

2020 LSBC 01  
Decision issued: January 8, 2020  
Citation issued: October 25, 2018

**THE LAW SOCIETY OF BRITISH COLUMBIA**

**In the matter of the *Legal Profession Act*, SBC 1998, c. 9**

**and a hearing concerning**

**SUMANDIP SINGH**

**RESPONDENT**

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

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Hearing dates: August 27, 2019  
September 4 and 5, 2019

Panel: Jeff Campbell, QC, Chair  
Ralston S. Alexander, QC, Lawyer  
Paul Ruffell, Public representative

Discipline Counsel: Mandana Namazi  
Ilana Teicher

Counsel for the Respondent: Joven Bahar Narwal  
J. Salamati, Articled Student

**BACKGROUND**

[1] On October 25, 2018, a citation was issued against Sumandip Singh (the “Respondent”) pursuant to the *Legal Profession Act* and Rule 4-13 of the Law Society Rules on the direction of the Chair of the Discipline Committee. The citation was amended pursuant to Rule 4-21(1)(a) on June 6, 2019 and on July 19, 2019.

[2] The citation alleges misconduct under five separate headings:

1. Conduct in relation to the unauthorized practice of law by Gerhard Albertus Pyper (“Pyper”);
2. Conduct in relation to the public, other lawyers, and the court/tribunal;
3. Conduct in relation to improperly commissioned documents;
4. Conduct in relation to quality of service; and
5. Conduct in relation to the Law Society.

[3] During an adjournment on the first day of the Hearing, the parties settled an Agreed Statement of Facts (the “ASF”) and the Respondent admitted professional misconduct in respect of all matters in the citation, except as to two clients identified in allegation 1(b) as C Group and RD. The Law Society did not proceed in respect of those named clients.

[4] To provide context for this decision, we reproduce the citation:

**Conduct in relation to the unauthorized practice of law by Gerhard Albertus Pyper**

1. Between approximately June 2015 and July 2017, you knowingly facilitated or failed to assist in the prevention of the unauthorized practice of law by Gerhardus Albertus Pyper, a former member of the Law Society, contrary to one or more of Rule 2-14 of the Law Society Rules, rule 6.1-3, rule 6.1-3.2, rule 6.1-4, and rule 7.6-1 of the *Code of Professional Conduct for British Columbia* (the “Code”), by doing one or more of the following:
  - (a) failing to advise your clients YR, CA, C Group, MS, SS, and/or RD, that Mr. Pyper was not authorized to practise law when you knew or ought to have known that Mr. Pyper was engaged in the unauthorized practice of law;
  - (b) facilitating Mr. Pyper’s conduct in maintaining an ongoing relationship with YR, CA, S Group, MS, SS, C Group, and/or RD, in which there was a prospect that he might engage in the practice of law, including by permitting him to meet with clients at the offices of the Singh Law Group (the “SLG”);
  - (c) permitting, or failing to prevent, the staff, employees or contractors of SLG to:

- i. communicate with Mr. Pyper about client matters, including scheduling meetings with clients and obtaining instructions from Mr. Pyper; and/or
  - ii. act as a liaison between Mr. Pyper and clients, such as forwarding letters, emails and other communications to clients;
- (d) permitting Mr. Pyper to be held out as a lawyer, in ways including:
- i. providing RD Mr. Pyper's cell phone number and directing RD to call Mr. Pyper with legal questions;
  - ii. allowing Mr. Pyper to obtain client signatures on documents;
  - iii. failing to file YR's Notice of Civil Claim, bring forward the service of the claim or response or serve the claim, thereby reinforcing YR's belief that Mr. Pyper was her lawyer;
  - iv. not personally meeting with YR on her file matters from about June 2015 to November 2016;
  - v. commissioning YR's affidavit and conveyance documents outside of her presence;
  - vi. failing to advise staff, employees, or contractors of the SLG that Mr. Pyper was not authorized to practise law when you knew or ought to have known about his unauthorized status;
  - vii. allowing, whether by action or non-action, Mr. Pyper's attendance at or use of office space at the SLG;
  - viii. meeting with Mr. Pyper at the SLG, thereby allowing Mr. Pyper to hold himself out as being associated with yourself or the SLG in a professional capacity;
  - ix. permitting Mr. Pyper to make use of SLG's name or association – whether real or manufactured – with the SLG, by utilizing SLG's name or other identifying information or resources in correspondence, documents, or communications;
  - x. failing to establish protocols at the SLG offices in relation to how your staff should deal with Mr. Pyper and clients who contacted the offices asking for Mr. Pyper;

- xi. accepting or permitting to be accepted by anyone at the SLG any correspondence or communication addressed to or otherwise destined for Mr. Pyper;
  - xii. permitting Mr. Pyper to make arrangements through your staff in relation to payments from your clients, including “retainer(s)”;
- (e) adopting positions taken by Mr. Pyper in court, taking no meaningful role in proceedings, and allowing Mr. Pyper to address the court in relation to the S Group matter; therefore, permitting Mr. Pyper to appear in court and actively participate in formal legal proceedings on behalf of a client, where he was not acting in a supporting role to yourself or another lawyer;
- (f) permitting Mr. Pyper to take instructions from clients, without you directing the client to Mr. Pyper for that purpose and without the instructions being relayed to you as soon as reasonably possible;
- (g) giving Mr. Pyper access to without prejudice settlement offers on files, thereby allowing Mr. Pyper to obtain settlement instructions from clients;
- (h) permitting Mr. Pyper to sign a letter on SLG letterhead, dated June 16, 2015, to YR, in regards to an action against VW, when:
- i. this letter was not of a routine administrative nature;
  - ii. Mr. Pyper was not specifically directed to sign this letter either by yourself or a supervising lawyer;
  - iii. the letter did not disclose that Mr. Pyper was a non-lawyer; and/or
  - iv. the letter contained legal opinions;
- (i) signing, commissioning and endorsing documents that you knew or ought to have known had been prepared by Mr. Pyper.

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

### **Conduct in relation to the public, other lawyers, and the court/tribunal**

2. In or between October 2015 and February 2017, in the course of acting for S Inc., E Ltd., B Ltd., H Ltd., MS, and/or SS, you failed to practise law and discharge all your responsibilities with candour, fairness, courtesy, civility, good faith, respect, the requisite honour and integrity, and by communicating in a manner that was abusive, offensive, or otherwise inconsistent with the proper tone of a professional communication from a lawyer, contrary to one or more of rules 2.1-2, 2.1-4, 2.2-1, 5.1-1, 5.1-2, 5.1-5, 7.2-1 and/or 7.2-4 of the *Code*, by doing one or more of the following:
  - (a) on or about November 13, 2015, sending or permitting to be sent, a letter to the Minister of Jobs, Tourism and Skills Training in relation to litigation matters, which included the following statements:
    - i. “It is our experience and observation that the level of discrimination by WorkSafe BC viz-a-viz these companies is astounding and outrageous”;
    - ii. “WorkSafe BC in 2013 filed over 900 pages of false Affidavits trying to convince the Supreme Court that E Ltd. and S Inc. principals should go to jail for exposing people to asbestos”;
    - iii. “WorkSafe is now repeating that same application, again on false and inaccurate affidavits”;
    - iv. “The internal Review process of WorkSafe BC is to say the least corrupt”;
    - v. “Officers are issuing false orders just to cancel the orders later”;
    - vi. “Officers are tampering with evidence just to dismiss review applications”;
    - vii. “WorkSafe even went so far as to publish false information about some of our Clients in the media, just to turn the public against our Clients”;
    - viii. “We urge the BC Government to look into the discriminatory conduct of the Board of WorkSafe BC and its appointed

Lawyers who serve as the executive tool of the Board to eradicate Indo Canadian business men”;

ix. “The system, with respect is corrupt to its core”;

(b) on or about December 14, 2015, sending or permitting to be sent a letter in relation to litigation which included the following statements:

i. “Inescapable facts have emerged that WorkSafe BC is targeting MS to eradicate him from operating in the asbestos abatement industry”;

ii. “WorkSafe regards MS as a pariah that must be eradicated”;

iii. “WorkSafe BC has engaged in a disgraceful strategy to incarcerate MS”;

iv. “WorkSafe BC has published false and defamatory information in the media and World Wide Web which portrayed MS as killer/murderer who ought to be removed from society”;

(c) on or about December 18, 2015, sending or permitting to be sent a letter in relation to litigation which included the following statements:

i. “ ... Worksafe pounced on the opportunity to intensified [sic] its attack on our clients who were vulnerable (with no legal counsel) at the time”;

(d) on or about December 23, 2015, filing or permitting to be filed a Notice of Application on behalf of your client(s), which included the following statements:

i. “WorkSafe BC has intensified its discriminatory attacks on the Applicants since the Order of Mr. Justice Funt. It seems that Order of Mr. Justice Funt has hurt the ego of Worksafe [sic] and is now engaging in any tactics, whether legal, illegal, unethical, immoral and plain and simple disgraceful, it does not matter”;

ii. “BP [counsel for Worksafe BC] then obviously decides to hide the truth from the Court ...”;

iii. “BP then carried on misleading the Court ...”;

- iv. “BP again deceived Mr. Justice Dley ...”;
  - v. “BP and NB[another counsel for Worksafe BC] further elected to withhold more important and crucial information from the Court”;
- (e) on or about December 28, 2015, sending or permitting to be sent a letter to counsel for WorkSafe BC in relation to litigation which included the following statements:
- i. “ ... we trust you had the opportunity to reflect on your disgraceful conduct”;
  - ii. “Your conduct and the level of corruption in the ranks of WorkSafe has reached levels of unacceptable proportions”;
- (f) on or about January 4, 2016, filing or permitting to be filed an Application Response on behalf of your client(s), which included the following statements:
- i. “ ... lawyers, such as NB and BP ... are not interested in due process”;
  - ii. “The Respondents state that Worksafe lack [sic] an honest belief in the guilt of the Respondents. The discrimination and unfair treatment by Worksafe is political and financially motivated”;
  - iii. “WorkSafe is activated by malice or a primary purpose other than that of carrying the law into effect ...”;
  - iv. “The Application of the Applicants brought with an ulterior motive, not based on the facts or the law”;
- (g) on or about February 3, 2016, filing or permitting to be filed a Notice of Application on behalf of your client(s), which included further statements similar to those set out in subparagraphs d) to f) above;
- (h) on or about February 15, 2016, filing or permitting to be filed an Application Response on behalf of your client(s), which included further statements similar to those set out in subparagraphs d) to g) above;

- (i) on or about November 4, 2016, sending or permitting to be sent a letter which included the following statements:
  - i. “We intend to bring an application in the Supreme Court to have both you, BP and NB recused from all future Court proceedings against our Clients”;
  - ii. “We do realize that an Application will become a public record which may have devastating repercussions on you[r] respective careers. We emphasize that this must not be construed as a threat. It is pure and simple a matter of courtesy”;
  - iii. “Unfortunately the WorkSafe regime has tainted your judgment and conduct as lawyers, which is regrettable”;
  - iv. “We kindly request that you respond to a private email ... ”;
- (j) on or about November 20, 2016, commissioning the Affidavit of MS for the purpose of being used in litigation, which included the following statements:
  - i. “Mr. Justice Dley based on the false statements made to him by BP. Mr. Justice [sic] instead attacked the Plaintiffs”;
  - ii. “Both lawyers are breaking the ethical rules governing them just to annihilate the Plaintiffs”;
  - iii. “ ... NB and BP have gone totally rogue”;
- (k) on or about November 21, 2016, filing or permitting to be filed the aforementioned Affidavit, in the Vancouver Supreme Court Registry;
- (l) on or about November 22, 2016, commissioning a second Affidavit of MS for the purpose of being used in litigation, which included the following statements:
  - i. “I am deeply troubled by the fact that the Applicants do not receive the same treatment in the Court than [sic] WorkSafe. This is now the 5th application that I am involved in that I am continuing to observe that the government/WorkSafe/BP and NB are getting preferential treatment. I am perceiving that the scales of justice are out of balance”;

- ii. “I am perceiving that the Judge is biased towards the Applicants and the decision to dismiss the Applicants’ motion has been made from the outset, before Mr. Pyper even tried to present the Applicants’ Application to the Court”;
  - iii. “I am observing that the Applicants are not receiving a fair hearing. It clearly appears to SS and I that the Judge is disgruntled with the Application and cannot finish it soon enough to assist BP and NB ... ”;
- (m) on or about November 22, 2016, filing or permitting to be filed the aforementioned second Affidavit in the Vancouver Supreme Court Registry;
- (n) on or about January 17, 2017, commissioning a third Affidavit of MS for the purpose of being used in litigation, which included the inappropriate statements in relation to Mr. Justice M and GG counsel for the Law Society;
- (o) on or about January 19, 2017, filing or permitting to be filed the aforementioned Affidavit, in the Vancouver Supreme Court Registry;
- (p) on or about January 17, 2017, commissioning the Affidavit of SS for the purpose of being used in litigation, which included the following statements:
- i. “I am perceiving and experiencing that WorkSafe now has an insider in the Supreme Court who speak [sic] to the judges who hear the Plaintiffs [sic] matters. The Plaintiffs are being treated by the Courts as scandalous because we have the audacity to defend the relentless attacks of WorkSafe”;
  - ii. “I am observing that Worksafe’s In-house Counsel mislead the Judges”;
  - iii. “I appreciate that SN, former in-house lawyer of WorkSafe, is now a Deputy Registrar of the Supreme Court. It is unfortunate that he was involved to set up the attack and onslaught by WorkSafe”;
- (q) on or about January 19, 2017, filing or permitting to be filed the aforementioned Affidavit in the Vancouver Supreme Court Registry;

(r) on or about January 27, 2017, commissioning the Affidavit of MS for the purpose of being used in litigation, which included the following statements:

- i. “I have noticed that Judges of the Supreme Court, have become hostile towards Mr. Pyper ... ;
- ii. “ ... Mr. Pyper has become a target and an enemy of the BC Government and the Courts ... ”.

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

### **Conduct in relation to improperly commissioned documents**

3. On or between September 27, 2015 and March 15, 2016, you improperly commissioned one or more of the following documents when you had not witnessed YR affixing her signature to them, contrary to rule 3.1-2 and Appendix A of the *Code*:

- (a) the affidavit of YR, purportedly commissioned by you on September 27, 2015;
- (b) a *Land Title Act* Form A Freehold Transfer form, purportedly commissioned by you on December 31, 2015;
- (c) the statutory declaration of YR, purportedly commissioned by your [sic] on December 31, 2015;
- (d) a second *Land Title Act* Form A Freehold Transfer form, purportedly commissioned by you on March 15, 2016;
- (e) the solemn declaration of YR, purportedly commissioned by you on March 15, 2016.

This conduct constitutes professional misconduct, contrary to section 38(4) of the *Act*.

### **Conduct in relation to quality of service**

4. Between June 2015 and January 2017, in the course of representing CA in a family law matter, you failed to provide your client with the quality of

service required of a competent lawyer, contrary to one or more of rules 3.1-2 and 3.2-1 of the *Code*, by failing to do one or more the following:

- (a) personally meeting with your client;
- (b) getting proper instructions from your client;
- (c) properly preparing for the court appearances in your client's matter;
- (d) following your client's instructions;
- (e) keeping the client reasonably informed of her matter, including the outcome of a court appearance.

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

#### **Conduct in relation to the Law Society**

5. In or between August 2016 to October 2018, in the course of an investigation of the complaints made against you, you provided untruthful or misleading responses to the Law Society, or failed to respond fully and substantially to requests made by the Law Society, or both, contrary to one or more of Rule 3-5(7) of the Law Society Rules, rules 2.2-1 and/or 7.1-1 of the *Code*, by doing one or more of the following:

- (a) claiming that you never discussed YR's, CA's, S Group's, MS's, SS's, C Group's and/or RD's legal matters with Mr. Pyper;
- (b) claiming that you had conduct of the civil matter of YR commencing in about June 2015 and mischaracterizing the work you had performed on her matter;
- (c) claiming that you were not aware that Mr. Pyper was engaged in the practice of law in respect to YR, CA, S Group, MS, SS, C Group, and/or RD;
- (d) claiming that you did not give Mr. Pyper access to client file materials for YR, CA, S Group, MS, SS, C Group, and/or RD.

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

- [5] The Respondent acknowledges that the service of the citation complied with Rule 4-15 of the Law Society Rules.

## **FACTS**

- [6] The following is a summary of the facts as determined by the Panel. It is based on the ASF and the written material introduced in the Hearing.

### **Conduct in relation to the unauthorized practice of law by Pyper and conduct in relation to improperly commissioned documents**

- [7] The citation alleges that, over a prolonged period of time, the Respondent facilitated the unauthorized practice of law by Pyper.
- [8] During the Law Society investigation, the Respondent provided inconsistent statements with respect to when he became aware that Pyper was no longer a member of the Law Society and, accordingly, not authorized to practise law. The Respondent ultimately agreed that he knew by June 2015 that Pyper was a former lawyer. The Respondent admits that he was aware of his obligation to assist in the prevention of the unauthorized practice of law.
- [9] Pyper provided legal services during 2015 and 2016 to a number of clients, although he was not authorized to practise law. This conduct was facilitated by the Respondent and his office.
- [10] Pyper attended at the Respondent's law firm as often as two to three times a week. He would arrive at the office and make his way directly to the office of the Respondent without being interrupted at reception or announced. Pyper used the Respondent's legal assistant to act as a liaison with Pyper's "clients", which included arranging for client appointments.
- [11] Pyper prepared legal documents for clients using the Respondent's law firm letterhead. In the result, Pyper's clients were led to believe that he was a member of the Respondent's law firm. This belief was reinforced when Pyper's clients called the Respondent's firm and were transferred to Pyper by the receptionist.
- [12] The Respondent did not advise his staff that Pyper was not authorized to practise law or that it was not appropriate for them to assist Pyper with his various client matters. Throughout the Law Society investigation, the Respondent claimed that he was unaware that his assistant was helping Pyper with his files.

- [13] The circumstances of a client, YR, illustrate the scope of the Respondent's conduct in facilitating Pyper's unauthorized practice. YR's husband was a longtime client of Pyper. He passed away in the spring of 2015. There were two matters of significance that occurred after the death of YR's husband. The first was the need to remove a Crown lien from the title to the R residence, and the second was the sale of the R residence to a developer. Pyper assisted YR with these matters.
- [14] YR believed that Pyper was her lawyer and that he was authorized to practise law. She believed that Pyper had an office at SLG's offices. She met with Pyper several times at SLG's offices. She set up meetings with Pyper by contacting him directly or through the Respondent's staff.
- [15] A Notice of Civil Claim was filed on behalf of YR on June 12, 2015. Pyper sent a letter to YR advising that the Notice of Civil Claim had been filed and providing YR with a copy. The Notice of Civil Claim was signed by the Respondent as counsel of record.
- [16] YR swore an affidavit related to the Notice of Civil Claim on September 27, 2015. It was purportedly sworn by YR in the presence of the Respondent, who was the named commissioner for the affidavit. However, the Respondent commissioned the affidavit outside YR's presence, without meeting her, discussing the affidavit with her or witnessing her sign it. YR did not meet the Respondent until November 2016, some 14 months after the affidavit was signed.
- [17] YR asserts that at no time did she retain the Respondent as her lawyer and that, as soon as she was advised that Pyper could not represent her at discoveries in the civil claim and that she would instead be represented by the Respondent at the discoveries, she sought other counsel.
- [18] Between September 27, 2015 and March 15, 2016, the Respondent improperly commissioned the following documents, which he had not witnessed YR sign, contrary to rule 3.1-2 and Appendix A of the *Code*:
- (a) the affidavit of YR, purportedly commissioned by him on September 27, 2015;
  - (b) a *Land Title Act* Form A Freehold Transfer form, purportedly commissioned by him on December 31, 2015;
  - (c) the statutory declaration of YR, purportedly commissioned by him on December 31, 2015;

- (d) a second *Land Title Act* Form A Freehold Transfer form, purportedly commissioned by him on March 15, 2016; and
- (e) the solemn declaration of YR, purportedly commissioned by him on March 15, 2016.

- [19] These documents were apparently drafted by Pyper, who presented them to YR for her signature.
- [20] The Respondent provided similar support to Pyper in a family law case for another client, CA. Pyper represented CA some years prior to becoming a former lawyer. CA was involved in a contested family law matter with her former husband, which included issues regarding the sale of the matrimonial home and spousal support. CA was in financial need and wished to secure the sale of the matrimonial home so that she could realize her equity.
- [21] In the spring of 2015, Pyper engaged in settlement discussions with counsel for CA's husband. Pyper sent letters to opposing counsel on the Respondent's firm letterhead, in at least one instance signed by Pyper. Offers were communicated through the Respondent's firm. CA and Pyper were in regular contact during this time period, in some instances with the assistance of the Respondent's legal assistant. During the Law Society investigation, the Respondent denied any knowledge that his office was involved in these settlement discussions despite the compelling documentary evidence to the contrary.
- [22] Counsel for CA's husband believed that the Respondent's firm was counsel of record, although the legal work was being done by Pyper. CA first learned that the Respondent's law firm was involved when she received proceeds from the sale of the matrimonial home. An order to pay dated August 7, 2015 was purportedly issued by SLG and included a payment to Pyper of \$18,600 for legal fees for which no account was ever rendered.
- [23] In late 2015 or early 2016, CA learned from the Law Society that Pyper was not authorized to practise law. She then communicated with the Respondent about her file and about the financial arrangements that she had previously made with Pyper. She suggested that the Respondent should look to Pyper for any payment required for ongoing legal services provided to CA by the Respondent.
- [24] An email from CA to the Respondent's law firm triggered an April 1, 2016 email from the Respondent's legal assistant to Pyper asking him to contact CA regarding her divorce. CA was reportedly seeking to revisit the outcome of the divorce and alleged that she had previously paid for this work. Pyper responded with

instructions to the legal assistant to advise CA that the earlier payment was for an application to vary the spousal support and that a further retainer of \$3,500 would be required for an application to amend the divorce. In the absence of further funding, they would proceed only with the application to increase the spousal support. The legal assistant forwarded that message to CA.

- [25] An application with respect to the spousal support was scheduled for May 24, 2016. The Respondent attended the hearing on behalf of CA. The result did not accord with what CA was hoping to accomplish. The Respondent admits that he did not have CA's file when he appeared at the hearing. CA reported that the only opportunity that she was given to provide instructions to the Respondent was on the morning of the hearing when he called her from the courthouse. CA reported that, despite repeated requests to the Respondent's office, she was only able to learn the results of the hearing after contacting her MLA who assisted her in obtaining the information from the court file.
- [26] The Respondent also facilitated a long pattern of Pyper doing legal work for a client, S Group, when Pyper was not authorized to practise law. S Group was in a lengthy dispute with WorkSafe BC and was represented by Pyper until he became a former lawyer. The Respondent was retained by S Group following Pyper's loss of status and, for a year or longer, acted as a puppet for Pyper who continued to do legal work on behalf of the client.
- [27] Pyper prepared numerous legal documents related to the S Group's legal matters, and the Respondent signed them as counsel of record. During the Law Society investigation, the Respondent claimed that a principal of S Group presented the documents to him for his signature and told him that they had been prepared by the principal's friend. The Respondent denied knowing that the documents were prepared by Pyper despite his clear knowledge to the contrary.
- [28] The pleadings and correspondence with respect to S Group were drafted by Pyper and included a series of inflammatory personal attacks against WorkSafe BC and its counsel. Allegations of bias, discrimination and other misbehaviour were common themes in the various documents signed by the Respondent. He signed those documents without investigating whether there was any factual foundation for such allegations.
- [29] Pyper became a Director of the companies involved in S Group, apparently for the purpose of appearing in court to make submissions on behalf of S Group. He sought a right of audience in a number of S Group's court hearings. At some of those hearings, the presiding Judge expressed concern that Pyper appearing in court was a possible violation of the *Legal Profession Act*. In one instance, the Judge

directed that his Reasons for Judgment be provided to the Law Society for its consideration as to whether further action was appropriate.

- [30] Pyper drafted a factum on behalf of S Group for a Court of Appeal hearing. The Respondent signed the factum. The Respondent advised Law Society investigators that he had prepared the factum, although he knew that the factum was prepared by Pyper. In response to inquiries from Law Society investigators, the Respondent claimed that, throughout his representation of S Group, he was the only legally trained person working on behalf of the client, despite his knowledge that Pyper was involved. This response to Law Society investigators was untrue.
- [31] During the Law Society investigation, the Respondent claimed authorship of the array of pleadings and correspondence related to S Group but was unable to produce any original electronic versions of the documents in question. The only documents stored on his computer system were “pdf” versions of the documents that had been scanned after the Respondent had signed them.
- [32] Despite the Respondent’s knowledge of his obligations regarding the unauthorized practice of law, the Respondent did not believe it was necessary to tell Pyper’s clients that Pyper was not authorized to practise law. The Respondent stated that he did not believe he had an obligation to alert clients because “Pyper does not work for me.”
- [33] During the Law Society investigation, the Respondent was asked what steps he took to supervise Pyper while he was meeting with clients at the Respondent’s office. The Respondent advised “Pyper is not an employee of our firm and as such we cannot hold any authority to supervise him.”
- [34] In summary, there is an abundance of evidence that the Respondent actively facilitated Pyper’s unauthorized practice of law.
- [35] The Respondent admits that he:
- (a) failed to tell clients that Pyper was not authorized to practise law when he knew or ought to have known that they believed that Pyper was their lawyer;
  - (b) allowed Pyper to schedule client meetings and give legal advice at the Respondent’s office;
  - (c) allowed Pyper to obtain instructions from clients and present legal documents to clients for their signature;

- (d) failed to advise his office staff that Pyper was not authorized to practise law;
- (e) permitted his office staff to act as a liaison between Pyper and the clients; and
- (f) signed, commissioned and endorsed legal documents prepared by Pyper.

[36] The Respondent admits that his conduct constitutes professional misconduct, pursuant to s. 38(4) of the *Act*.

### **Conduct in relation to the public, other lawyers and the court/tribunal**

- [37] The Respondent admits that he engaged in unjustified attacks against other counsel, the judiciary and opposing parties. The Respondent repeatedly filed pleadings and sent letters attacking the judiciary and counsel for an opposing party without satisfying himself that there was a good faith basis for those allegations.
- [38] As an example, the Respondent filed a Notice of Application in December 2015, approximately a month after he was retained in the S Group matters. In that Notice of Application, the Respondent alleged that WorkSafe BC was motivated by discrimination, had manufactured false evidence, had engaged in illegal and unethical conduct, and had published false allegations in the media. The Respondent alleged that WorkSafe BC's counsel had lied, deceived and made misrepresentations to the Court. At the time the Notice was filed, the Respondent had not read the client file, the transcripts of the proceedings, or any other materials to satisfy himself that there was a good faith basis for those allegations.
- [39] In a measured response, WorkSafe BC's counsel cautioned the Respondent that his allegations were inappropriate and referred the Respondent to the relevant sections of the *Code*. Despite being warned about his conduct, the Respondent persisted in advancing the allegations. When the Respondent was asked during the Law Society investigation whether he had read the sections in the *Code* to which he was referred by opposing counsel, the Respondent replied that he did not because he was too busy.
- [40] The Respondent admits the allegations in the citation that he failed to discharge his responsibilities with candour, fairness, courtesy, civility, good faith, respect and the requisite honour and integrity and that he communicated in a manner that was abusive, offensive or otherwise inconsistent with the proper tone of a professional communication.

[41] The Respondent admits that this conduct constitutes professional misconduct.

**Conduct in relation to quality of service**

[42] This section of the citation deals exclusively with the conduct of the Respondent in his relationship with client CA, which was described earlier in these reasons with respect to the Respondent enabling Pyper's unauthorized practice.

[43] As noted above, CA learned from the Law Society in late 2015 or early 2016 that Pyper was not licensed to practise law. Afterwards, she understood that the Respondent would assist her with her legal matter, although she had little contact with him.

[44] The Respondent allowed Pyper to continue working on CA's matter as if Pyper were her lawyer.

[45] The Respondent attended a court hearing on May 24, 2016 on behalf of CA involving spousal support issues that were of great concern to her. The Respondent did not speak to CA about the application prior to the morning of the hearing, when he called her from the courthouse. He did not obtain proper instructions. He attended the hearing without taking CA's file materials. Following the hearing, CA contacted the Respondent's office to request court documents but never received them. She was later able to obtain the documents from the Court Registry with the assistance of her local MLA.

[46] The result was that the Respondent provided essentially no useful services to CA, although he was the only lawyer involved in her file who was authorized to represent her in court.

[47] The Respondent admits that, in the course of representing CA in her family law matter, he failed to provide her with the quality of service required of a competent lawyer by failing to do the following:

- (a) personally meeting with his client;
- (b) getting proper instructions from his client;
- (c) properly preparing for the court appearance in his client's matter;
- (d) following his client's instructions; and
- (e) keeping his client reasonably informed of her matter, including the outcome of the court appearance.

[48] The Respondent admits that his conduct amounts to professional misconduct.

**Conduct in relation to the Law Society**

[49] The Respondent admits that, in the course of the Law Society investigation, he misled the Law Society by making the following statements, each of which was untrue:

- (a) he never discussed client matters with Pyper;
- (b) Pyper never attended client meetings at SLG either with or without the Respondent;
- (c) Pyper was never, except for one occasion, in the Respondent's personal office;
- (d) Pyper was never in the SLG boardroom;
- (e) Pyper only sat in the reception area when he accompanied a client to a meeting;
- (f) Pyper did not conduct meetings at SLG;
- (g) the Respondent did not give Pyper's cell phone number to RD;
- (h) the Respondent did not know that Pyper was involved in the RD matter;
- (i) Pyper was not in the boardroom during the meeting with RD;
- (j) the Respondent did not know that Pyper remained involved in YR's matter;
- (k) the Respondent met with YR to review her Notice of Civil Claim in June 2015;
- (l) the Respondent mailed his accounts to YR;
- (m) the Respondent had disclosed to the Law Society all documents in YR's file;
- (n) YR did not meet with Pyper at SLG;
- (o) the Respondent did not recognize Pyper's email address on YR's Notice of Civil Claim;

- (p) the Respondent gave YR a retainer agreement, but she took it away and did not return it;
- (q) the Respondent commissioned YR's affidavit on September 27, 2015;
- (r) the Respondent executed YR's conveyance documents;
- (s) the Respondent did not give Pyper access to client file materials including the July 12, 2015 settlement offer or August 2015 consent order, direction to pay, settlement agreement and release in CA's file;
- (t) the Respondent did not know that Pyper remained involved in CA's matter;
- (u) the Respondent mailed his accounts to CA;
- (v) the Respondent disclosed to the Law Society all documents in CA's file;
- (w) the Respondent obtained instructions from CA prior to going to court on her file;
- (x) the Respondent wrote the factum in the S Group appeal;
- (y) the Respondent did not know who drafted all the pleadings and motions in the S Group matter;
- (z) the Respondent did not know that Pyper remained involved in the S Group matter;
- (aa) Pyper did not attend meetings about the S Group matter; and
- (bb) the Respondent did not speak to Pyper before the S Group appeal hearing.

[50] The Respondent claimed that he never discussed any of the client matters described in these reasons with Pyper, that he was not aware that Pyper was engaged in the practice of law with respect to those clients, and that he did not give Pyper access to any of those clients' file materials.

[51] During the investigation the Law Society provided warnings to the Respondent regarding his untruthful behaviour. The Respondent ignored those warnings and continued his deceptive behaviour.

[52] The Respondent admits that his conduct constitutes professional misconduct.

## DISCUSSION AND ANALYSIS

### **Burden of proof**

[53] We have considered the ASF and the documentary material introduced as evidence. We appreciate that, although the Respondent has acknowledged that his conduct constitutes professional misconduct, we must be satisfied that the evidence presented at this Hearing meets the burden of proof to establish professional misconduct pursuant to section 38(4) of the *Act*.

### **The test for professional misconduct**

[54] The test for professional misconduct is set out in *Law Society of BC v. Martin*, 2005 LSBC 16, and *Re: Lawyer 12*, 2011 LSBC 35. The question is whether the proven facts establish a marked departure from the conduct that the Law Society expects of lawyers.

[55] A breach of the rules does not necessarily amount to professional misconduct. The distinction between conduct that is simply a breach of the rules and professional misconduct is a matter of degree. To constitute professional misconduct, the conduct must meet the higher threshold of a significant or marked departure from what is expected from a reasonably competent lawyer.

[56] In deciding whether the test for professional misconduct is met, all of the relevant circumstances must be considered, including the number of breaches, their gravity and duration, the respondent's state of mind, and any resulting harm to clients, other lawyers or the integrity of the legal profession and the administration of justice.

### **Allegation 1: facilitating unauthorized practice of law**

[57] Activities that constitute the practice of law are set out in section 1 of the *Act*. Section 15 of the *Act* identifies those who are authorized to practise law. A person must not do any act defined as the practice of law if:

- (a) the person is a member or former member of the society who is suspended or has been disbarred, or who, as a result of disciplinary proceedings, has resigned from membership in the society or otherwise ceased to be a member as a result of disciplinary proceedings, or
- (b) the person is suspended or prohibited for disciplinary reasons from practising law in another jurisdiction.

[58] Rule 2-14 of the Law Society Rules specifically prohibits facilitating the unauthorized practice of law:

**Unauthorized practice of law**

**2-14** (1) A lawyer must not knowingly facilitate by any means the practice of law by a person who is not a practising lawyer or otherwise permitted to practise law under sections 15 to 17 or Rule 2-39 [*Conditions for MDP*].

(2) Without limiting subrule (1), a lawyer must not knowingly do any of the following:

- (a) act as an agent or permit his or her name to be used or held out in any way that enables a person to engage in the unauthorized practice of law;
- (b) send a process or other document to a person or do any other act that enables a person to engage in the unauthorized practice of law;
- (c) open or maintain an office for the practice of law unless the office is under the personal and actual control and management of a practising lawyer.

[59] Rule 7.6-1 of the *Code* requires that a lawyer “must assist in preventing the unauthorized practice of law.” The commentary accompanying Rule 7.6-1 sets out the purpose of this rule:

Statutory provisions against the practice of law by unauthorized persons are for the protection of the public. Unauthorized persons may have technical or personal ability, but they are immune from control, from regulation and, in the case of misconduct, from discipline by the Society. Moreover, the client of a lawyer who is authorized to practise has the protection and benefit of the lawyer-client privilege, the lawyer’s duty of confidentiality, the professional standard of care that the law requires of lawyers, and the authority that the courts exercise over them. Other safeguards include mandatory professional liability insurance, the assessment of lawyers’ bills, regulation of the handling of trust monies and the maintenance of compensation funds.

[60] We characterize the array of misconduct described in these reasons as significant, substantial and regrettably enduring. Over a lengthy period of time and while clearly aware of the improper nature of the behaviour, the Respondent persisted in permitting a former lawyer, now an unlicensed member of the public, to provide legal services to members of the public.

[61] The legal services provided by Pyper when he was acting alone and even when working with the Respondent fell far below the level of professionalism required of the legal profession. In many instances the Respondent’s participation had the

effect of sustaining the fiction that Pyper was providing professional and competent legal services. This prejudiced the clients and delayed their inclination to seek replacement counsel when that course of action was required.

**Allegation 2: failure of candour, fairness and proper communication**

[62] The legal foundation for the requirements of candour and fairness are found in rules 2.1-2 and 2.1-4 of the *Code*:

2.1-2 To courts and tribunals

- (a) A lawyer's conduct should at all times be characterized by candour and fairness. The lawyer should maintain toward a court or tribunal a courteous and respectful attitude and insist on similar conduct on the part of clients, at the same time discharging professional duties to clients resolutely and with self-respecting independence.
- (b) Judges, not being free to defend themselves, are entitled to receive the support of the legal profession against unjust criticism and complaint. Whenever there is proper ground for serious complaint against a judicial officer, it is proper for a lawyer to submit the grievance to the appropriate authorities.

2.1-4 To other lawyers

- (a) A lawyer's conduct toward other lawyers should be characterized by courtesy and good faith. Any ill feeling that may exist between clients or lawyers, particularly during litigation, should never be allowed to influence lawyers in their conduct and demeanour toward each other or the parties. Personal remarks or references between lawyers should be scrupulously avoided, as should quarrels between lawyers that cause delay and promote unseemly wrangling.

[63] The requirement for courtesy and civility are found in rules 5.1-5 and 7.2-1 of the *Code*. These rules require that a lawyer must be courteous and civil and act in good faith towards the tribunal and with all persons with whom the lawyer has dealings.

[64] Rule 7.2-4 of the *Code* prohibits abusive and offensive communications:

- 7.2-4 A lawyer must not, in the course of a professional practice, send correspondence or otherwise communicate to a client, another lawyer or any other person in a manner that is abusive, offensive, or otherwise inconsistent with the proper tone of a professional communication from a lawyer.

- [65] Professional misconduct arising from incivility was discussed in *Groia v. Law Society of Upper Canada*, 2018 1 SCR 772. The majority noted that civility is integral to the proper functioning of the adversarial system and that incivility can impair the proper resolution of disputes. Incivility often results in prejudice to the client's case, as inappropriate behaviour by counsel can invoke an unfavourable reaction from the court. Further, incivility distracts other parties and the court from the legitimate issues in the proceeding. It is also harmful to the reputation of the justice system, as unjustified attacks against others can undermine the public's perception of the profession and the administration of justice.
- [66] The majority of the Court in *Groia* emphasized that the duty of civility cannot compromise the lawyer's duty to advocate firmly on behalf of the client. However, the majority noted that civility and resolute advocacy should not be considered incompatible. Civility is an important aspect of effective advocacy: *Groia* at paras. 72 to 76.
- [67] Determining whether a lawyer's behaviour warrants a finding of professional misconduct is a context-specific exercise. The relevant factors include what the lawyer said, the manner and frequency of the lawyer's behaviour, and the Court's reaction.
- [68] An attack on the integrity of opposing counsel is a serious matter, as it can impact a lawyer's professional reputation. The majority in *Groia* held that challenges to opposing counsel's integrity must be made in good faith and have a reasonable basis: *Groia* at para. 97. Allegations of misconduct against others that are made without a reasonable basis may constitute professional misconduct, depending on all the contextual circumstances surrounding the impugned conduct.
- [69] The majority emphasized that lawyers should not be sanctioned simply for advancing novel arguments or honestly-held but mistaken legal positions: *Groia*, at paras. 88 to 91. The duty of civility should not frustrate the ability of lawyers to advocate firmly for their clients. However, allegations that are clearly unreasonable, such as those entirely lacking a factual foundation, may attract scrutiny for professional misconduct.
- [70] In this case, the statements and allegations described in these reasons are manifestly inconsistent with the proper tone of professional communications. The Respondent made repeated allegations against the opposing party and its counsel, including allegations of deceit, dishonesty and discrimination. The Respondent also made allegations of bias and impartiality against Justices of the Supreme Court.

- [71] Although it is apparent that some of the offensive statements were authored by Pyper, the Respondent endorsed them by signing the correspondence and pleadings, permitting them to be sent to other counsel, and filing them with the court. The Respondent's conduct not only facilitated Pyper's unauthorized practice, it also facilitated many highly inappropriate personal attacks against other counsel, the judiciary and others. The Respondent persisted in this conduct despite being cautioned by opposing counsel.
- [72] The Respondent does not suggest that there was any proper basis for these attacks, and, in fact, had not even read the file material when endorsing some of the comments described above. We accept that the unjustified allegations summarized in these reasons amount to professional misconduct.

### **Allegation 3: improperly commissioning documents**

- [73] The Respondent admits that, between September 2015 and March 2016, he commissioned affidavits and *Land Title Act* Form A Freehold Transfer forms related to the client YR when he had not witnessed YR sign those documents.
- [74] The regime for commissioning affidavits is found in Appendix A of the *Code*:
1. A lawyer must not swear an affidavit or take a solemn declaration unless the deponent:
    - (a) is physically present before the lawyer,
    - (b) acknowledges that he or she is the deponent,
    - (c) understands or appears to understand the statement contained in the document,
    - (d) in the case of an affidavit, swears, declares or affirms that the contents of the document are true,
    - (e) in the case of a solemn declaration, orally states that the deponent makes the solemn declaration conscientiously believing it to be true and knowing that it is of the same legal force and effect as if made under oath, and
    - (f) signs the document, or if permitted by statute, swears that the signature on the document is that of the deponent.
- [75] The requirements are straightforward and focused on the importance of the task. The objective is to ensure that the deponent is aware of the significance of a solemn oath and that the substance of the affidavit is appropriately understood by the deponent.

- [76] The circumstances of these allegations are more serious than a simple failure to have a deponent swear the oath before the lawyer. YR signed her affidavit without any involvement by the Respondent and apparently without the administration of the oath of honesty required by Appendix A.
- [77] A similarly serious breach of the document execution requirements of the *Land Title Act* occurred in YR's real estate matter. The *Land Title Act* requires that Form A transfers of real property be executed in the presence of an "officer". Officers are defined as those persons before whom an affidavit may be sworn under the *Evidence Act*. Section 43 of the *Land Title Act* provides as follows:
- Witnessing — individuals
- 43 The signature of the officer witnessing the execution of an instrument by an individual is a certification by the officer that
- (a) the individual appeared before and acknowledged to the officer that he or she is the person named in the instrument as transferor, and
  - (b) the signature witnessed by the officer is the signature of the individual who made the acknowledgement.
- [78] The language of that section makes it clear that the officer is required to be present when the document is signed. This provides a degree of reliability in the *Land Title Act* system that is similar to that provided by the Appendix A requirements for sworn affidavits. There is no explanation before us that justifies the execution of the Form A transfer without the required attendance by an "officer".
- [79] The foundation upon which affidavit evidence is produced and relied upon is threatened by the flagrant disregard of the clear requirements of the *Code*. Affidavit evidence is to be sworn according to the procedure set out in Appendix A. These requirements exist for good reason. Many of our interlocutory processes are conducted with efficiency and expedience by using affidavits as opposed to oral evidence. We must strongly censure any conduct that threatens the reliability of that method of producing evidence. Similarly, we must be steadfast in protecting the integrity of the Torrens-based land title system that, to a significant extent, depends upon the honour and integrity of lawyers who are required to execute documents in compliance with the statute.
- [80] The Respondent's conduct in commissioning affidavit material, statutory declarations and *Land Title Act* documents without witnessing the client signing those documents is professional misconduct.

#### **Allegation 4: failure of competence**

[81] The Respondent admits that he failed to take any substantive steps in relation to his client CA and that he failed to perform his duties in relation to CA with the quality of service required of competent counsel.

[82] Rule 3.2-1 of the *Code* provides that a lawyer must perform all legal services undertaken on a client's behalf to the standard of a competent lawyer.

[83] The commentary to rule 3.1-2 provides helpful examples of expected standards and practices. Those expected standards and practices include some of the following:

[1] As a member of the legal profession, a lawyer is held out as knowledgeable, skilled and capable in the practice of law. Accordingly, the client is entitled to assume that the lawyer has the ability and capacity to deal adequately with all legal matters to be undertaken on the client's behalf.

[2] Competence is founded upon both ethical and legal principles. This rule addresses the ethical principles. Competence involves more than an understanding of legal principles: it involves an adequate knowledge of the practice and procedures by which such principles can be effectively applied. To accomplish this, the lawyer should keep abreast of developments in all areas of law in which the lawyer practises.

...

[5] A lawyer should not undertake a matter without honestly feeling competent to handle it, or being able to become competent without undue delay, risk or expense to the client. The lawyer who proceeds on any other basis is not being honest with the client. This is an ethical consideration and is distinct from the standard of care that a tribunal would invoke for purposes of determining negligence.

...

[12] The requirement of conscientious, diligent and efficient service means that a lawyer should make every effort to provide timely service to the client. If the lawyer can reasonably foresee undue delay in providing advice or services, the client should be so informed.

[84] It is important to acknowledge the impact of this misconduct on CA. This neglect occurred at a time when the Respondent was the lawyer responsible for resolving

this client's legal problems. The other legally-trained participant in the file was no longer entitled to practise law, and that left this vulnerable client in the hands of the Respondent. The level of services provided to CA fell markedly below the level of service that lawyers are required to provide to their clients. CA suffered significant consequences from the abuse of the trust that she placed in the Respondent. This neglect is a marked departure from the required level of service and constitutes professional misconduct.

### **Allegation 5: misleading the Law Society**

[85] Rule 3-5(7) of the Law Society Rules provides that a lawyer must co-operate fully in a complaint investigation by all available means including, but not limited to, responding fully and substantively, in the form specified by the Executive Director: (a) to the complaint, and (b) to all requests made by the Executive Director in the course of an investigation.

[86] Rule 2.2 of the *Code* deals with integrity and provides that a lawyer has a duty to carry out the practice of law and discharge all responsibilities to clients, tribunals, the public and other members of the profession honourably and with integrity.

[87] Rule 7.1-1 of the *Code* imposes the following obligations on a lawyer when responding to a Law Society inquiry:

7.1-1 A lawyer must

- (a) reply promptly and completely to any communication from the Society;
- (b) provide documents as required to the Law Society
- (c) not improperly obstruct or delay Law Society investigations, audits and inquiries;
- (d) cooperate with Law Society investigations, audits and inquiries involving the lawyer or a member of the lawyer's firm;
- (e) comply with orders made under the Legal Profession Act or Law Society Rules; and
- (f) otherwise comply with the Law Society's regulation of the lawyer's practice.

[88] The importance of honesty and candour in responses to Law Society inquiries cannot be overstated. Honesty in this relationship is required in order for the Law Society to regulate the profession in the public interest as is required by the enabling legislation.

[89] The extent of misinformation provided by the Respondent to the Law Society, as summarized earlier in these reasons, is overwhelming. The Respondent engaged in systematic and repeated denials of material facts and made brazen misrepresentations throughout the lengthy investigation.

[90] This conduct is further aggravated as the Respondent was warned on several occasions about the need for honesty in his dealings with the Law Society. These warnings should have alerted the Respondent to the frailty of his position, but the misrepresentations continued following the warnings.

## **DECISION**

[91] It is our view that the behaviour of the Respondent as described in these reasons constitutes a marked departure from the behaviour that is expected from lawyers. All of the allegations in the citation (with the exception of the previously mentioned client matters in section 1(b)) have been proven, and we find that the Respondent has committed professional misconduct pursuant to section 38(4) of the *Legal Profession Act*.

## **NON-DISCLOSURE ORDER**

[92] The Law Society requests an order under Rule 5-8(2) of the Rules that portions of the transcript and exhibits that contain confidential client information or privileged information not be disclosed to members of the public.

[93] In order to prevent the disclosure of confidential or privileged information to the public, we order under Rule 5-8(2) that if a member of the public requests copies of the exhibits or transcripts in these proceedings, those exhibits and transcripts should be redacted for confidential or privileged information before being provided to the public.