

2022 LSBC 31
Hearing File No.: HE20190072
Decision Issued: September 8, 2022
Citation Issued: November 5, 2019

THE LAW SOCIETY OF BRITISH COLUMBIA TRIBUNAL
HEARING DIVISION

BETWEEN:

THE LAW SOCIETY OF BRITISH COLUMBIA

AND:

TEJINDER SINGH DHILLON

RESPONDENT

**DECISION OF THE HEARING PANEL
ON FACTS AND DETERMINATION**

Hearing dates: April 25, 26, 27, 28 and 29, 2022

Panel: Dean P.J. Lawton, QC, Chair
Bruce LeRose, QC, Lawyer
Robert Smith, Public representative

Discipline Counsel: Angela Westmacott, QC, Kaitlyn Chewka
Appearing on his own behalf: Tejinder Singh Dhillon

INTRODUCTION

[1] A hearing was convened under s. 38 of the *Legal Profession Act*, SBC 1998, c. 9 (the “*Act*”) to determine if Tejinder Singh Dhillon (the “Respondent”) engaged in conduct that constitutes professional misconduct, or was a breach of the *Act*, the Law Society Rules (the “Rules”), or both, as alleged in the Further Amended Citation issued during the course of the hearing on April 29, 2022.

- [2] The hearing took place over five consecutive days, from April 25 through April 29, 2022. The Respondent was self-represented at the hearing.
- [3] The original citation issued on November 5, 2019 included 17 allegations. At the commencement of the hearing before the Panel, the Law Society stated that it was abandoning allegations 10, 14, 15(a) and 15(c), and accordingly, an Amended Citation was filed as an exhibit reflecting those changes. At the start of the final day of the hearing on April 29, 2022, with the consent of the Respondent, the Law Society filed a Further Amended Citation, in which some wording changes were made and allegation 15(e) was abandoned. A copy of the Further Amended Citation with necessary anonymizations, amendments and accepted changes is attached to these reasons at Appendix “A”.

BACKGROUND

- [4] The Respondent was admitted as a member of the Law Society of British Columbia (the “Law Society”) on May 22, 1998.
- [5] From May 1, 2008 to May 21, 2019, the Respondent practised as a sole practitioner under the firm name Dhillon & Company Law Corporation (the “Law Firm”).
- [6] The Respondent’s preferred area of practice through the Law Firm was real estate law and related purchaser and seller conveyancing transactions.
- [7] The Respondent employed two support staff, namely, a bookkeeper/office manager and a conveyancing clerk/assistant.
- [8] The Respondent, through the Law Firm, operated one pooled trust account and one general account.
- [9] On June 4, 2019, the Executive Director of the Law Society consented to the Respondent’s request to resign his membership in the Law Society effective May 15, 2019. The Respondent became a former member of the Law Society as of May 21, 2019.
- [10] In light of admissions made by the Respondent on the final day of the hearing, the Panel sees as uncontroversial the following history of events provided by the Law Society in its written submissions. The Respondent’s admissions will be canvassed later in these reasons:
- (a) In February and March 2017, a Law Society auditor conducted a compliance audit of the Respondent’s books, records and accounts under

Rule 3-85 of the Rules. The auditor identified several deficiencies in the Respondent's books, records and accounts including, but not limited to, failures to retain supporting accounting records, failures to make trust deposits promptly, trust shortages and failures to account for all funds in the records.

- (b) On July 7, 2017, the chair of the Discipline Committee ordered an investigation into the Respondent's practice, including the books, records and accounts of the Law Firm, pursuant to Rule 4-55 of the Rules. The "Rule 4-55 Order" required the Respondent to "[i]mmediately produce and permit the copying of all files, vouchers, records, accounts, books, and any other evidence regardless of the form in which they are kept." A Law Society investigation team was assembled to carry out the Rule 4-55 Order.
- (c) On July 25, 2017, the investigation team attended at the office of the Law Firm to commence the investigation focusing on records for the period January 1, 2015 to July 25, 2017.
- (d) On September 10, 2018, the investigation team issued its forensic investigation report. It identified the following contraventions of Law Society trust accounting rules:
 - (i) commingling of funds;
 - (ii) payment of fees by way of electronic transfer rather than using a trust account cheque payable to the general account;
 - (iii) improper trust account withdrawals;
 - (iv) trust account shortages;
 - (v) failing to complete trust reconciliations within 30 days, or at all, and failing to provide proper reasons for any differences;
 - (vi) conflicts of interest; and
 - (vii) failing to maintain accounting and billing records.

The hearing

[11] The Law Society has the burden of proving the allegations in a citation on the civil standard of a balance of probabilities. (See *Law Society of BC v. Sahota*,

2016 LSBC 29 at para. 39 and *Law Society of BC v. Mcleod*, 2020 LSBC 33 at para. 71)

- [12] As mentioned earlier, the hearing of this matter was conducted over five consecutive days. During the first four days of the hearing, witnesses called by the Law Society gave evidence and exhibits were filed.
- [13] But for events that occurred on the fifth day of the hearing, the Panel would have outlined in these reasons the testimony of the witnesses, the documents in evidence and the submissions of the parties, to explain the evidentiary basis for our determination. In the unusual circumstances of this hearing however, we will limit our remarks on the evidence by saying that, absent the admissions of the Respondent, we would have concluded that the Law Society had proven all of the allegations in the Amended Citation and we would have found that the Respondent had committed professional misconduct and breached the *Act* and the Rules.
- [14] At the commencement of the fifth day of the hearing, counsel for the Law Society and the Respondent informed the Panel that they had come to a procedural arrangement that would make the hearing process more efficient. In this context, the following exchange occurred and is recorded in the transcript:

CNSL A. WESTMACOTT: We apologize for the downtime yesterday but we were able to reach an agreement on how to proceed which will be much more efficient. I will be amending the Amended Citation under Rule 5-4.2(1) and Mr. Dhillon is consenting to that amendment.

THE CHAIR: I take it there's a copy of the amendment?

CNSL A. WESTMACOTT: Yes.

...

CNSL A. WESTMACOTT: As I read the rules, it's not an application to the panel. It's something discipline counsel can do with the consent of the respondent. I will tender that into evidence in a moment but I'll lay out the next steps. Mr. Dhillon will take the stand. He will admit to all of the allegations in the Further Amended Citation and provide whatever additional evidence he wishes to provide. I will then conduct a cross-examination which will be considerably shorter in view of the admissions that Mr. Dhillon is going to make. Mr. Dhillon will of course answer any

questions that the panel members may have. Mr. Dhillon will not be calling any further witnesses ...

...

THE CHAIR: [I] need to confirm with Mr. Dhillon, you agree with these amendments?

T. DHILLON: I provide my consent as required by the rules.

THE COURT: The Further Amended Citation will be marked as an exhibit ...

- [15] Following the above exchange, the Further Amended Citation was entered as an exhibit. The Respondent then opened his case, gave sworn evidence in chief, and was cross-examined by counsel for the Law Society.
- [16] In the course of his testimony, the Respondent stated in respect of the allegations of professional misconduct in the Further Amended Citation: “I fully accept every one of these as is and I’m absolutely in agreement I can adopt this Further Amended Citation as is.” (Transcript of examination in chief of T. Dhillon at page 7, lines 23 to 25)
- [17] Following the statement of the Respondent as set out above at paragraph 16, the Chair and the Respondent had the following exchange:

THE CHAIR: ... Each of the provisions in the Further Amended Citation, paragraphs 1 through 17 inclusive, you adopt and agree are admissions that you are making?

T. DHILLON: Yes.

...

T. DHILLON: For the record I, Tejinder Dhillon, agree and accept each -- that I have accepted each of the allegations in the Further Amended Citation in its entirety from 1 through 17, although some of them are obviously struck out. (Transcript of examination in chief of T. Dhillon at page 8, lines 5 to 9 and 22 to 25; page 9, line 1)

- [18] For context, the reference in the above transcript extract to some allegations being struck out pertains to wording and paragraph removal by way of “strike-throughs” in the body of the Further Amended Citation, thus demonstrating their removal.

[19] The remainder of the Respondent's evidence in chief consisted of him referring sequentially by number to each of the paragraphs in the Further Amended Citation and admitting all of the allegations against him in each of the paragraphs.

[20] In cross-examination, counsel for the Law Society asked the following question, and the Respondent gave the following answer:

Q Would you agree with me that the misappropriation, improper withdrawal or improperly authorized withdrawal of client trust funds as outlined in the Further Amended Citation occurred because of your negligence and/or recklessness in the discharge of your fiduciary obligations?

A I would agree with that. (Transcript of cross-examination of T. Dhillon at page 43, lines 15 to 22)

[21] At the conclusion of his cross-examination, the Respondent called no further witnesses and he closed his case.

[22] In our view, the above-referenced extracts from the transcript of proceedings at the hearing are unequivocal confirmation of the admission by the Respondent of all of the allegations against him in the Further Amended Citation of professional misconduct, breaches of the *Act* and the Rules.

[23] At the close of the evidence at the hearing, the Panel directed that the parties provide their submissions on facts and determination in writing. The Law Society delivered its submissions, followed by those of the Respondent. The Law Society also delivered reply submissions. The Respondent applied to the Panel for discretionary leave to deliver sur-reply. In a memorandum to the parties, the Panel dismissed the application on the basis that there were no new issues raised in the Law Society's reply submissions and further, that sur-reply should be needed only in rare circumstances. We were guided in this conclusion by the helpful observations of the court in *Owners, Strata Plan LMS 1816 v. BC Hydro*, 2002 BCSC 313.

[24] In assessing the admissions of the Respondent in the context of the evidence, the Panel considered the often referenced case of *Law Society of BC v. Martin*, 2005 LSBC 16 in determining what is meant by lawyer "professional misconduct". *Martin* suggests that the test to be applied by a panel in considering if professional misconduct has occurred in a particular case is "whether the facts as made out disclose a marked departure from that conduct the Law Society expects of its

members.” This is an objective test, and is satisfied when a lawyer’s conduct displays gross culpable neglect of their duties as a lawyer.

[25] Based upon the unequivocal admissions made by the Respondent on the final day of the hearing, the *viva voce* evidence from Andrea Chan, Tim Bottomer, MB, TR and the Respondent, and having considered the written submissions of the parties, we are satisfied that the Law Society has proven all of the allegations of fact against the Respondent in the Further Amended Citation. In our opinion, the Respondent’s conduct amounts to a marked departure from that conduct the Law Society expects of lawyers, and constitutes professional misconduct.

[26] With respect to the written submissions of the Respondent, the Panel observes that some of these appear to be attempts to introduce new evidence by way of closing submission. This form of submission is, in our view, an unacceptable practice.

[27] Given the multiple amendments to the Citation, and with the goal of clarity, the following is a list of the paragraph numbers of allegations in the Further Amended Citation, with wording changes, as found in Appendix “A”, that we have determined have been proven against the Respondent:

- (a) 1(a); 1(b); 2; 3; 4; 5(a); 5(b); 5(c); 6; 7; 8; 9(a); 9(b); 11(a); 11(b); 11(c); 12; 13; 15(b); 15(d); 15(f); 16(a); 16(b); 17(a); and 17(b).

[28] We have anonymized client names to protect lawyer-client privilege and confidentiality, and the names of others in the Further Amended Citation where any earlier name anonymization order was made by the Panel in respect of those persons.

CONCLUSION

[29] We are satisfied on a balance of probabilities that the Law Society has proven the Respondent engaged in professional misconduct and breaches of the *Act* and the Rules, as alleged in the Further Amended Citation.

APPENDIX A

AY (File No. [number])

1. On approximately January 22, 2015, while acting for your client AY in connection with a real estate matter, you did one or both of the following:
 - (a) misappropriated, improperly withdrew, or improperly authorized the withdrawal from trust of \$1,000,000 by way of trust cheque no. [number] payable to [numbered company] BC Ltd., when neither you nor [numbered company] BC Ltd. were entitled to those funds, contrary to one or both of Rule 3-56 [now Rule 3-64] of the Law Society Rules and your fiduciary duties to your client;
 - (b) failed to honour the trust commitment you gave in your January 21, 2015 letter to TR, lawyer, to hold the \$1,000,000 in trust as set out, contrary to one or both of rules 7.2-11 and 2.2-1 of the *Code of Professional Conduct for British Columbia*.

This conduct constitutes professional misconduct or breach of the Act or rules, pursuant to s. 38(4) of the *Legal Profession Act*.

2. Between approximately January 23, 2015 and March 10, 2015, in the course of representing your client AY in connection with a real estate matter, you represented to another lawyer that you held \$1,000,000 in trust, when you knew or ought to have known this was not true, contrary to rule 2.2-1 of the *Code of Professional Conduct for British Columbia*.

This conduct constitutes professional misconduct, pursuant to s. 38(4) of the *Legal Profession Act*.

3. On approximately March 10, 2015, you misappropriated, improperly withdrew, or improperly authorized the withdrawal of \$175,000 from your pooled trust account, by withdrawing or authorizing the withdrawal of \$1,000,000 on behalf of your client AY, when you held only \$825,000 to the credit of that client, contrary to one or more of Rules 3-55 and 3-56(1.2) [now Rules 3-63 and 3-64(3)] of the Law Society Rules and your fiduciary duties to your other clients.

This conduct constitutes professional misconduct or breach of the Act or rules, pursuant to s. 38(4) of the *Legal Profession Act*.

V/MV (File Nos [number] and [number])

4. On approximately February 2, 2016, while acting for your client V/MV in connection with a real estate matter, you misappropriated, improperly withdrew, or improperly authorized the withdrawal from trust of \$300,000 by way of trust cheque no. [number] payable to [numbered company] BC Ltd., when neither you nor [numbered company] BC Ltd. were entitled to those funds, contrary to one or both of Rule 3-64 of the Law Society Rules and your fiduciary duties to your client.

This conduct constitutes professional misconduct or breach of the Act or rules, pursuant to s. 38(4) of the *Legal Profession Act*.

MI (File No. [number])

5. Between approximately December 2014 and March 2015, while acting for your client MI in connection with a real estate matter, you misappropriated, improperly withdrew, or transferred, or improperly authorized the withdrawal or transfer of some or all of \$60,000 held in trust on behalf of your client, contrary to one or more of Rules 3-56 and 3-60 [now Rules 3-64 and 3-68] of the Law Society Rules and your fiduciary duties to your client, and in particular you did one or more of the following:

- (a) on approximately December 31, 2014, you transferred \$22,000 to the credit of another client (Client Matter No. [number]) to cover a trust shortfall in that other client ledger, without MI's knowledge or consent and without properly recording the transfer of funds between client trust ledgers;
- (b) on approximately January 30, 2015, you withdrew or authorized the withdrawal of \$15,000 by way of trust cheque no. [number] payable to [numbered company] BC Ltd., when neither you nor [numbered company] BC Ltd. were entitled to those funds;
- (c) on approximately March 17, 2015, you withdrew or authorized the withdrawal of \$39,003.75 by way of trust cheque no. [number] payable to your general account, of which \$9,003.75 was withdrawn with respect to your client MI, when you were not entitled to those funds.

This conduct constitutes professional misconduct or breach of the Act or rules, pursuant to s. 38(4) of the *Legal Profession Act*.

6. Between approximately December 2014 and March 2015, in the course of acting for your client MI, you failed to honour a trust condition to hold 25% of the gross purchase price of the property in trust, which had been imposed on you by GM, notary public, in his letter dated December 30, 2014, by withdrawing some or all of the funds from trust, contrary to rule 7.2-11 of the *Code of Professional Conduct for British Columbia*.

This conduct constitutes professional misconduct, pursuant to s. 38(4) of the *Legal Profession Act*.

7. On approximately April 2, 2015, you misappropriated, improperly withdrew, or improperly authorized the withdrawal of a total of \$24,003.75 from your pooled trust account by withdrawing or authorizing the withdrawal of \$58,761.88 on behalf of your client MI, and a further \$450 in payment of your disbursements, when you held only \$35,208.13 to the credit of that client, contrary to one or more of Rules 3-55 and 3-56(1.2) [now Rules 3-63 and 3-64(3)] of the Law Society Rules and your fiduciary duties to your clients.

This conduct constitutes professional misconduct or breach of the Act or rules, pursuant to s. 38(4) of the *Legal Profession Act*.

R (File No. [number])

8. On approximately November 11, 2014, while acting for your client R in connection with a real estate matter, you misappropriated, improperly withdrew, or improperly authorized the withdrawal from trust of \$22,000 by way of trust cheque no. [number] payable to your brother, SD, when neither you nor your brother were entitled to the funds, contrary to one or both of Rule 3-56 [now Rule 3-64] of the Law Society Rules and your fiduciary duties to your client.

This conduct constitutes professional misconduct or breach of the Act or rules, pursuant to s. 38(4) of the *Legal Profession Act*.

AT and PT (File No. [number])

9. On approximately March 17, 2015, while acting for your clients AT and PT in connection with a real estate matter, you did one or both of the following:
- (a) misappropriated, improperly withdrew, or improperly authorized the withdrawal of \$39,003.75 by way of a trust cheque no. [number] payable to your general account, of which \$30,000 was withdrawn with respect to your clients AT and PT, when you were not entitled to those funds,

contrary to one or both of Rule 3-56 [now Rule 3-64] of the Law Society Rules and your fiduciary duties to your clients;

- (b) breached your undertaking to maintain a holdback of \$38,850 as set out in your March 16, 2015 fax to C Trust Company of Canada, contrary to rule 7.2-11 of the *Code of Professional Conduct for British Columbia*.

This conduct constitutes professional misconduct or breach of the Act or rules, pursuant to s. 38(4) of the *Legal Profession Act*.

Conflicts of Interest

- 10. [Abandoned]
- 11. Between approximately February 2016 and January 2017, you acted while in a conflict of interest with your clients SK and SK contrary to one or more of rules 3.4-28, 3.4-29 and 3.4-34 of the *Code of Professional Conduct for British Columbia*, by allowing V Corp., a corporation beneficially owned by your wife, to lend your clients \$50,000 and failing to do one or more of the following:
 - (a) disclose and explain the nature of the conflict of interest to your clients;
 - (b) require that your clients receive independent legal representation;
 - (c) obtain your clients' consent.

This conduct constitutes professional misconduct, pursuant to s. 38(4) of the *Legal Profession Act*.

Trust Shortages in Pooled Trust Account

- 12. Between approximately March 2015 and July 2017, in one or more of twenty-five (25) instances set out in Schedule "A" to this citation, you misappropriated, improperly withdrew, or improperly authorized the withdrawal of trust funds from your trust account when there were insufficient funds held to the credit of the client on whose behalf you were making the withdrawal, contrary to Rule 3-56(1.2) [now Rule 3-64(3)] of the Law Society Rules.

This conduct constitutes professional misconduct or breach of the Act or rules, pursuant to s. 38(4) of the *Legal Profession Act*.

- 13. You failed to immediately make a written report to the Executive Director about one or more of the twenty-five trust shortages set out in Schedule "A" to this citation, contrary to Rule 3-66 [now Rule 3-74] of the Law Society Rules.

This conduct constitutes professional misconduct or breach of the Act or rules, pursuant to s. 38(4) of the *Legal Profession Act*.

14. [Abandoned]

Breaches of Various Trust Accounting Rules

15. Between approximately January 1, 2015 and July 25, 2017, you failed to comply with your accounting obligations under Part 3, Division 7 of the Law Society Rules and the *Code of Professional Conduct for British Columbia* (the “BC Code”), by doing one or more of the following:
- (a) [abandoned]
 - (b) in some or all of seven (7) instances set out in Schedule “C”, withdrawing, or authorizing the withdrawal of trust funds totaling \$95,000 for payment of legal fees by electronic transfer instead of trust cheques payable to your general account, contrary to Rule 3-56(3) [now Rule 3-64(6)] of the Law Society Rules;
 - (c) [abandoned]
 - (d) failing to retain all supporting documentation for your trust account including bank deposit slips relating to some or all of 376 deposits made between January 1, 2017 and July 25, 2017, contrary to one or both of Rule 3-67 and Rule 10-4(1) of the Law Society Rules;
 - (e) [abandoned]; and
 - (f) failing to prepare monthly trust reconciliations of your pooled trust accounts by failing to provide proper reasons for any differences between the total of all unexpended balances held in trust for clients and the total balances held in your pooled trust account, in one or more of the twenty-nine (29) instances set out in Schedule “E”, contrary to Rules 3-60 and 3-65 [now Rules 3-68 and 3-73] of the Law Society Rules.

This conduct constitutes professional misconduct or breach of the Act or rules, pursuant to section 38 of the *Legal Profession Act*.

Failure to Supervise/Improper Delegation

16. Between approximately January 1, 2015 and July 25, 2017, you failed to properly supervise your bookkeeper and office manager XX, or you improperly delegated

your trust accounting responsibilities to her, or both, contrary to one or more of rule 6.1-1 and 6.1-3 of the *Code of Professional Conduct for British Columbia*, and Rule 3-48 [now Rule 3-54] of the Law Society Rules, including by:

- (b) providing XX with pre-signed blank trust cheques;
- (d) providing XX with online access to your trust account.

This conduct constitutes professional misconduct or breach of the Act or rules, pursuant to section 38 of the *Legal Profession Act*.

Breach of Undertaking to the Law Society

17. Between approximately February 2019 and September 2019, you breached one or both of your undertaking dated November 2, 2018 to the Law Society of British Columbia and an Order dated July 7, 2017 made by the Chair of the Discipline Committee, contrary to one or both of rules 7.1-1 or 7.2-11 of the *Code of Professional Conduct for British Columbia*, by doing one or both of the following:

- (a) failing to immediately, or ever, provide the accounting records requested by the Law Society in correspondence dated April 8, 2019, April 25, 2019 and May 30, 2019; and
- (b) holding in trust more than \$1,000 in client funds in connection with client matter [number] for more than seven business days.

This conduct constitutes professional misconduct, pursuant to s. 38(4) of the *Legal Profession Act*.