

2024 LSBC 19  
Hearing File No.: HE20200018  
Decision Issued: April 19, 2024  
Citation Issued: March 11, 2020

THE LAW SOCIETY OF BRITISH COLUMBIA TRIBUNAL  
HEARING DIVISION

BETWEEN:

**THE LAW SOCIETY OF BRITISH COLUMBIA**

AND:

**DESMOND GREG FRIEDLAND**

RESPONDENT

**DECISION OF THE MOTIONS ADJUDICATOR  
ON AN APPLICATION TO VARY CONDITIONS**

Hearing date(s):	April 18, 2004
Motions Adjudicator:	Herman Van Ommen, KC
Discipline Counsel:	Kathleen Bradley
Appearing on his own behalf:	Desmond Greg Friedland

## NATURE OF THE APPLICATION

[1] This is an application by the Respondent pursuant to Rule 5-12 (1)(d) of the Law Society Rules to vary a condition that he file an Accountant's Report with his Annual Trust Report for a period of three years and thereafter until relieved of that requirement by the Trust Regulation Department. He asks that he not be required to file the Accountant's Report this year and next.

[2] The condition the Respondent seeks to vary was ordered by a hearing panel, following a hearing on disciplinary action, in reasons issued on December 16, 2021: *Law Society of BC v. Friedland*, 2021 LSBC 53 (the "*DA Decision*").

[3] This application is opposed by the Law Society on the grounds that the Respondent has failed to show that he can now be trusted to fully comply with his record keeping responsibilities such that the public is protected and the condition is unnecessary.

[4] The Respondent made a similar application last year: *Law Society of BC v. Friedland*, 2023 LSBC 7 (the "*Motions Decision*"). The background to this matter is set out in those reasons.

[5] I will decide this application rather than refer it to the panel that made the original order for the same reasons as set out in my previous decision: *Motions Decision*, at para. 2 to 3.

## ANALYSIS

[6] In response to the Respondent's previous application the condition set out at para. 72(c) of the *DA Decision* was varied: *Motions Decision*, at para. 23. The previous variation allowed the Respondent to provide an Accountant's Report for 2022 limited to September 3, 2022 to December 31, 2022 rather than the whole year because the first eight months had been covered by a compliance audit.

[7] Since that decision the Director of Trust Assurance amended the Respondent's filing year end period to February 28, 2023. As a result, the time period that the Respondent's next Accountant's Report must cover is March 1, 2023 to February 28, 2024 (actually I presume February 29 because of the leap year) (the "2023 Accountant's Report").

[8] The Respondent applies to be relieved of the obligation to file the 2023 Accountant's Report as well as for the next period covering March 1, 2024 to February 28, 2025 (the "2024 Accountant's Report").

[9] The obligation to file the 2024 Accountant's Report stands on a different footing than prior years. The Panel's order in the *DA Decision* was that the Respondent file an Accountant's Report for three years which were 2021, 2022, and 2023, and then thereafter until relieved of the obligation by the Trust Regulation Department. His obligation to file a 2024 Accountant's Report therefor depends on whether or not the Trust Regulation Department agrees to relieve him of that obligation. He has not asked the Trust Regulation Department to relieve him of that obligation. I will not consider his request to be relieved of the obligation to file the 2024 Accountant's Report until after such a request is dealt with.

[10] With respect to filing the 2023 Accountant's Report the Respondent says he should be relieved of that obligation because of the following:

- (a) the compliance audit overlaps a significant portion of the same period of time;
- (b) complying with the order will inflict great financial hardship; and
- (c) he has been operating under a Trust Supervision Agreement since June 2023 which has required and will continue to require a far greater scrutiny of his trust records than an Accountant's Report would achieve.

[11] The compliance audit only covered the period March 1, 2021 to September 2, 2022 so it does not overlap with the time period covered by the 2023 Accountant's Report.

[12] In his previous application the Respondent also argued financial hardship but failed to support the claim with affidavit evidence. That ground was given no weight for that reason: *Motions Decision*, at paras. 18 to 20. He has again failed to support his claim of financial hardship with any evidence and I again will give this ground no weight.

[13] The Respondent asserts that the Trust Supervisor's monthly reports provide "far greater scrutiny" than an Accountant's Report". The Law Society relies on the affidavit of A. Wang, a certified professional accountant employed by the Law Society. She explained that the monthly reports of the Trust Supervisor and an Accountant's Report are different reports and one does not replace the other. An Accountant's Report applies auditing procedures whereas the Trust Supervisor, who is a lawyer not an accountant, provides a high-level review in his monthly reports. As a result, an Accountant's Report provides a greater level of assurance of the Respondent's compliance with the Law Society Rules. I accept her evidence.

## **DECISION**

[14] The Respondent's application is dismissed.