2023 LSBC 33
Hearing File No.: HE20200033
Decision Issued: August 16, 2023
Citation Issued: May 25, 2020

THE LAW SOCIETY OF BRITISH COLUMBIA TRIBUNAL

HEARING DIVISION

BETWEEN:

THE LAW SOCIETY OF BRITISH COLUMBIA

AND:

LEONIDES TUNGOHAN

RESPONDENT

DECISION OF THE HEARING PANEL ON DISCIPLINARY ACTION

Hearing date:	March 23, 2023
Written submissions:	June 7, 2023 and June 12, 2023
Panel:	Kimberly Henders Miller, Chair Kim Carter, Bencher Ruth Wittenberg, Public representative
Discipline Counsel:	Angela R. Westmacott, KC
Appearing on his own behalf:	Leonides Tungohan
Written reasons of the Panel by:	Kimberly Henders Miller

BACKGROUND

[1] On November 28, 2022 the Panel issued its decision on facts and determination (2022 LSBC 48) ("*Tungohan 2022 facts and determination*") in the Hearing of a citation issued May 25, 2020 (the "Citation"). In *Tungohan 2022 facts and determination,* the Panel determined that the Respondent committed professional misconduct when he breached a June 5, 2015 hearing panel order (the "Order") by failing to submit reports for four reporting periods from March 1, 2019 to February 29, 2020.

[2] The disciplinary action phase of the Hearing commenced on March 23, 2023. The Respondent did not complete his oral submissions on that date and the matter was adjourned to continue for a half day. In fixing the continuation dates, the parties were given the option of continuing by way of written submissions and chose to do so. The Respondent filed written submissions on June 7, 2023, and the Law Society filed a reply on June 12, 2023.

[3] The Law Society submits that the appropriate disciplinary action is a three-month suspension and seeks costs.

[4] The Respondent did not state his position, but argues that the Law Society position is unfounded. Some of the Respondent's written submissions focus on re-litigating the issues that the Panel already determined. Generally, in both oral and written submissions, the Respondent provides extensive quotations from hearing panel decisions regarding many principles applied in these previous decisions but fails to advocate how these principles apply to the evidence before the Panel. The Respondent has pointed out in his submissions that this is an individualized process, but he asks the Panel to import the circumstances of respondents in the cited decisions to this one by inference. The Panel is unable to do so. This leaves the Panel with a paucity of information about the Respondent's circumstances, or how the relevant principles apply to those circumstances.

SUR-REPLY APPLICATION

[5] Following the oral Hearing, and prior to the filing of written submissions and reply, the Respondent requested by email to the Hearing Administrator that he be given the opportunity to file a sur-reply and was advised that he would have to seek leave to do so, as neither the *Legal Profession Act*, SBC 1998 c.9 (the "*Act*") nor the Law Society Rules (the "Rules") confer such a right.

[6] The Respondent, by way of letter to the Panel Chair dated June 22, 2023, requested leave to file a sur-reply on the basis that the Law Society had raised "new issues" that he could not have anticipated and that he was otherwise "unable to respond to." At this time, the Respondent also filed his proposed sur-reply.

[7] On June 23, 2023, the Law Society filed submissions on the availability of a sur-reply.

[8] The Panel finds that it has discretion to allow sur-reply in circumstances where there is a demonstrated issue that is raised for the first time in reply and where sur-reply is required to make a just determination (*Owners, Strata Plan LMS 1816 v. BC Hydro,* 2002 BCSC 313, at para. 17; *PHS Community Services Society v. Swait,* 2018 BCSC 824, at para. 115).

[9] Here, the Respondent says that new issues were raised in the Law Society's reply in the following general subject areas:

(a) the Respondent's requests for disclosure in relation to costs;

(b) the applicability of the cases cited by the Law Society or the Respondent in determining the range of sanctions in similar cases; and

(c) the need for a more fulsome accounting of the Respondent's financial circumstances.

[10] None of these subject areas were raised for the first time in the Law Society's reply. All are subjects that were either raised prior to the Respondent's submissions, prior to the conclusion of his oral submissions, or were simply proper responses to his submissions.

[11] Accordingly, the Respondent's application for leave to file submissions in sur-reply is dismissed.

CIRCUMSTANACES OF THE RESPONDENT'S PROFESSIONAL MISCONDUCT

[12] The circumstances relating to the Respondent's professional misconduct are detailed in *Tungohan 2022 facts and determination*. There is a protracted and complex history to the current finding of professional misconduct, which we will not repeat in this decision. A summary of the conduct in question is as follows:

(a) A citation issued May 29, 2013 against the Respondent, relating to the withdrawal of funds from trust, resulted in a finding of misconduct by a hearing panel. In *Law Society of BC v. Tungohan*, 2015 LSBC 26 ("*Tungohan 2015 disciplinary action*"), issued June 5, 2015, the hearing panel made the Order requiring the filing of accountant's reports on a quarterly basis to ensure that the Respondent's general and trust accounts were in compliance with the Rules (the "Quarterly Report Requirement").

(b) Immediately following the issuance of the Order, the Respondent launched the first of a prolonged series of challenges to the Quarterly Report Requirement. He sought several stays, reviews and appeals of the *Tungohan 2015 disciplinary action* decision between 2015 and 2019.

(c) As a result of the Respondent's many challenges, the Quarterly Report Requirement was subject to a number of stays up until December 12, 2016. From that point until 2019, the Respondent filed no quarterly reports, as he pursued multiple avenues of challenge to the Order. Every single avenue was unsuccessful, with the result confirming the validity of the Quarterly Report Requirement.

(d) In 2019, in an effort to get the Respondent on track with his reporting requirements, the Law Society exercised its discretion to accept annual trust reports in lieu of the quarterly reports for a period covering from 2016 to February 28, 2019. It was made abundantly clear to the Respondent that the Quarterly Report Requirement recommenced for the period starting on March 1, 2019.

(e) Subsequently, the Respondent failed to submit quarterly reports for four reporting periods from March 1, 2019 to February 29, 2020, in breach of the Order.

THE RESPONDENT'S PROFESSIONAL CONDUCT RECORD

[13] Rule 5-6.4 permits a panel to take account of the respondent's professional conduct record in determining the appropriate disciplinary action. Rule 1 defines a "professional conduct record" to include, among other things, Conduct Review Subcommittee reports, Practice Standards Committee recommendations, prior disciplinary hearing panel decisions and actions, and orders for costs.

[14] The Law Society filed several records relating to the Respondent that fall within that definition. After the Respondent was called and admitted as a lawyer in British Columbia in 2008, he acquired several substantive entries on his professional conduct record culminating with *Tungohan 2015 disciplinary action*. These are summarized as follows:

Date	Record	Details
January 27, 2012	Conduct Review Report	No further disciplinary action taken after Respondent made submissions in a summary trial application calling into question the integrity of opposing counsel.
May 10, 2012	Practice Standards Committee Recommendation	Recommendations made relating to accounting practices, file management, continuing professional development and restrictions to practice areas.
May 31, 2012	Undertaking and Consent	Voluntarily undertook to restrict practice to certain areas and to work under a supervisor in certain circumstances. (Relieved of this Mar. 5, 2020)
December 6, 2012	Practice Standards Committee Recommendation	Follow-up review recommended Respondent create file lists and keep personal and firm banking separate
June 5, 2015	Discipline Hearing 2015 LSBC 26	Finding of professional misconduct for failing to handle trust funds and bookkeeping in accordance with the Rules. $3,000 fine and the Order. Decision 2017 BCCA 423 upheld findings, matter of costs remitted.
April 9, 2018	Remittance on matter of Costs	Costs awarded to the Law Society in the amount of $12,500.
Jan. 16, 2019	Reconsideration of Costs on s.47 Review	Costs awarded to the Law Society in the amount of $5,000.

GENERAL PRINCIPLES

[15] Following a finding of misconduct, a panel is obliged to impose one or more of the sanctions set out in s. 38(5) of the *Act*. The disciplinary actions range from a reprimand to disbarment.

[16] The Law Society's mandate to "uphold and protect the public interest in the administration of justice" is set out in s. 3 of the *Act*. This mandate is reflected in the purpose of disciplinary proceedings and the imposition of a disciplinary action. A panel's primary focus is not on punishment, but on protecting the public, maintaining high professional standards, and preserving public confidence in the legal profession (*Law Society of BC v. Hill*, 2011 LSBC 16, para. 3, citing MacKenzie, *Lawyers and Ethics: Professional Regulation and Discipline*, Toronto: Carswell, 1993, at page 26-1).

[17] In determining the appropriate disciplinary action, a non-exhaustive list of factors for consideration was set out in *Law Society of BC v. Ogilvie,* 1999 LSBC 17, [1999] LSDD No. 45. Whether a particular factor is considered, and what weight that factor will be given is unique to each case. The assessment of disciplinary action is an individualized process (*Law Society of BC v. Lessing*, 2013 LSBC 29 at para 56; *Law Society of BC v. Faminoff*, 2017 LSBC 4 at paras. 83 to 85). In this matter, the Panel considers the following *Ogilvie* factors relevant:

(a) the nature and gravity of the conduct proven;

(b) the age and experience of the respondent;

(c) the previous character of the respondent, including details of prior discipline;

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

(e) the possibility of remediating or rehabilitating the respondent;

(f) the impact of the proposed penalty on the respondent;

(g) the need for specific and general deterrence;

(h) the need to ensure the public's confidence in the integrity of the profession; and

(i) the range of penalties imposed in similar cases.

[18] In *Law Society of BC v. Dent,* 2016 LSBC 5, the *Ogilvie* factors were condensed into four categories:

(a) nature, gravity, and consequences of the conduct;

(b) character and professional conduct record of the respondent;

(c) acknowledgement of the misconduct and remedial action: and

(d) public confidence in the legal profession including public confidence in the disciplinary process.

[19] In the matter before the Panel, the nature, gravity and consequences of the misconduct are inextricably linked to the maintenance of public confidence in the legal profession, so those considerations will be analyzed as a single category. This set of considerations weighs heavily in this case.

APPLICATION OF GENERAL PRINCIPLES

Character and professional conduct record of the respondent

[20] Although the Respondent was called to the British Columbia Bar in 2008, he is a senior lawyer, having practised law since 1975, first in the Philippines, then in Hong Kong. His seniority and experience in law is an aggravating factor (*Law Society of BC v. Ben-Oliel*, 2016 LSBC 35, at para. 27).

[21] The Respondent does not currently possess a practising certificate.

[22] The Respondent's professional conduct record is somewhat dated, but relevant. Concerns regarding the Respondent's accounting and bookkeeping resulted from a practice review, leading to a Practice Standards Recommendation in May 2012, a follow-up Recommendation in December 2012, and ultimately to *Tungohan 2015 disciplinary action*. This is an aggravating factor. Although the Respondent has no further substantive entries on his professional conduct record, the misconduct in this matter arises from that decision and has been the subject of ongoing efforts by the Law Society to ensure compliance in the intervening period.

[23] In his oral submissions at the Hearing, the Respondent pointed to his cooperation with the investigation as a mitigating factor. This must be examined in context. While he was responsive to the communications of the Law Society, the Citation involves the failure of the Respondent to comply with the Order. In terms of an

"investigation", there was little with which to cooperate. This is a neutral consideration.

[24] Also in oral submissions, the Respondent urged that the absence of personal or financial gain were mitigating factors. While the advantage gained or to be gained by a respondent is an aggravating factor, the absence thereof cannot be considered a mitigating factor. This a neutral consideration.

[25] The impact of the proposed disciplinary action on the Respondent is a factor to be considered by the Panel. The Respondent points to his financial circumstances as a mitigating factor, citing *Law Society of BC v. Vondette*, 2018 LSBC 36. The Respondent provided scant evidence about his financial circumstances or the consequences of any sanction that might be imposed. He has provided tax returns from 2017 to 2020 which indicate low earnings. In considering disciplinary action, the Panel acknowledges that the Respondent is likely to be impacted by a suspension.

Acknowledgement of the misconduct and remedial action

[26] There is no evidence of the Respondent's acknowledgement of the misconduct or of remedial actions taken by the Respondent. The Respondent's continued non-compliance with the Order for almost eight years is a result of his inability to accept the terms of that Order and his continued efforts to be relieved of those terms. During his oral submissions, the Respondent was invited to make further submissions addressing this category. He provided further written submissions, citing multiple decisions that generally stand for the proposition that a respondent is entitled to pursue available avenues of challenge to a decision, and re-stating his original submissions.

[27] While acknowledgement of misconduct is a mitigating factor, a failure to acknowledge the misconduct is not necessarily an aggravating factor. As stated in *Tungohan 2022 facts and determination*, the Respondent is entitled to pursue legitimate challenges to the decisions made by Law Society disciplinary bodies or Tribunal hearing panels. In this case, this is a neutral category.

[28] Similarly, while evidence of remedial action is a mitigating factor, a failure to undertake remedial action is not necessarily an aggravating factor. Given the Respondent's intransigent stance regarding his obligations under the Order and the lack of any identifiable personal circumstances requiring rehabilitation, the Panel considers that the lack of efforts towards remediation or rehabilitation in this case is a neutral factor.

Nature, gravity and consequences of the conduct and public confidence in the legal profession including public confidence in the disciplinary process

[29] The failure to comply with the Order is contrary to rule 7.1-1 of the *Code of Professional Conduct for British Columbia*, which requires lawyers to comply with orders made under the *Act* or the Rules. This is serious misconduct, as a disregard for regulatory orders completely undermines the ability of the Law Society to regulate lawyers.

[30] In his oral submissions, the Respondent pointed to his belief that he was complying with the Order as a mitigating factor. He cited decisions where a respondent's misconduct was found to be less serious, or not to constitute misconduct, due to an erroneous or incorrect belief about their obligations (e.g., *Law Society of BC v. Macgregor*, 2018 LSBC 39; and *Re: Lawyer 12*, 2011 LSBC 11). Those cases do not have application here, where the Respondent simply did not accept the obligations imposed on him. The finding of this Panel is that there could be no confusion about his obligations, as the Respondent was reminded of them by the Law Society on no less than five occasions between April 10 and November 5, 2019.

[31] The misconduct in this matter was not a single event. The evidence demonstrated that the Respondent has historically failed to abide by the Order, although he was relieved of the Quarterly Reports Requirement for a period of time in order to get things back on track. During the relevant period in the Citation, the Respondent failed to provide Quarterly Reports on four occasions, despite clear reminders by the Law Society about what was expected of him.

[32] It cannot be overlooked that the very purpose of the Order was to protect the public. The Order was imposed because the Respondent had engaged in misconduct involving several issues with the accounting and handling of client funds (*Tungohan 2015 disciplinary action* at paras. 10 to 11). This misconduct put the public at risk. The Order was imposed to ensure that this risk was mitigated. This was explained by the review board in *Law Society of BC v. Tungohan*, 2016 LSBC 45 ("*Tungohan 2016 review"*), at para. 39:

> [39] In respect of the practice conditions imposed on the Applicant, the hearing panel considered the public interest but also considered the potential impact of practice conditions on the Applicant. We agree that the conditions imposed by the hearing panel upon the Applicant are reasonably necessary to monitor the Applicant's compliance with Law Society accounting rules, particularly in the face of his failure or refusal to understand or acknowledge his accounting obligations respecting client

> funds. The Applicant's compliance with those rules must be ensured to protect the public interest and public confidence in the legal profession.

[33] The effect of this type of misconduct on public confidence is significant. The impact on public confidence was explained in *Tungohan 2022 facts and determination* at para. 72:

> [72] It is trite to say that the failure of any person to abide by the regulations of their professional regulatory body undermines the ability of that body to regulate its members effectively and meaningfully. This is particularly so when such a body makes an order for the purpose of protecting the public as the result of prior misconduct. *The failure of a lawyer to abide by a hearing panel's order in these circumstances renders impotent the authority of the Law Society and can have no possible outcome but the erosion of public confidence in the profession*.
>
> [emphasis added]

[34] For the Respondent to circumvent or evade the very mechanism imposed to protect the public arising from his prior misconduct puts the public at further risk, denigrates the authority of the Law Society, and consequently erodes any confidence that the public has in the ability of the Law Society to competently regulate lawyers and protect the public. This makes the misconduct extremely serious.

[35] As of the date of the Hearing of this matter, there was no evidence to suggest that the Respondent had filed any quarterly reports. This accentuates the gravity of the misconduct (*Law Society of BC v. Cunningham*, 2017 LSBC 37 at para. 30; and *Ben-Oliel*, para. 50).

[36] The disciplinary action imposed in these circumstances must be reactive to the public impact and must demonstrate to the public that such conduct is not tolerated. Not only should the disciplinary action imposed deter the Respondent from similar conduct, but it should also act as a general deterrent to other lawyers who might otherwise stray from their duty to abide by their professional requirements (*Ben-Oliel*, at para. 26).

[37] As suggested in *Dent* at para. 39, confidence in the disciplinary process is reinforced by employing a consistent approach. To do so, hearing panels are guided by looking to the range of penalties established in similar cases.

[38] The Law Society points to the following decisions as establishing the appropriate range: *Ben-Oliel*; *Law Society of BC v. Coutlee*, 2010 LSBC 27; and *Law Society of BC v. Jessacher*, 2016 LSBC 11. In these cases, penalties were imposed involving suspensions of 1 to 2 months, or suspensions pending compliance. The length of the suspension imposed in these cases reflected factors such as the respondent's acknowledgement of the misconduct, any remedial actions taken, or if there were other concurrent sanctions imposed on the respondent.

CONCLUSION ON DISCIPLINARY ACTION

[39] In the circumstances of this case, the Panel concludes that a three-month suspension is the disciplinary action that is necessary to ensure that the public is adequately protected and to preserve confidence in the legal profession and is the appropriate disciplinary action in this case. This suspension will commence on the reissuance of the Respondent's practising certificate, which will require, among other things, the Respondent filing the quarterly reports for the four reporting periods from March 1, 2019 to February 29, 2020.

COSTS

[40] The ability of the Panel to award costs is governed by s.46 of the *Act* and Rule 5-11. These provide that costs be determined with regard for the tariff in Schedule 4 of the Rules, unless the panel determines that it is reasonable and appropriate to award no costs or costs in an amount other than that set out in the tariff. Disbursements reasonably incurred may also be added to costs awarded.

[41] In this case, the Law Society asks for an award of costs in the amount of $19,725. This is based on the tariff, including considerations of complexity. The Law Society points out that each item claimed falls in the low to mid-range of the allowable amount under the tariff. The Law Society submits that the length of the Hearing can largely be attributed to the Respondent's decision to call two Law Society witnesses.

[42] The Respondent has not stated his position on costs but says that the Law Society costs are unreasonable. He takes issue with the number of units claimed and takes issue with a number of specific tariff items claimed, including costs relating to Disclosure under Rule 5-4.6 and Preparation of Notice to Admit and Response. Although it is a large sum, the Panel is satisfied that the items claimed and the allotment of units to each item appropriately reflect the costs in this matter. But that does not end the issue.

[43] The Respondent urges that the Panel should consider his ability to pay. He has cited decisions where reduced costs or no costs were ordered. Many of these decisions pre-date the 2012 amendment to the Rules that established the need for regard to the tariff of costs.

[44] The Respondent also urges the Panel to consider that large costs awards may be punitive in some cases. He cites cases such as *Law Society of BC v. Singh*, 2022 LSBC 13, at para. 81, where the panel found that sizeable costs awards can be punitive and deter lawyers from defending a citation.

[45] During his oral submissions at the Hearing, the Respondent provided his tax returns from 2017 to 2020 as evidence of his ability to pay costs. These documents disclose minimal earnings in those years. The issue was raised that these documents do not provide an accurate and fulsome picture of his financial circumstances. To address this concern, the Respondent was invited to provide further evidence on his ability to pay.

[46] In response to this request, the Respondent provided no further evidence, but instead points to previous rulings regarding his ability to pay costs. He points to his success in *Law Society of BC v. Tungohan*, 2017 BCCA 423 ("*Tungohan 2017 appeal*"), where the court found that the review board did not conduct a fulsome consideration of the effect of the costs awarded. As a result, the award of costs was set aside and the matter remitted back to the review board for determination.

[47] The Panel has a broad discretion to fix costs based on the circumstances before it. The panel in *Law Society of BC v. Racette*, 2006 LSBC 29, set out a list of non-exhaustive factors to consider:

(a) the seriousness of the offence;

(b) the financial circumstances of the respondent;

(c) the total effect of the penalty, including possible fines and/or suspensions; and

(d) the extent to which the conduct of each of the parties has resulted in costs accumulating or conversely, being saved.

Seriousness of the offence

[48] The Respondent points to the following passage from *Law Society of BC v. Tungohan*, 2018 LSBC 15, which is the decision relating to the issue of costs that was remitted back to the review board ("*Tungohan 2018 costs"*). In his written

submissions, the Respondent has emphasized the line regarding the seriousness of the offence:

> [18] Another factor to be considered in assessing costs is the seriousness of the misconduct. We consider this to mean that, if the amount of costs is disproportionately high relative to the seriousness of the misconduct, then the panel may exercise its discretion to reduce the order for costs. The misconduct in the Respondent's case primarily relates to billing practices and trust accounting. It is not the most serious form of misconduct that can arise from a lawyer's financial obligations, but it is noteworthy that the hearing panel, this Review Board and the Court of Appeal have all expressed concern that the Respondent continues to demonstrate a lack of appreciation for the obligations to maintain proper accounting records.

[49] The seriousness of the offence has been discussed. Moreover, given the Respondent's conduct, the concerns noted have not been ameliorated, because the Law Society has not received the reports that would provide the information to effectively monitor the Respondent's activities.

Financial circumstances of the Respondent

[50] It is notable that in *Tungohan 2015 disciplinary action*, the Respondent had provided no evidence regarding the finances of his firm or his personal finances. When *Tungohan 2015 disciplinary action* was reviewed (*Tungohan 2016 review*), the Respondent provided tax return documents and accounting records from his law practice. Following the *Tungohan 2017 appeal*, when the matter of costs was remitted, it became clear that the Respondent had additional assets including investments and significant equity in real property. These are appropriate considerations in determining costs (*Tungohan 2018 costs*).

[51] In the matter before the Panel, in relation to ability to pay, the Respondent only provided tax return documents for 2017 to 2020. The *Tungohan 2018 costs* decision covered part of this same time period. There, upon inquiry by the review board, the Respondent disclosed information regarding his assets, including investments and significant equity in real property. It was clear that the Respondent had not initially provided a full picture of his ability to pay. This same issue was raised at the Hearing of this matter. Despite an invitation by this Panel to provide further evidence on ability to pay, the Respondent chose not to provide anything further. The Panel has no information about his current circumstances, which is the relevant timeframe for this assessment.

[52] Given the many decisions the Respondent cited, the history of his discipline proceedings and his knowledge of the evidence required to make an accurate assessment of costs, the issues raised at the oral Hearing, and the direct invitation by the Panel, the Panel considers the Respondent's decision to provide no further evidence relating to his financial circumstances as informed and considered.

[53] The Panel is guided by the reasoning in *Tungohan 2018 costs* at para. 17, where the panel stated:

> … we do not consider that the evidence establishes an inability to pay an order for costs. However, we do accept that the order for costs imposed by the hearing panel is a financial hardship for the Respondent given his income in recent years. …

Total effect of the penalty, including suspension

[54] Despite providing extensive references to decisions relating to the total effect of the penalty as an *Ogilvie* category, the Respondent provided no insight as to how the principles in those decisions relate to his own circumstances. Unlike the panels making the decisions cited, this Panel was provided no information about the Respondent's personal or professional circumstances or the potential effect of any sanction.

[55] From the evidence given at the Hearing, the Panel accepts that the Respondent previously worked as a sole practitioner and currently does not hold a certificate to practise. Such being the case, the Panel infers that a sanction involving a fine or suspension and an order for costs will have an impact on his ability to return to practice.

The extent to which the conduct of each of the parties has impacted the costs

[56] The Panel does not agree with the Law Society that the length of the Hearing can largely be attributed to the Respondent's decision to call two Law Society witnesses. The Respondent was entitled to defend his case in the way that he chose. It was not unreasonable, given his position, for him to call witnesses to expand on the correspondence that formed the evidentiary basis for the Law Society case.

CONCLUSION ON COSTS

[57] Similarly to *Tungohan 2018 costs*, the evidence here does not establish an inability to pay. However, the Panel has considered the impact to the Respondent of a large award of costs in addition to the three-month suspension. The Panel has also considered the punitive effects of a large award of costs and its unintended deterrent effect. This is weighed against the overarching consideration of the seriousness of the misconduct. Accordingly, the Panel has determined that an award of costs in the amount of $12,000 is appropriate and reasonable. The Respondent will have one year to pay starting on the date these reasons are issued.

SUMMARY OF ORDERS

[58] By way of summary, the Panel orders that:

(a) the Respondent is suspended for three months, to commence on the reissuance of his practising certificate; and

(b) the Respondent pay costs to the Law Society in the amount of $12,000, payable one year from the issuance of this decision.