

2021 LSBC 28  
Decision issued: June 30, 2021  
Citations issued: Citation #1 May 22, 2020,  
Citation #2 May 22, 2020 and amended June 16, 2020,  
Citation #3 June 8, 2020,  
Citation #4 October 7, 2020 and  
Citation #5 November 10, 2020

**THE LAW SOCIETY OF BRITISH COLUMBIA**

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

**and a hearing concerning**

**HONG GUO**

**RESPONDENT**

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**DECISION OF THE PRESIDENT ON APPLICATION  
FOR DETERMINATION OF PRELIMINARY QUESTIONS**

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Written materials: June 16, 2021

President: Dean Lawton, QC

Discipline Counsel: J. Kenneth McEwan, QC  
Counsel for the Respondent: Craig Jones, QC

**NATURE OF THE APPLICATION**

- [1] Hong Guo, the Respondent in five citations, applies to the President pursuant to Law Society Rule 4-36 for the determination of particularized preliminary questions (the “Preliminary Questions”) relevant and common to the hearing of all five citations. Additionally, the Respondent requests that the President exercise his discretion to assign the determination of the Preliminary Questions in all five citations to the same panel under Rule 4-36(3)(a), with the expectation that they will be dealt with in a single proceeding.

## **MATERIALS REVIEWED**

- [2] I have reviewed the following materials in considering the Respondent's application:
1. May 20, 2021 – Application for Determination of Preliminary Questions;
  2. June 3, 2021 – Letter from discipline counsel in response to the Application;
  3. June 10, 2021 – Applicant's Reply to the June 3, 2021 correspondence from discipline counsel; and
  4. June 16, 2021 – Letter from discipline counsel in sur-reply to the Applicant's June 10, 2021 Reply.

## **POSITIONS OF THE PARTIES**

- [3] I will not repeat in detail the submissions of the parties in the materials; however what follows is a summation of their positions.
- [4] The Respondent seeks a direction for the appointment of a single panel pursuant to Rule 4-36(3)(a) to determine three main preliminary questions:
- (a) whether a Rule 4-55 order that was made on April 3, 2016 authorizing the seizure and search of paper files and electronic data located at the Respondent's office was unconstitutional;
  - (b) whether a remedy may be granted by the panel hearing the first preliminary question; and
  - (c) if so, what the remedy should be.

- [5] Discipline counsel seeks a direction that the Preliminary Questions be referred to the hearing panels for the five individual citations, pursuant to Rule 4-36(3)(c).

## **DETERMINATION**

- [6] In assessing both fairness and the balance of convenience, pursuant to Rule 4-36(3)(c), I hereby refer the Preliminary Questions to the individual panels hearing the five citations. In my opinion, doing so will see that the individual panels hearing the citations benefit by having before them all issues and questions in a full

factual and cohesive record. In my further opinion, doing so will not be to the prejudice of the Respondent.