clarified his role. The Respondent did not know or neglected his obligation to urge the unrepresented parties to obtain independent legal advice, and failed to inform them that he was acting exclusively for MP only. This conduct constitutes a marked departure from that conduct expected of lawyers.

Standard in assessing the joint submission

[33] There is a joint submission in this matter. Both the Law Society and the Respondent submit that the appropriate disciplinary action is a four-month suspension and $3,500 in costs. Under Rule 5-6.5, this Panel must impose that sanction unless it is "contrary to the public interest in the administration of justice."

[34] This Panel adopts the test in *Anthony-Cook* in assessing whether the joint submission is contrary to the public interest in the administration of justice.

[35] In *Anthony-Cook,* the Supreme Court of Canada dealt squarely with the appropriate test for assessing a joint submission. The court held that the public interest test only allowed a joint submission to be rejected if it was (at para. 34):

> … 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.

Assessing the joint submission

[36] Section 38 of the *Act* sets out the various options for disciplinary action after a finding of misconduct. The wide range of potential sanctions starts with a simple reprimand, increases to fines, limitations or suspensions from practice, and eventually to disbarment.

[37] In *Law Society of BC v. Ogilvie,* 1999 LSBC 17, the panel set out 13 considerations it felt were relevant to assessing the appropriate disciplinary action to take in a given case. The list has been repeated many times in Law Society hearing panel decisions in the past 23 years, but some panels have opted to only consider the "relevant and determinative" factors: *Law Society of BC v. Dent,* 2016 LSBC 05 at para. 16.

[38] Here, the Law Society submits the following factors are most relevant:

(a) the nature and gravity of the misconduct;

(b) the number of times the offending conduct occurred;

(c) the need to ensure the public's confidence in the legal profession;

(d) the presence or absence of other mitigating or aggravating factors; and

(e) the range of sanctions imposed in similar cases.

The Panel agrees, but for reasons expressed below, will also consider:

(f) the age and experience of the respondent.

The nature and gravity of the misconduct

[39] The nature of this misconduct involved millions of dollars being irresponsibly passed through the Respondent's trust account. As stated, the Law Society withdrew the Money Laundering allegations that the Respondent knew or ought to have known the funds disbursed from his trust account could assist or encourage in dishonesty, crime or fraud. However, as set out in *Gurney*, a lawyer's duties regarding the use of their trust account involves a positive duty to ensure they are engaged in legal work on the transactions, they satisfy themselves on an objective basis that the transactions are legitimate, and that they investigate if they become suspicious of a transaction. To that end, we find that the nature and gravity of the conduct admitted in the Funds Verification allegations is nonetheless very serious.

Number of times the offending conduct occurred

[40] The Funds Verification allegations involve more than ten different transactions. This was not an isolated incident. The transactions took place over 18 months and involved many different payors and payees to the Respondent's trust account.

[41] Even after seeking and receiving advice from the Law Society to cease acting for MP, the Respondent continued to act and conducted identical transactions. The Respondent's behaviour in the face of guidance from the Law Society increases the seriousness of this misconduct.

[42] The Respondent participated in three separate and distinct transactions under the Unrepresented Parties allegations, and the misconduct was repeated each time.

Need to ensure the public's confidence in the legal profession

[43] In the final report of the 2022 Cullen Commission of Inquiry into Money Laundering in British Columbia, the Commissioner states:

> Money laundering is a significant problem deserving of serious attention from government, law enforcement, and regulators. An enormous volume of illicit funds is laundered through the British Columbia economy every year, and that activity has a significant impact on the citizens of this province.
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> Money laundering has, as its origin, crime that destroys communities – such as drug trafficking, human trafficking, and fraud. These crimes victimize the most vulnerable members of society. Money laundering is also an affront to law-abiding citizens who earn their money honestly and pay their fair share of the costs of living in a community. There can be few things more destructive to a community's sense of well-being than a governing regime that fails to resist those whose opportunities are unfairly gained at the expense of others.

[44] A sanction in a matter such as this must ensure that the public has confidence in the legal profession's ability to regulate lawyers' use of their trust accounts and prevent illegitimate transactions that may be or lead to money laundering.

[45] Until this Citation is resolved, the Panel notes that the Respondent has been unable to practise law in Ontario where he moved in 2020. Here, a four-month suspension will have a meaningful impact on the Respondent and his practice.

Mitigating or aggravating factors

[46] The Law Society submits that it is aggravating that the Respondent continued to act for MP after being advised not to do so by the Law Society practice advisor. Had the Respondent ceased acting for MP immediately upon receiving that advice, it would be a significant mitigating factor showing he was doing his best in the circumstances to comply with this professional responsibility. Instead of being a standalone aggravating circumstance, the Respondent's continuing to act for MP substantially reduces any mitigating effect of him seeking advice.

[47] This Panel is wary of sending the message that seeking advice from a practice advisor can lead to negative consequences for lawyers. It is in the public interest that lawyers be encouraged to seek out advice on complying with their professional

responsibilities. The mitigating impact of that action will be judged by the lawyer's response to the advice they receive.

[48] It is mitigating that the Respondent has taken responsibility and acknowledged his misconduct. While the admission of misconduct was on the eve of this hearing, the Respondent had previously admitted the facts set out in the ASF, saving significant time and witness scheduling.

Range of sanctions imposed in similar cases

[49] In *Law Society of BC v. Skogstad*, 2008 LSBC 19, the lawyer received over $1 million dollars in investment funds from various sources over a three year period, some of whom had been provided with the lawyer's trust account information so they could directly deposit funds into the account. The funds were then distributed according to the wishes of the client, who was an offshore investment company. The investment scheme turned out to be fraudulent. After 11 days of hearings, the hearing panel found this was professional misconduct. The parties then made a joint submission for a three-month suspension and $20,000 in costs. The panel accepted the joint submission.

[50] In *Gurney*, the lawyer allowed $26 million dollars in overseas funds through their trust account in suspicious circumstances. The lawyer's actions were found to constitute professional misconduct and the lawyer was ordered suspended for six months and to pay $24,717 in costs.

[51] In *Law Society of BC v. Uzelac,* 2020 LSBC 58, a senior lawyer's trust account was used by a client to help perpetrate a fraud. The lawyer had a significant conduct record and had allowed the client to process $1.167 million dollars without making adequate inquiries or providing legal services. The lawyer made a conditional admission of professional misconduct and consented to a four-month suspension and $1,000 in costs, which the hearing panel ordered.

[52] The joint submission of a four-month suspension in this case is in line with the range of sanctions imposed in similar cases.

Age and experience of the respondent

[53] The Respondent was a relatively newly called lawyer when he commenced practising as a sole practitioner. It is likely he lacked the kind of mentorship that is so important to new lawyers forging a solid appreciation of their professional responsibilities.

[54] It is significant that the duty of a lawyer to investigate and satisfy themselves that a transaction is legitimate is assessed on an objective test. Here, it appears that the Respondent was not suspicious of MP, notwithstanding the many red flags. At the hearing in this matter, the Respondent characterized himself as having "little life experience or legal experience". He agreed that he "did not notice things he should have noticed".

[55] While ignorance of one's professional responsibilities is no excuse for misconduct, it is an enumerated factor in *Ogilvie* with good reason. In *Law Society of BC v. Coutlee*, 2010 LSBC 27 at para. 15, the panel stated the following regarding the "age and experience" *Ogilvie* factor:

> … the intention of this *Ogilvie* consideration was to give the benefit of the doubt to a junior inexperienced member of the Law Society.

[56] New lawyers may lack knowledge or make errors that more senior counsel would not. It is easier to accept the Respondent was overly credulous in his dealings with MP as a young lawyer with two years of experience. Added to his purported naiveté, the Respondent was a sole practitioner and did not seek guidance from other senior members of the bar or join practice groups where he could seek mentorship or practice advice.

[57] When the Respondent reviewed the *Gurney* decision and realized its implications on his trust account activity, he contacted a practice advisor. This step is significant; lawyers who are unclear about their professional obligations must be encouraged to seek the guidance of others. The step of seeking guidance showed that the Respondent was attempting to bring himself into compliance with his professional obligations.

CONCLUSION

[58] Applying the relevant *Ogilvie* factors through the lens of the *Anthony-Cook* threshold, the Panel concludes that a four-month suspension is not contrary to the public interest in the administration of justice.

[59] The Panel orders that the Respondent:

(a) is suspended for four months, with such suspension to commence on a date to be agreed to by the parties, provided it is no later than January 1, 2023; and

(b) must pay costs in this matter to the Law Society in the amount of $3,500, payable no later than December 1, 2022.