

2023 LSBC 11
Hearing File No.: HE20200065
Decision Issued: March 10, 2023
Citation Issued: August 30, 2020

THE LAW SOCIETY OF BRITISH COLUMBIA TRIBUNAL
HEARING DIVISION

BETWEEN:

THE LAW SOCIETY OF BRITISH COLUMBIA

AND:

LUBOMIR IHOR HUCULAK

RESPONDENT

DECISION OF THE MOTIONS ADJUDICATOR

Hearing date:	March 9, 2023
Panel:	Lindsay R. LeBlanc
Discipline Counsel:	Mandana Namazi
Counsel for the Respondent:	Scott Wright

INTRODUCTION

- [1] The parties have brought forward a joint application in writing for a stay pursuant to Rule 5-20(3).
- [2] I was provided with a draft consent order and asked to make the orders contained therein. In summary, the parties seek to have the disbarment of the Respondent ordered in Law Society decision 2023 LSBC 05 stayed pending his appeal to the Court of Appeal of British Columbia (Case File No. CA48515) of Law Society decision 2022 LSBC 26.

ANALYSIS

[3] Rule 5-20(3) provides as follows:

5(2)(3) When a review is initiated under Rule 5-19 [*Initiating a review*], any party to the review may apply to the Tribunal for a stay of any order not referred to in subrule (1) or (2).

[4] Rule 5-15 defines “review” in Rules 5-15 to 5-28 as “a review of a hearing panel decision by a review board under section 47”.

[5] The parties did not put forward any evidence a review of Law Society decision 2023 LSBC 05 has been initiated. The only procedural evidence that I have is that of the appeal in BCCA Case File No. CA48515.

[6] As the parties rely solely on Rule 5-20(3) in this joint written application, I do not have jurisdiction to grant the stay sought if I was inclined to do so.

[7] There may be times when brief joint submissions taken in writing are appropriate. This was not one of them. Overall, the submissions lacked the necessary legal analysis required relative to the importance of the order sought. A disbarment order is a serious order made to protect the public – staying it requires satisfaction of the *RJR-MacDonald Inc. v. Canada (Attorney General)* factors. For one of the factors, I was merely told it was satisfied. I was provided with 11 prior decisions where a stay was sought. None of the 11 involved a disbarment order and I was not advised whether a full canvassing of the prior decisions was undertaken and whether this was first of its kind. If an application is to be made in writing alone on a serious matter, the adjudicator must be provided with fulsome submission on the issues.

ORDER MADE

[8] The joint application for a stay of suspension is dismissed without prejudice to the parties to appear before me to address jurisdictional issues and the *RJR MacDonald* factors.