

THE LAW SOCIETY OF BRITISH COLUMBIA

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

and a hearing concerning

AMARJIT SINGH DHINDSA

RESPONDENT

**DECISION OF THE PRESIDENT’S DESIGNATE
ON AN APPLICATION FOR A STAY
OF DISCIPLINARY ACTION**

Written materials:	October 16, 2019
President’s Designate:	Jeffrey T. Campbell, QC
Discipline Counsel:	Alison L. Kirby
Counsel for the Respondent:	Gerald Cuttler, QC

BACKGROUND

- [1] Amarjit Singh Dhindsa (the “Respondent”) applies for a stay of the disciplinary action in this matter pending his s. 47 review.
- [2] On February 13, 2019, a hearing panel determined that the Respondent had committed professional misconduct by acting in a conflict of interest, breaching undertakings and failing to comply with a trust condition with respect to the purchase and sale of a development property: *Law Society of BC v. Dhindsa*, 2019 LSBC 05.
- [3] The hearing panel’s Decision on Disciplinary Action was issued on September 24, 2019: *Law Society of BC v. Dhindsa*, 2019 LSBC 36. The penalty included an order that the Respondent be suspended from practising law for a period of seven weeks commencing November 1, 2019, or on an earlier date as agreed by the Law Society and the Respondent.

- [4] The Respondent filed a Notice of Review pursuant to s. 47 of the *Legal Profession Act* on October 1, 2019.
- [5] The Respondent applies, pursuant to Rule 5-20(3) of the Law Society Rules, for a stay of the order of suspension. Counsel for the Law Society does not oppose the application for a stay of the suspension pending the s. 47 review.
- [6] On October 21, 2019, I granted the application. These are the reasons.

TEST FOR STAY OF DISCIPLINARY ACTION

- [7] The following criteria from *RJR-MacDonald Inc. v. Canada (Attorney General)*, 1994 1 SCR 311, are applied in applications for a stay of Law Society disciplinary action pending a s. 47 review:
- (a) the review must raise a serious question to be determined;
 - (b) there must be irreparable harm if the stay is not granted; and
 - (c) the balance of convenience must favour the imposition of a stay.
- [8] The threshold for the first part of the test is not onerous. It requires only that the s. 47 review is not vexatious or frivolous: *Law Society of BC v. Sas*, 2015 LSBC 16, at para. 8. The Law Society does not agree with the Respondent's submission that the hearing panel erred in its analysis but accepts that the review is not frivolous.
- [9] The Respondent has provided an outline of his argument on the various grounds he has raised in the Notice of Review. The s. 47 review will include issues such as the interpretation of provisions of the *Code of Professional Conduct*, whether the Respondent's conduct should be considered professional misconduct, and the fitness of the penalty. I am satisfied that the threshold required for the first ground of the *RJR-MacDonald* test is met and that the review is not vexatious or frivolous.
- [10] The second part of the test for a stay is the requirement of irreparable harm if the stay is not granted. The Respondent submits that the consequences arising from the suspension would be significant. He has provided an affidavit setting out the consequences to his practice that would result from a suspension. The Respondent works as a sole practitioner in a small firm setting and employs several staff members who would be affected by his suspension from practice. If the stay is not granted, the Respondent will have served the suspension in full before the s. 47 review is heard. Unlike a monetary fine, a suspension is a penalty that cannot be restored if the review is successful.

- [11] In considering whether the balance of convenience favours a stay of the suspension, there has been no suggestion that there is a risk to clients or the public if the suspension is stayed pending the s. 47 review. The Respondent continued to practise for a time period in excess of two years during the proceedings before the hearing panel.
- [12] Counsel for the Respondent submits that the review will proceed in an expeditious manner. If a stay is ordered, counsel have agreed that a six-month period of time should be permitted before the stay expires, subject to further order of the Review Board. This is an appropriate time period in order to promote the efficient resolution of the review. In my view, the balance of convenience in this matter is in favour of a stay.

CONCLUSION

- [13] The application is granted. The suspension ordered in the Decision on Disciplinary Action is stayed until the earliest of the following events occur:
- (a) the review is discontinued or abandoned by the Respondent;
 - (b) the review is dismissed by the Review Board;
 - (c) upon further order of the Review Board; or
 - (d) on May 4, 2020.