2025 LSBC 16
Hearing File No.: HE20240006
Decision Issued: June 16, 2025
Citation Issued: April 22, 2024

THE LAW SOCIETY OF BRITISH COLUMBIA TRIBUNAL

HEARING DIVISION

BETWEEN:

THE LAW SOCIETY OF BRITISH COLUMBIA

AND:

STEVE ALEXANDER PARR

RESPONDENT

DECISION OF THE HEARING PANEL ON A JOINT SUBMISSION PURSUANT TO RULE 5-6.5

Written materials:	March 24, 2025
Panel:	Gurminder Sandhu, KC, Chair Clarence Bolt, Public representative Jason Twa, Lawyer
Discipline Counsel:	Ilana Teicher
Counsel for the Respondent:	Jenny Musyj

OVERVIEW

[1] A person who retains a lawyer reasonably expects that the lawyer will at all times protect their interests, act honestly, and not have divided loyalties. It is reasonable to

expect that a lawyer understands their obligations under the *Code of Professional Conduct for British Columbia (*the *"Code*") and will conduct themselves in accordance with those obligations.

[2] The *Code* includes express provisions regarding conflicts of interest, including prohibitions in representing both parties in a dispute. Furthermore, a lawyer cannot act for a client where there is a substantial risk that their relationship with the client will adversely or materially affect their representation of, or loyalty to, the client.

[3] Steve Alexander Parr (the "Respondent") had a personal relationship with both parties in this matter. At a crucial point in the relationship between the two parties, he did not fully disclose to either party that he was advising and/or acting on behalf of the other.

[4] One of the parties filed a complaint with the Law Society of British Columbia (the "Law Society") which resulted in the citation (the "Citation") forming the basis of this hearing.

[5] Allegation 1 of the Citation alleges that, between approximately May 2020 and July 2020, in the course of representing his clients AA, BB and ABC Inc., the Respondent acted in a conflict of interest, contrary to one or more of rules 3.4-1, 3.4-2, 3.4-3, 3.4-5, 3.4-7, 3.4-8, and 3.4-26.1 of the *Code* and his fiduciary duties to his clients, when he did one or more of the following:

(a) acted jointly for both BB and AA in relation to a partnership venture between them, without first:

(i) obtaining their written consent to the joint retainer;

(ii) advising them that he had been asked to act for both of them in the matter;

(iii) advising them that no information received in connection with the matter from one client could be treated as confidential so far as the other client was concerned; and

(iv) advising them that if a conflict developed that could not be resolved, he could not continue to act for both of them and may have to withdraw completely;

(b) acted for BB, AA and/or ABC Inc. when he had an ongoing close personal relationship with both BB and AA, [redacted];

(c) acted or continued to act for BB, AA and/or ABC Inc. when he knew or ought to have known that the immediate legal interests of BB and AA were adverse; and

(d) while acting for both BB, AA and/or ABC Inc., performed legal services on instructions from BB that he knew or ought to have known were contrary to the interests of AA, without AA's knowledge and consent.

[6] Allegation 2 of the Citation alleges that, between approximately July 2020 and July 2022, the Respondent acted in a conflict of interest, contrary to one or more of rules 3.4-1 and 3.4-10 of the *Code* and his fiduciary duties to his clients, by continuing to act for his client BB against the interests of his former client AA in relation to a partnership venture between them on which he had previously jointly represented BB and AA.

[7] Pursuant to Rule 5-6.5 the parties have made a joint submission to the hearing panel of an agreed statement of facts, the respondent's admission of a discipline violation, and consent to a specified disciplinary action.

[8] On March 10, 2025, the parties entered into the agreed statement of facts (the "ASF"). Pursuant to the ASF, the Respondent has admitted to the underlying facts of the misconduct alleged in the Citation and has admitted that his conduct constitutes professional misconduct, pursuant to s. 38(4) of the *Legal Profession Act* (the "*Act"*).

[9] The parties have agreed to a disciplinary action of a $20,000 fine, payable within 30 days of the hearing panel's issuance of a decision, or such other date as the hearing panel may order, or to which the parties may agree in writing.

[10] The parties have further agreed that the Respondent will pay costs to the Law Society in the amount of $1,000, within 30 days of the Hearing Panel's decision, or on a date the hearing panel may order.

[11] The parties filed a Form 26, Consent to Vary Manner of Appearance, requesting that the hearing scheduled to commence April 1 to 3, 2025, be converted to a hearing in writing. The Panel conducted the Hearing in Writing on April 1, 2025.

ISSUES

[12] There are two issues before the Panel. First, whether the Panel should accept the agreed statement of facts and the admitted discipline violation. Second, if the Respondent's admission of a discipline violation is accepted, whether the jointly proposed disciplinary action is contrary to the public interest in the administration of justice and should be rejected.

JOINT SUBMISSION

[13] Joint submissions in LSBC Tribunal proceedings are governed by Rule 5-6.5 of the Law Society Rules (the "Rules"), which states:

> Rule 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.
>
> (2) If the panel accepts the agreed statement of facts and the respondent's admission of a discipline violation
>
> (a) the admission forms part of the respondent's professional conduct record,
>
> (b) the panel must find that the respondent has committed the discipline violation and impose disciplinary action, and
>
> (c) the Executive Director must notify the respondent and the complainant of the disposition.
>
> (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
>
> (a) each party has been given the opportunity to make submissions respecting the disciplinary action to be substituted, and
>
> (b) imposing the specified disciplinary action consented to by the respondent would be contrary to the public interest in the administration of justice.

[14] Rule 5-6.5(3) reflects the wording of the public interest test as set out in the Supreme Court of Canada's decision in *R. v. Anthony-Cook*, 2016 SCC 43, and requires a hearing panel to accept a joint submission on sanctions unless the proposed sanctions would bring the administration of justice into disrepute or is contrary to the public interest.

[15] The principles in *Anthony-Cook* give deference to joint submissions and set a high threshold for departing from them. Rule 5-6.5 requires a hearing panel to invite submissions from the parties prior to departing from a jointly proposed sanction. This recognizes that the parties are well placed to arrive at a joint submission that reflects the interests of both the public and the respondent. A joint submission also promotes certainty for the parties and efficiency in the system.

[16] After deliberation, as discussed below, the Panel accepts that the Respondent has committed the discipline violations and that his actions amount to professional misconduct. Further, based on a consideration of the facts and of the range of sanctions imposed in similar cases, the Panel is satisfied that the proposed disciplinary sanction in this case is not contrary to the public interest in the administration of justice and should be accepted.

RESPONDENT BACKGROUND

[17] The Respondent was called and admitted as a member of the Law Society on May 11, 2015. He was a non-practicing member of the Law Society from May 11, 2015 to January 1, 2017.

[18] The Respondent became a former member of the Law Society on January 1, 2017 due to non-payment of fees. He was reinstated on February 16, 2017, was a sole practitioner at Parr Business Law, and opened a trust account.

[19] The Respondent was referred to the Practice Standards Committee (the "PSC") of the Law Society in September 2019. After a practice review, the PSC made recommendations to improve the Respondent's competency, including that he:

(a) enter into a Practice Supervision Agreement;

(b) complete additional Continuing Professional Development Credits in the areas of corporate law and wills and estates;

(c) implement systems to address lack of compliance with client identification and certification rules; and

(d) clean up and improve his law office administration.

[20] The Respondent was subject to a Practice Supervision Agreement with the PSC from March 27, 2020 to April 22, 2021 with supervisor Ari Shack. The Respondent was to provide quarterly compliance reports with the supervisor. During this period as well, a conduct review was conducted (in September, 2020) dealing with the Respondent's failure to disclose an insolvency in a business venture as well as his failure to meet his financial obligations by improperly using his trust account and mishandling retainer funds. The Subcommittee handling the review commented on the Respondent's "cavalier approach to compliance with the Rules …"

[21] On March 15, 2021, Supervisor Ari Shack notified the PSC of their opinion that "Steve does *not* require further supervision. His practice areas are more focused and he is

more than sufficient to practice in the area he is currently dealing with." The supervision period overlapped with that of the events alleged in the Citation.

[22] The Citation above was authorized by the Discipline Committee on April 4, 2024 and was issued on April 22, 2024.

[23] The Respondent admits that, on April 22, 2024, he was served, through his counsel, with the Citation and waived the requirements of Rule 4-19 of the Rules.

ANALYSIS OF CONDUCT

Allegation 1 – May to July 2020 Conflict of Interest

[24] As per the ASF, at all material times, the Respondent had a close personal friendship with BB. Also, at all material times to the Citation, he had a close personal friendship with AA, the complainant. The Respondent was aware of the friendship between AA and BB.

[25] In 2015, BB founded an online platform called ABC. In 2016, AA partnered with BB regarding ABC. They did not have a formal partnership agreement, but were splitting profits 50/50. Both AA and BB informally consulted the Respondent from time to time in relation to the business of ABC.

[26] In 2018, the Respondent provided BB with legal advice regarding ABC, and, in particular, structures for partnership with AA, including a potential incorporation in AA's name.

[27] Between late 2018 and April 2020, ABC was operated through AA's sole proprietorship. BB was paid 50 percent of the profits via invoicing through BB's spouse's company.

[28] Around April 2020, AA and BB began discussions on incorporating ABC and formalizing the terms of their partnership.

[29] Initially, AA and BB used the services of a non-lawyer business consultant named CD to aid them in determining the terms of the partnership. CD assisted them with composing a draft letter of understanding (the "Draft LOU"). The Draft LOU was never finalized or signed by AA or BB.

[30] On May 5, 2020, AA sought the Respondent's assistance with acquiring a shelf company to incorporate a personal business. The Respondent understood that AA's

personal business was intended to house shares in a newly incorporated company that would operate as ABC Inc., further to AA's partnership with BB.

[31] AA explicitly asked the Respondent to keep the fact that she was incorporating a personal business "between us." The Respondent replied, "Lips are sealed. Solicitor client privilege."

[32] The Respondent did not advise AA that he had a pre-existing solicitor-client relationship with BB.

[33] On May 19 and 20, 2020, the Respondent executed a formal retainer agreement with AA. At AA's request, the Respondent transferred a shelf company he owned and was the sole director of, and re-named it EC Inc. ("EC"). The Respondent transferred the common shares to AA and appointed AA as the sole director. On the Respondent's advice, AA retained the Respondent to be EC's corporate solicitor.

[34] Upon concluding the transfer of the shelf corporation, the Respondent invoiced AA for legal services.

[35] During the conversations surrounding the incorporation of AA's holding company, AA asked the Respondent to recommend a lawyer who could draft the formal partnership agreement with BB. AA stated, "My intention is to find someone that doesn't know either of us personally for the more complicated matters down the line so you don't get dragged into anything that impacts all our friendships."

[36] The Respondent recommended and introduced a lawyer to AA. A few days later, AA advised the Respondent that the recommended lawyer had declined to take on the file. The Respondent offered that BB had advised that the agreement between BB and AA was "ironed out" and just required the drafting of a formal agreement. The Respondent stated that if the drafting of the agreement was all that was needed, he could handle it for them.

[37] AA responded,

> There's no negotiation needed really – but I was considering making it a legal doc [sic], like a terms sheet to protect my interest.
>
> I want something signed, so that once we actually get to incorporating it's not another conversation of changing the plan.
>
> What do you think of that?"

The Respondent replied, “I can help. … Yeah I think it would be easy and I can maintain my neutrality.”

[38] AA again reiterated her request that the Respondent keep communications between them confidential. The Respondent agreed and advised AA that he would not disclose anything that they discussed.

[39] Following the incorporation of EC, the Respondent advised AA that the formalization of the partnership between AA and BB would best be accomplished by incorporating ABC and entering into a shareholders’ agreement. It was discussed between the Respondent and AA that a shareholders’ agreement should be prepared for review by AA and BB as they moved forward with formalizing their partnership in ABC.

[40] On May 22, 2020, BB instructed the Respondent to incorporate two shelf companies: one to be BB’s personal holding corporation and one to be ABC Inc. As part of those discussions, the Respondent told BB that AA would face a potential tax liability if she was seen to be engaged in a personal services business.

[41] The Respondent further advised BB that he would be acting for her with respect to her personal holding company, as well as acting for ABC Inc. He added, “I expect that I’ll be taking instruction from you for all matters [ABC Inc.].”

[42] In accordance with BB’s instructions, on or about June 4, 2020, the Respondent transferred a shelf company he owned and was the sole director of, and re-named it ABC Inc.

[43] Despite knowing that the terms of the partnership between AA and BB had not been finalized, the Respondent did not inform AA of the instructions he had received from BB.

[44] Further, he did not obtain either AA’s or BB’s consent, as required, to a joint retainer. He did not advise either of them that information received in connection with ABC Inc. and the business of ABC Inc. from either of them could not be kept confidential from the other client. He did not advise them that if a conflict developed between them, he could not continue to act.

[45] Further, the Respondent did not advise AA that he was acting for BB in her personal capacity, and vice versa. AA did not provide her consent to the Respondent to act for BB personally. AA was also not consulted on, and did not provide consent to, the Respondent acting for ABC Inc. The Respondent did not inform AA that he intended to take instructions solely from BB in relation to ABC Inc.

[46] The Respondent did not have a formal retainer agreement with BB or ABC Inc. His only formal retainer agreement was with AA for the incorporation of her personal holding company.

[47] On June 2, 2020, on instructions received solely from BB, and without consulting AA, the Respondent began the process of incorporating ABC Inc. He drafted a proposed shareholder's agreement and a separate services agreement (together the "Draft Agreements") to outline the terms of the ABC Inc. partnership.

[48] The Respondent relied on the Draft LOU to prepare the Draft Agreements, even though he was aware the Draft LOU did not reflect a finalized agreement. He did not seek instructions from either BB or AA to finalize the terms prior to drafting the Draft Agreements.

[49] The Respondent was aware that AA had not agreed to BB acting as sole director of ABC Inc., but the Respondent prepared the Draft Agreements such that BB was appointed the sole director on BB's instructions. He did not consult AA on this issue.

[50] The draft shareholder's agreement allocated 850 Class A Common Voting shares to BB and 150 Class C Common Non-Voting Shares to AA. The draft shareholder's agreement contained a term that EC/AA would have to buy in to maintain shareholding if new shares were issued. No mention was made of any profit-sharing agreement and there were no details of the specific metrics of how profits were to be shared.

[51] The draft services agreement labelled EC a contractor of ABC Inc. and noted that AA would have to perform services in exchange for a share of profits. It further provided that AA could be terminated at any time.

[52] The terms of the Draft Agreements were drafted largely in favour of BB and contrary to the interests of AA.

[53] Prior to advising AA of the terms of the Draft Agreements, the Respondent prepared and executed an instrument of transfer, purporting to transfer 150 Class C Common Non-Voting Shares in ABC Inc, to AA/EC. The Instrument of Transfer was signed by the Respondent in his capacity as transferor. The same was done to purportedly issue 850 Class A Voting Shares to BB's holding company.

[54] The purported share transfers were consented to by the Respondent in his capacity as sole director of ABC Inc. The Respondent also acted in his capacity as director to prepare share certificates for the purported share transfers.

[55] The Respondent then drafted a Share Purchase Agreement between himself as the vendor and EC as purchaser, subsequently resigned as Director of ABC Inc., and appointed BB as sole director in his place.

[56] While this was happening, AA texted the Respondent saying, "Do you have time for a quick chat? … In the meantime, I'm feeling a bit anxious. It would help me to hear that you've got my back. [heart emoji]" The Respondent replied the same day, "I've got your back for sure love. There's going to be a solution that works." This text message exchange occurred on the same day the Respondent was drafting the share transfer documentation.

[57] On June 5, 2020, the Respondent reported solely to BB on the actions he had taken to incorporate ABC Inc. and disburse shares.

[58] On the same day, the Respondent emailed both AA and BB providing a copy of the draft shareholder's agreement for their review, indicating that he was happy to go over the agreement with them individually or together and to respond to any questions. At the end of his email, and for the first time, the Respondent advised AA that he was acting as counsel for the company and not for either of them individually. He stated to both AA and BB, "You may wish to have a third party lawyer review the agreement. If you would like a referral, please let me know."

[59] On June 8, 2020, the Respondent and AA had a conversation over text in which the Respondent texted AA: "… just wanted to reach out - [let me know] if you'd like to spend any time looking at the shareholders' agreement. Could be good to have [CD] give it a glance as well, I'm sure he's very familiar with them. [heart emoji]"

[60] AA replied to the Respondent: "Hey, ya I sent it to [CD] and am lining up a call with a lawyer. But maybe you and I could talk as well. There are a couple things I'm not sure about. Like the board of directors issue which I mentioned to you before…".

[61] The Respondent further replied, "Board of Directors issue? Ya probably best to chat with [CD] and your lawyer first, then we can revisit."

[62] AA further replied, "Well when I read it to me it seems I'm not on the board of directors which I mentioned to you meant she could just dilute my shares and do anything without my consent. I'd like to be on the board to protect my interests."

[63] The Respondent further replied, "Ah, yeah that needs to be discussed between you two, seems you're not on the same page about the board position."

[64] Following the above conversation, the Respondent relayed AA's concerns about the board of directors to BB.

[65] AA then texted the Respondent, "Hey, please don't tell [BB] things I ask you about. It's better if I go to her with it. Thanks."

[66] On June 12, 2020, AA requested a copy of the corporate minute book for ABC Inc. from the Respondent.

[67] On June 16, 2020, AA retained another lawyer to represent her in negotiating the partnership agreement relating to ABC Inc.

Code Provisions

[68] A number of conflict-of-interest provisions under rule 3.4 of the *Code* are relevant to allegation 1.

[69] Rule 3.4-1 notes: "A lawyer must not act or continue to act for a client where there is a conflict of interest, except as permitted under this *Code."*

[70] Rule 3.4-2 adds:

> A lawyer must not represent a client in a matter when there is a conflict of interest unless there is express or implied consent from all clients and the lawyer reasonably believes that [they are] able to represent each client without having a material adverse effect upon the representation of or loyalty to the other client.

[71] Rule 3.4-3 prohibits a lawyer from representing "opposing parties in a dispute," i.e., where the parties' immediate legal interests are clearly adverse.

[72] Joint retainers are addressed under Rule 3.4-5:

> Before a lawyer is retained by more than one client in a matter or transaction, the lawyer must advise each of the clients that:
>
> (a) the lawyer has been asked to act for both … of them;
>
> (b) no information received in connection with the matter from one client can be treated as confidential so far as any of the others are concerned; and
>
> (c) if a conflict develops that cannot be resolved, the lawyer cannot continue to act for both … of them and may have to withdraw completely.

[73] Rule 3.4-7 prescribes that consent must be obtained for joint retainers and the commentary confirms that such consent must be in writing. The commentary further

advises that, despite client consent, a lawyer should refrain from acting when it is likely that a contentious issue will or may arise between or among clients' interests.

[74] Rule 3.4-8 sets out the following**:**

> Except as provided by rule 3.4-9 [see below], if a contentious issue arises between clients who have consented to a joint retainer,
>
> (a) the lawyer must not advise them on the contentious issue and must:
>
> (i) refer the clients to other lawyers; or
>
> (ii) advise the clients of their option to settle the contentious issue by direct negotiation in which the lawyer does not participate, provided:
>
> 1. no legal advice is required; and
>
> 2. the clients are sophisticated;
>
> (b) if the contentious issue is not resolved, the lawyer must withdraw from the joint representation.

[75] Rule 3.4-9 provides:

> Subject to this section, if clients consent to a joint retainer and also agree that, if a contentious issue arises, the lawyer may continue to advise one of them, the lawyer may advise that client about the contentious matter and must refer the other or others to another lawyer.

[76] Rule 3.4-26.1 says:

> A lawyer must not perform any legal services if there is a substantial risk that a lawyer's loyalty to or representation of a client would be materially and adversely affected by the lawyer's
>
> (a) relationship with the client, or
>
> (b) interest in the client or the subject matter of the legal services.

[77] The hearing panel in *Law Society of BC v. Culos*, 2013 LSBC 19 made clear that the duty of loyalty is a core value of the profession.

[78] In *Law Society of BC v. Weiser*, 2023 LSBC 32, three times, a lawyer acted for both parties to a loan transaction without disclosing the nature of the conflicting interests or recommending or requiring either party to obtain independent legal advice. Further, in none of the instances did the lawyer obtain the parties' consent to acting for both parties. The hearing panel found the conflicts to be a marked departure that amounted to professional misconduct.

Application and Analysis

[79] It is clear, and the Respondent has admitted, that he acted in a conflict of interest when he jointly represented BB and AA in relation to their partnership venture and the incorporation of ABC Inc.

[80] The Panel finds that his conflicts were numerous:

(a) The Respondent acted in a joint retainer without following the requirements prescribed by rule 3.4-5. Specifically, he did not advise the parties that he had been asked to act for both of them, that no information received in connection with the matter from one client could be withheld from the other, and that if a conflict developed between them, he could not continue to act.

(b) The Respondent acted jointly for both clients when it was obvious that their immediate legal interests in the partnership were in conflict.

(c) The Respondent acted for the parties despite his close personal relationships with each of them. The circumstances closely align with the warning provided in the commentary to rules 3.4-10 and 3.4-26.1, regarding acting for individuals with whom the lawyer has close personal relationships. It is clear the Respondent was not able to provide objective, disinterested, legal advice to either client.

(d) The Respondent took instructions from BB that were contrary to AA's interests without AA's knowledge or consent.

[81] The Panel finds that the Respondent was not transparent with AA about the nature of AA's retainer. He did not inform AA that he had a solicitor client relationship with BB, such that the retainer would necessarily be a joint retainer. He did not follow any of the rules required when acting in joint retainers. He did not obtain written consent from either client. He did not advise them of issues that could arise. He did not advise, at the outset, that they ought to obtain independent legal advice. The Respondent was at times expressly acting on instructions from BB (the incorporation of ABC Inc., and the drafting

of the shareholders' agreement) without informing or involving AA, to the latter's disadvantage.

[82] Notwithstanding the concerns raised by AA, which should have explicitly alerted the Respondent to the conflict of interest, he assured AA that he could act for both AA and BB and persisted in acting for both. The Panel finds that the Respondent was blind to the obvious conflict of interest in acting for both AA and BB in a matter in which their legal interests were clearly in conflict. The Respondent failed to recognize that his close personal relationships with both BB and AA would obscure the information he was receiving as a trusted friend from the information he was receiving as legal counsel and, thereby, had a professional obligation to keep confidential.

[83] Furthermore, the Respondent proceeded to attempt to act for both AA and BB without considering the aforementioned precautions stipulated in the *Code*.

[84] Finally, the Respondent took instructions from BB and performed services in accordance with those instructions when he knew, or ought to have known, that the work he was performing was contrary to AA's interests.

[85] Ultimately, the Respondent preferred the interests of BB over AA and drafted the Draft Agreements in BB's favour to the detriment of AA. This was contrary to his professional obligations under the *Code* and contrary to his fiduciary duties.

[86] The Respondent placed himself in a position where it was impossible for him to provide objective, disinterested professional advice to his clients. This betrayal of the duty of loyalty owed to AA is at the heart of the duties that clients expect from their lawyers and is a conflict of interest that reflects poorly on the legal profession.

[87] The Respondent's conduct had negative consequences for both of his clients, as evidenced by the fact that the parties are in litigation.

[88] The Panel finds that the conduct set out in allegation 1, to which the Respondent has admitted, amounts to professional misconduct.

Allegation 2 – July 2020 to July 2022 Conflict of Interest by Acting against Former Client

[89] Allegation 2 relates to the Respondent continuing to act for BB and ABC Inc. against the interests of AA, in relation to the partnership venture after AA retained her own lawyer.

[90] As per the ASF, on June 24, 2020, AA's new lawyer emailed the Respondent setting out AA's concerns about the terms of the Draft Agreements.

[91] The Respondent continued to act for ABC Inc. and continued to represent BB's interests in relation to ABC Inc., until approximately July 2022.

[92] The Respondent admits that in doing so, he acted against his former client, AA. The Respondent did not have AA's permission to act against her as a former client.

[93] In late June 2020, AA retained litigation counsel and, in July 2020, BB retained litigation counsel.

[94] On November 24, 2020, AA commenced legal action against BB and ABC Inc.

[95] On November 23, 2023, AA also commenced legal action against the Respondent personally and his law firm.

Code Provisions

[96] The Citation alleges contravention of the main conflict of interest provisions set out above, rule 3.4-1 and rule 3.4-10.

[97] Rule 3.4-10 provides that:

> Unless the former client consents, a lawyer must not act against a former client in:
>
> (a) the same matter,
>
> (b) any related matter; or
>
> (c) any other matter, if the lawyer has relevant confidential information arising from the representation of the former client that may reasonably affect the former client.

Case Law

[98] In *Macdonald Estate v. Martin,* [1990] 3 SCR 1235, a case relating to disqualification of solicitors based on prior representation, the Court emphasized that ensuring there can be no conflict of interest between a solicitor and former client is important not only to protect the interests of the specific litigant, but also to preserve public confidence in the administration of justice.

[99] In *Roisin v. MacPhail*, (1997), 32 BCLR (3d) 279 (C.A), the Court analyzed whether there was a sufficient relationship between two family law retainers to constitute a disqualifying conflict of interest. The court noted that counsel was privy, in the prior retainer, to confidential information regarding the plaintiff's financial circumstances, but

also had insight into the plaintiff's character and personality traits. The court confirmed that such insights into a litigant's personality were matters of legitimate concern in assessing whether the lawyer had received confidential information and was therefore in a conflict.

[100] In *Law Society of BC v. Rutley*, 2013 LSBC 16, the lawyer represented both MB and PB, a married couple, in 2005, in relation to drafting wills and powers of attorney. The lawyer and MB were friends. In 2010, after MB and PB separated, the lawyer acted for MB by assisting her to use the power of attorney to transfer shares in a private company from PB to MB and to execute a Form A Transfer and register it in the Land Title Office, by which the interest of PB was transferred to MB. The hearing panel determined that through her conduct, the lawyer had violated her duty to PB, who had been a former client, and that such conduct reflected adversely on the integrity of the legal profession. The panel accepted the respondent's admission of professional misconduct for acting in a conflict of interest.

Application and Analysis

[101] The Respondent admits that he acted against his former client by continuing to represent BB's interests and ABC Inc. in relation to the negotiation over the shareholders agreement and partnership venture between the parties.

[102] The partnership venture was the same matter for which AA and BB jointly retained the Respondent. Thus, his conduct is clearly contrary to rule 3.4-10.

[103] In addition, the Respondent had obtained confidential information from AA that placed him in a clear conflict of interest in acting against AA. For example, he knew AA's fears and desires in relation to the partnership agreement. AA admitted to experiencing anxiety around the situation. AA was clear that the directors' issue was a key concern along with the potential dissolution of shares. Such knowledge should have stopped the Respondent from acting against AA, an action in clear violation of rule 3.4-10(c).

[104] The Respondent's failure to meet his duty of loyalty to AA in all of the circumstances is clearly a marked departure from expected conduct.

[105] The Panel finds that the Respondent's conduct represents a significant departure from the standard of conduct expected of a lawyer in the circumstances, reflects poorly on the profession, and constitutes professional misconduct.

Conclusion on Violations

[106] In light of the admissions set out in the ASF, the *Code* rules, and cases set out above, the Panel finds that the Respondent committed professional misconduct with regard to the actions delineated in allegations 1 and 2.

JOINTLY PROPOSED SANCTION

[107] The Law Society and the Respondent jointly propose disciplinary action of a $20,000 fine.

Nature and Gravity of the Misconduct

[108] The duty to avoid conflicts of interest is at the heart of a lawyer's duty to a client and among one of the most fundamental duties of the profession.

[109] The conflicts of interest in this case were not subtle; they were obvious.

[110] *Law Society of BC v. Golden*, 2019 LSBC 15 notes that the duty to avoid conflicts of interest "strike the core of the solicitor-client relationship and elevate the need to ensure that the sanction imposed is sufficient to uphold and protect the public confidence in the integrity of the legal profession and the Law Society's disciplinary process."

[111] The Benchers on review in *Law Society of BC v. Coglon*, [2002] LSBC 21 at para. 46, expressed their view of similar conduct as follows*:*

> The Respondent did not fail to spot a deer in difficult camouflage; this was a failure to spot an elephant in the living room. The conflicts of interest that the Respondent embraced were serious, flagrant, obvious, and indefensible. …

[112] Furthermore, the seriousness of the misconduct is not lessened by the Respondent's good intentions or the absence of bad faith. As stated by the panel in *Coglon,* at para. 47:

> … It is usual in conflict cases that the lawyer will lack some malign motivation and that he or she will have the strong hope that everything will work out for everyone. In a certain sense that is the problem: the Law Society cannot have, and the public interest cannot have, any real assurance that well-motivated actions taken in conflict of interest will cause less harm that those basely motivated. The problems come from the perturbations of thinking processes and judgment which result from acting with compromised loyalties.

PCR

[113] As per the ASF and noted above, the Respondent has a PCR which consists of a conduct review authorized in 2020, recommendations from the PSC in 2020, and a limitation to practice under supervision which lasted from March 2020 to April 2021. The Respondent's PCR is supportive of progressive discipline being applied.

Acknowledgement of Misconduct

[114] The Respondent has admitted to the facts set out in the ASF and that his conduct constitutes professional misconduct. In doing so, the Panel recognizes that the Respondent has saved the Law Society from expending time and resources in holding a lengthy hearing to prove the misconduct. As a result of the Respondent's admissions, the hearing was shortened and proceeded in a more efficient manner.

Public's Confidence in the Legal Profession

[115] It is of critical importance that the public have confidence in the ability of the legal profession to regulate and supervise its members. As such, any sanction imposed must reflect the seriousness of the Respondent's misconduct and ensure that the Respondent is accountable for his actions. As well, an appropriate sanction should act as a deterrent to others from engaging in similar misconduct.

Range of Sanctions

[116] In *Law Society of BC v. Laughlin,* 2019 LSBC 42, a case involving a lawyer who acted for all parties in attempting to valuate and facilitate share purchases to a share transaction, the lawyer was given a $12,000 fine.

[117] In *Golden*, the lawyer was found to have acted in a conflict of interest during his representation of a husband in family law proceedings. In the proceedings, the husband claimed an interest in real property owned by the wife. At the same time, the wife attended the lawyer's office with her friend, TN. TN was a longtime client of the lawyer. The lawyer prepared a promissory note and a power of attorney. The promissory note indicated that the wife owed TN $200,000 and would be paid out of the proceeds of the property that was at issue in family law proceedings. The power of attorney gave TN the authority to sell the property on behalf of the wife. During this meeting, the lawyer served the wife with the husband's Notice of Family Claim. He told her she needed independent counsel for the family law claim, but not in relation to the promissory note or the power of attorney. At the same meeting, the lawyer advised TN that the husband was making a claim to the property. When TN eventually sold the property, she retained

the subject lawyer's firm to handle the conveyance. The lawyer released the sale proceeds left in trust on the instructions of the husband, even though the file was opened in the wife's name, via TN, through the power of attorney. The withdrawal of those funds was the subject of a second allegation of improper withdrawal, which the hearing panel ruled as professional misconduct. The wife ultimately commenced a civil action against the subject lawyer for his conduct. The lawyer had a dated PCR, and the matter was his first citation in more than 30 years of practice. The lawyer was fined $20,000.

Conclusion on Sanction

[118] In this matter, the Respondent's actions resulted in prejudice to AA, BB, and ultimately called into disrepute himself and the profession. This case ranks on the egregious end of the spectrum comparing conflict of interest cases due to the blatantly obvious conflicts of interest arising from his close, personal relationships to both AA and BB and the impacts on them.

[119] The Panel finds that the jointly proposed sanction is not contrary to the public interest in the administration of justice and should be accepted.

[120] The Respondent will be fined $20,000, payable within 30 days of the date this decision is issued or on a date to which the parties may agree to in writing.

COSTS

[121] The Respondent has consented to an order for costs in the amount of $1,000 payable within 30 days from the date this decision is issued. The Panel finds that this is reasonable within the tariffs set in Schedule 4 of the Rules.

ORDER

[122] The Panel orders that:

(a) the Respondent be fined $20,000, payable within 30 days of the date this decision is issued or such other date as the parties may agree to in writing; and

(b) the Respondent pay costs to the Law Society in the amount of $1,000, inclusive of disbursements, within 30 days of the date this decision is issued.