

2024 LSBC 33  
Hearing File No.: HE20180107  
Decision Issued: July 2, 2024  
Citation Issued: December 12, 2018  
Citation Amended: October 21, 2019

THE LAW SOCIETY OF BRITISH COLUMBIA TRIBUNAL  
HEARING DIVISION

BETWEEN:

**THE LAW SOCIETY OF BRITISH COLUMBIA**

AND:

**HONG GUO**

RESPONDENT

**DECISION OF THE HEARING PANEL  
ON COSTS**

Written Materials: December 15, 2023

Panel: Sarah Westwood, KC, Chair  
Gillian M. Dougans, Lawyer  
Carol Gibson, Public representative

Discipline Counsel: J. Kenneth McEwan, KC  
Saheli Sodhi

No one appearing on behalf of the  
Respondent

Written reasons of the Panel by: Gillian M. Dougans

## BACKGROUND

[1] The facts and determination decision in this matter was issued on August 24, 2022, *Law Society of BC v. Guo*, 2022 LSBC 30 (the “*F&D Decision*”). The Respondent was found to have committed professional misconduct in relation to all but one subsection of the four allegations in the Amended Citation concerning:

- (a) acting in a conflict of interest by representing several clients with conflicting interests;
- (b) providing legal services while she had a direct or indirect financial interest in the transaction;
- (c) failing to respond substantially to the Law Society and making false or misleading representations to the Law Society; and
- (d) failing to serve her clients in a conscientious, diligent and efficient manner.

[2] The disciplinary action decision was issued on November 17, 2023: *Law Society of BC v. Guo* 2023 LSBC 46 (the “*DA Decision*”). The Respondent was declared ungovernable and ordered disbarred. The Respondent was also ordered to pay the costs of the hearing. If the parties could not come to an agreement on costs, then they were invited to make written submissions to this Panel within 30 days of the *DA Decision*.

[3] The Law Society provided written submissions to the Tribunal and to the Respondent. The Respondent filed a Notice of Review of the costs order made in the *DA Decision* and seeks an order that the Respondent “be awarded costs of the hearings and the review”. No submissions were received from the Respondent on the amount of the costs of the hearing.

[4] Pursuant to Rule 5-20 of the Law Society Rules, when a review is initiated the order of the panel with respect to costs is stayed. The Panel sought further submissions from the parties with respect to the effect of the stay on the Panel determining the amount of costs the Respondent must pay for the hearing of the Citation. Only the Law Society filed submissions in response to the Panel’s request.

[5] The Panel finds that since an order for costs was made as part of the *DA Decision*, the Panel has the jurisdiction to decide what those costs are. The assessment of costs will not affect the stay of the disciplinary action order or prejudice the Respondent’s review. The Respondent’s review includes an appeal from the costs order and it would be useful for any review panel to have our decision on costs. That would avoid a potential second review on the amount of costs awarded.

**EVIDENCE**

[6] The Law Society claims costs and disbursements totaling \$74,522.63 as set out in a draft Bill of Costs (the “Bill of Costs”).

[7] The Law Society submitted as evidence, the affidavit of Adeline Domingo, legal assistant, which set out the following evidence:

- (a) The Bill of Costs totaling \$74,522.63 reflecting the Law Society’s costs and disbursements incurred in this matter which was prepared in accordance with the tariff.
- (b) The Bill of Costs was sent to the Respondent’s counsel on October 6, 2023 and to the Respondent on November 21, 2023 and copied to her counsel. No response was received as of the date the affidavit was sworn, December 14, 2023.
- (c) A review of the files of counsel for the Law Society showed the following work done to prepare for the hearing:
  - (i) In July 2019, disclosure was provided to the Respondent by the Law Society.
  - (ii) In October 2019, a Notice to Admit was delivered to the Respondent containing 231 paragraphs and attaching 199 documents totaling 3,869 pages. The Respondent’s response was delivered in November 2019.
  - (iii) The Respondent delivered three Notices to Admit to the Law Society in December 2019, each containing more than 90 paragraphs. The Law Society provided responses to each in January 2020.
  - (iv) In March 2023, the Law Society prepared the affidavit of Megan Nicholls for the disciplinary action hearing. This affidavit was 29 paragraphs long and 544 pages.
- (d) Invoices were attached for the disbursements totaling \$20,275.24 claimed for the following:
  - (i) Court reporter fees of \$8,295.25; and

- (ii) Transcript fees of \$11,979.99 for days on which oral evidence was given.

The Law Society claimed additional disbursements in the Bill of Costs for courier costs but there was no evidence before the Panel with respect to those amounts.

[8] The Bill of Costs claims costs at Scale A which is the lower of two scales. The units claimed cover the preparation and attendance at a total of 15 days for the hearing. The total claimed for costs is \$54,200.

### ANAYLSIS

[9] The review board in *Law Society of BC v. Tungohan*, 2018 LSBC 15, noted that a hearing panel is required to have regard to the tariff of costs, but the panel has a broad discretion to order costs in an amount the panel considers reasonable and appropriate. The review board set out a non-exhaustive list of factors that panels may consider when deciding if the costs claimed are reasonable:

- (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.

[10] The Respondent's misconduct was extremely serious and the finding of ungovernability led to her being disbarred. This Panel would have disbarred the Respondent even if it had not found her to be ungovernable, based on consideration of the misconduct in this matter and the *Ogilvie* factors (*Law Society of BC v. Ogilvie*, 1999 LSBC 17).

[11] The Respondent did not make any submissions on the issue of costs and this Panel has no information as to her financial circumstances.

[12] The total penalty is disbarment plus costs, which this Panel finds is reasonable in light of the Respondent's conduct which led to her being disbarred. A large part of the costs are due to the lengthy hearing of 15 days in total. This reflects the complexity of the evidence and the seriousness of the allegations in the Citation. Disbarment is the

most severe disciplinary action that any panel can order. An order for costs is not intended to increase the penalty but to place the burden of funding these proceedings on the Respondent and not on the members of the Law Society.

[13] In the *F&D Decision*, this Panel found that the Respondent had failed to respond substantially to the Law Society and made false or misleading representations to the Law Society. That behaviour increased the complexity of the evidence and the length of the hearing. The Respondent advanced arguments that were not successful including a lack of fair notice concerning the allegations in the Citation, prosecutorial misconduct, and systemic bias. These also increased the length of the hearing.

### **ORDER**

[14] This Panel finds that the costs and disbursements claimed by the Law Society are reasonable. The Panel awards \$20,275.24 in disbursements, as supported by the evidence before the Panel, and \$54,200 in costs.

[15] The Respondent is ordered to pay costs including disbursements of \$74,475.24. This order is stayed pursuant to Rule 5-11 of the Law Society Rules.