2021 LSBC 30
Decision issued: July 21, 2021
Citation issued: December 12, 2018

THE LAW SOCIETY OF BRITISH COLUMBIA

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

and a hearing concerning

FLORENCE ESTHER LOUIE YEN

RESPONDENT

DECISION OF THE HEARING PANEL ON DISCIPLINARY ACTION

Hearing dates:	March 17 and 18, 2021
Panel:	Nancy G. Merrill, QC, Chair John Lane, Public representative Sandra Weafer, Lawyer
Discipline Counsel:	Mandana Namazi
Counsel for the Respondent:	Gerry Cuttler, QC and Kaitlin Hardy

INTRODUCTION

[1] The Respondent was found to have committed professional misconduct in the following manner:

1. Between May 20, 2015 and February 23, 2017, on behalf of her client PL, the Respondent used or permitted the use of her firm's trust accounts to receive approximately $10 million US and $1.27 million Canadian, and disperse approximately the same amount in 15 separate deposits and 25 separate withdrawals or transfers, and failed to do one or more of the following in connection with these transactions:

   (a) provide any substantial legal services;

(b) make reasonable inquiries about the circumstances of the transactions, including the subject matter and objectives of the retainer, the source of funds, the purpose of payment of the funds or the reason for the payment of the funds to or through the trust account; or

(c) make a record of the results of any inquiries about the circumstances.

2. Between approximately May 20, 2015 and June 15, 2015, the Respondent received funds into her firm's trust accounts on behalf of her client PL but failed to record the source of funds in relation to one or more of the following transactions:

(a) $500,000 US received on or about May 20, 2015;

(b) $1,700,000 US received on or about June 10, 2015; and

(c) $1,849,971.20 US received on or about June 15, 2015.

[2] The reasons of the Panel dealing with Facts and Determination, 2020 LSBC 45 ("F & D"), set out the factual background and the manner in which the Respondent committed professional misconduct.

POSITION OF THE LAW SOCIETY AND THE RESPONDENT REGARDING THE APPROPRIATE PENALTY

[3] The Law Society submits that the appropriate disciplinary action is a suspension of at least six months. The Law Society is not seeking any restrictions on the Respondent's operation of a trust account.

[4] The Respondent submits that the appropriate disciplinary action is a significant fine in the range of $20,000 to $25,000. In the alternative, a suspension of two weeks to three months would be appropriate, and a suspension of two weeks to one month would be more appropriate.

PRINCIPLES

[5] In determining the appropriate sanction to be imposed, we are guided primarily by section 3 of the *Legal Profession Act* (the "*Act*"). Section 3 provides as follows:

Object and duty of society

3 It is the object and duty of the society to uphold and protect the public interest in the administration of justice by

(a) preserving and protecting the rights and freedoms of all persons,

(b) ensuring the independence, integrity, honour and competence of lawyers,

(c) establishing standards and programs for the education, professional responsibility and competence of lawyers and of applicants for call and admission,

(d) regulating the practice of law, and

(e) supporting and assisting lawyers, articled students and lawyers of other jurisdictions who are permitted to practise law in British Columbia in fulfilling their duties in the practice of law.

[6] The main goal of the *Act* is the protection of the public and the public interest. As such, this Panel must always keep this principle in mind when assessing the appropriate disciplinary action.

[7] The case of *Law Society of BC v. Ogilvie*, 1999 LSBC 17, [1999] LSDD No. 45, sets out a list of factors to be considered in determining the appropriate disciplinary action. The list is not exhaustive, and not all factors will be applicable in each case. The factors as set out in paragraph 10 of that decision are:

(a) the nature and gravity of the conduct proven;

(b) the age and experience of the respondent;

(c) the previous character of the respondent, including details of prior discipline;

(d) the impact upon the victim;

(e) the advantage gained, or to be gained, by the respondent;

(f) the number of times the offending conduct occurred;

(g) whether the respondent has acknowledged the misconduct and taken steps to disclose and redress the wrong and the presence or absence of other mitigating circumstances;

(h) the possibility of remediating or rehabilitating the respondent;

(i) the impact on the respondent of criminal or other sanctions or penalties;

(j) the impact of the proposed penalty on the respondent;

(k) the need for specific and general deterrence;

(l) the need to ensure the public's confidence in the integrity of the profession; and

(m) the range of penalties imposed in similar cases.

[8] We are also guided by the consolidated factors listed in *Law Society of BC v. Dent*, 2016 LSBC 05, which sought to simplify the process and only address those *Ogilvie* factors the panel finds relevant or determinative of the appropriate disciplinary sanction.

[9] The *Dent* case reduced the *Ogilvie* factors from 13 to four primary factors:

(a) the nature, gravity and consequences of the conduct;

(b) the character and professional conduct record of the respondent;

(c) acknowledgement of the misconduct and remedial action; and

(d) public confidence in the legal profession including public confidence in the disciplinary process.

[10] We find the *Dent* factors to be most applicable in this case and base our analysis on those four primary factors.

ANALYSIS OF THE *DENT* FACTORS

Nature, gravity and consequences of the Respondent's conduct

[11] The Respondent breached her duty as gatekeeper of her firm's trust accounts. This, in and of itself, constitutes a risk to the public and as such must be treated very seriously.

[12] PL retained the Respondent initially to incorporate a numbered company for the purposes of purchasing a restaurant business. She provided legal services to PL, his partner and their companies for several years.

[13] PL contacted the Respondent from Hong Kong inquiring as to how he could wire money to the Respondent's firm trust account. He advised her that his uncle's foundation was intending on purchasing property in Canada for investment purposes.

[14] Further to this discussion, the sum of $604,770.16 CDN was wired to the Respondent's firm trust account. Within a short period of time, PL advised the Respondent that the offer on the property his uncle wanted to purchase was not accepted and that PL wished to access the funds in her firm's trust account.

[15] The Respondent followed the client's instructions and remitted $300,000 to the client and approximately $100,000 to three other law firms for purchase deposits. Another $1.7 million US was wired to the client's uncle in Hong Kong via Luxembourg, and a further $1,699,985 was sent to one of PL's companies via bank draft.

[16] There is no evidence that the Respondent provided any legal services to PL or his company relative to these transfers. Further, there is no evidence that the Respondent knew who the funds were coming from, the amount of funds to be transferred to the firm's trust account, or when the transfer to the trust account would occur.

[17] Subsequently, another $1,849,971 US was wired to the Respondent's firm trust account from Singapore. PL instructed the Respondent to pay him this amount, which she did on the same day that the funds were deposited. There is no evidence that the Respondent provided any legal services to PL respecting these funds. Moreover, there is no evidence that she had any advance knowledge that the funds would be wired to the firm's trust account, who the funds were coming from, or the amount of the funds to be deposited.

[18] This pattern continued over a period of 22 months. Deposits of approximately $9,950,000 US and $1,275,000 CDN were made to the Respondent's firm trust account. Of these amounts, only $1.5 million US was used for what we consider to be "legitimate" transactions connected to four of PL's files.

[19] The funds deposited into trust came from a variety of sources, including Panama, Singapore and a Singapore bank via Luxembourg, yet the Respondent made no inquiries about the source of these funds. She never spoke to PL's uncle. At the

time of the first deposit, she did not know the uncle's name, the name of his foundation, whether the funds would be coming from the uncle personally or his foundation, the uncle's address, employer or occupation, his level of wealth or the origins of the funds.

[20] The questionable nature of these transactions gave rise to inquiries by the Royal Bank on four separate occasions over an 18-month period. The Royal Bank sought information from the Respondent as to the source and purpose of the funds. Specifically, the bank wanted to know why a law firm was receiving money in trust that was intended as a gift between family members and why the money was coming via wire transfer from Panama. The Royal Bank was suspicious of these transactions. The Respondent apparently was not.

[21] The Respondent took the position throughout this matter that PL was a good client, that she had known him for many years, and that she was performing substantial legal services for him.

[22] The Respondent breached her professional obligations repeatedly and in a variety of ways:

(a) She failed to make appropriate or any inquiries as to the source or purpose of the funds;

(b) She allowed PL to use her firm's trust accounts as his own personal bank account, transferring money in and out at will;

(c) She did not provide any legal services for the majority of the trust account transactions;

(d) She failed to comply with the rules governing lawyers' trust accounts and took the view that she was not responsible for her firm's accounting procedures; and

(e) She failed to act on objectively suspicious circumstances or "red flags".

[23] We do note that there was no real tangible benefit to the Respondent in so acting, other than perhaps maintaining a good relationship with PL.

[24] As this Panel has found, the Respondent was at best wilfully blind in allowing her firm's trust accounts to be used and manipulated in this manner. This Panel cannot definitively conclude that money laundering occurred, but it is not our role to make that determination.

[25] Nevertheless, if money laundering did in fact occur, it could not have happened without the participation and assistance of the Respondent, however inadvertent such assistance may have been.

[26] It is well established that lawyers are gatekeepers of their trust accounts. In *Law Society of BC v. Gurney*, 2017 LSBC 15, the panel explained that lawyers' trust accounts are not to be used as a conduit; rather, they are only to be used for legitimate purposes and transactions. The reason for this is that lawyers are granted the privilege of operating trust accounts without scrutiny or interference by government authorities such as FINTRAC. This exemption from government scrutiny arises from the principle that trust funds are protected by solicitor-client privilege. This privilege carries with it the weighty obligation of ensuring that trust accounts are not misused or that rules governing their use skirted or outright circumvented.

Character and professional conduct record of the Respondent

[27] The Respondent was called to the bar of British Columbia in 1995. She is 52 years of age and an experienced solicitor with an active solicitor's practice predominantly in the area of real estate conveyancing. She has been a sole practitioner for several years and is one of only a few Cantonese-speaking lawyers in private practice in the Lower Mainland.

[28] The Respondent does not have a professional conduct record. This is a mitigating factor.

[29] The Respondent provided 14 character references, none of which was from PL. The character references provided all confirm the writer has read the F & D decision of this Panel. The references describe the Respondent as competent, professional and ethical, a rule-follower, and that her conduct in this matter was completely out of character.

[30] While character references are of some value in these types of proceedings, they are not determinative. Given the nature, severity and repetition of the misconduct by the Respondent, we give the character references limited weight and do not find them to be a mitigating factor.

Acknowledgement of the misconduct and remedial action

[31] During the course of the F & D hearing, the Respondent maintained that she had done nothing wrong.

[32] At the disciplinary action phase, however, the Respondent testified that she acknowledged the misconduct, respected the Panel's decision and apologized to the Panel. She expressed remorse and gave evidence of the impact that the Citation and the F & D decision had on her personal and professional life, including that she is no longer approved by several banking institutions to do work on their behalf since they became aware of the Citation.

[33] In her testimony, the Respondent said that initially she did not admit to professional misconduct because she felt she needed to explain that she thought she was following the rules, and that she is by nature a rule-follower.

[34] The Respondent assured the Panel that this type of conduct would not happen again and detailed the steps she had taken to protect against it, including:

(a) reviewing the trust accounting handbook;

(b) taking three trust accounting courses through the Law Society of British Columbia;

(c) no longer accepting funds into trust unless there is a file opened for a client;

(d) no longer accepting funds into trust if the client has not provided a contract of purchase and sale;

(e) taking courses on client identification and verification, fraud prevention, anti-money laundering, *Land Owner Transparency Act* and Land Owner Transparency Registry;

(f) requiring clients to complete a "source of funds" document;

(g) using an agent's agreement to verify an overseas client's identity;

(h) requiring documents to be provided by clients to verify the source of funds to be deposited into trust, including corporate account statements, line of credit statements and bank account statements; and

(i) significantly reorganizing her practice and implementing safeguards.

[35] The Respondent's testimony in this regard suggests that she has become somewhat hyper-vigilant when dealing with trust funds. Having said that, this Panel is troubled by the fact that PL continues to be her client and that she has not sought

any further information or particulars from him regarding the events underlying the Citation.

[36] The Panel asked that the Respondent be recalled to give evidence on this point. Her relevant testimony regarding the period after the F & D decision was published is:

(a) PL continues to be her client. He has always been an honest, respectful businessperson, and as such she had no suspicions or concerns about him;

(b) she did not ask PL for any information regarding the various transactions that are the subject of the Citation;

(c) PL continues to live overseas; and

(d) (d) she has no further information about the source of funds from PL as she continues to act for him and several of his companies, other than they come from his personal bank account or one of his companies.

[37] The Respondent went on to say that PL is aware of the Citation and these discipline proceedings and that he was very apologetic.

[38] We find the fact that the Respondent continues to act for PL, coupled with her continuing failure to seek information and particulars from him about the subject transactions, to be an aggravating factor.

Public confidence in the legal profession including public confidence in the disciplinary process

[39] It is imperative that the public have confidence in the ability of the Law Society to regulate and supervise the conduct of lawyers.

[40] We acknowledge that the Respondent is unlikely to repeat the conduct that resulted in her facing disciplinary action. However, specific deference is not the only goal of the regulatory function of the Law Society.

[41] We adopt the reasoning in *Law Society of BC v. Mastop*, 2013 LSBC 37, with particular reference to the following:

> [33] We agree that, if Mr. Mastop were permitted to practise law, it is highly unlikely that he would commit such an offence again. We are also aware of his lack of a prior record, criminal or disciplinary, and the numerous letters of support put before the trial judge and before us.

> [34] The question is: does any of this matter?
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> [36] The public does not need protection from Mr. Mastop. However, the public needs protection from any lawyer who may think that crossing this line will not attract the ultimate regulatory penalty. We adopt the reasoning as previously set out above in the decision of *Law Society of BC v. McGuire*, 2007 BCCA 442; the profession has to say to its members: "Don't even think about it."
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> …
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> [39] … We think it is important to apply a sanction that will be effective in deterring other lawyers who will need to resist requests from clients for illegal assistance. In order to maintain public confidence in the legal profession, there should be no possibility of doubt that the Law Society takes such conduct with the utmost seriousness, and the profession needs to know that as well.

[42] The *Gurney* decision underscores that a lawyer's breaches relative to the use of trust accounts must attract serious consequences, for this type of misconduct creates serious risk to the public interest:

> [79] We find lawyers' duties with regard to the use of their trust accounts are contained in the *Code* provisions that were set out above as part of the Law Society submission, and more particularly encompass the case law cited by the Law Society in its submissions. They are:
>
> (a) A lawyer's trust accounts are to be used for legitimate commercial purposes for which they are established, the completion of a transaction, where the lawyer plays the role of legal advisor *and* facilitator. They are not to be used as a convenient conduit. Even where other authorities, such as FINTRAC, may be aware of the source of the funds entering an account, the effect of solicitor-client privilege is that the parties to whom the funds are disbursed and the purpose for which the funds are disbursed are shielded by the privilege. It is for this reason that a lawyer's trust account cannot be used only for the purpose of facilitating the completion of a transaction, but the lawyer must also play a role as a legal advisor with regard to the transaction. This is the requirement to provide legal services.

(b) The Court of Appeal in *Elias v. Law Society of BC* (1996), 26 BCLR (3d) 359, 1996 CanLII 1359, quoted the Bencher review decision at para. 9: "where the circumstances of a proposed transaction are such that a member should reasonably be suspicious that there are illegal activities involved under Canadian law or laws of other jurisdictions, it is professional misconduct to become involved until such time as inquiries have been made to satisfy the member on an *objective* test that the transaction is legitimate." [emphasis added] It is clear that the duty to make inquiries is triggered prior to the lawyer becoming involved in the transaction, and the lawyer must be satisfied on an objective basis that the transaction is legitimate.

(c) The lawyer's duty to investigate arises when, on an objective basis, he becomes suspicious that the transaction is illegitimate. Professional misconduct can be found even if the underlying transaction cannot be proved to be illegitimate. A lawyer cannot delegate the duty to inquire to a third party such as a client and rely upon the client's assurance as to the legitimacy of the transaction.

[80] A lawyer has a gatekeeper function with regard to trust accounts. This function arises, in part, from the fact that transactions that occur through a lawyer's trust account are protected by solicitor-client privilege. The privilege means that, while the authorities may be aware of the source of funds entering into the trust account, the facts regarding to whom funds are disbursed, the amounts and the purposes are shielded from the authorities by the privilege. The purpose of the privilege is to allow open and candid communications between a lawyer and client. The purpose of the privilege is not to facilitate suspicious transactions. The gatekeeper function requires a lawyer to use trust accounts for legitimate commercial purposes for which the lawyer is a legal advisor and facilitator. Prior to the lawyer becoming involved in a transaction, if there is a reasonable suspicion that the transaction may involve illegal activities in Canada or abroad the lawyer has a duty to make reasonable inquires. An objective test is applied to the lawyer's conduct. In order for professional misconduct to be found, illegal activities do not have to be proved.

[43] We find that the Respondent's conduct reflects poorly on the legal profession and should attract a substantial penalty.

THE RESPONDENT'S *CHARTER* VALUES ARGUMENT

[44] Before turning to our decision on disciplinary action, we must address the Respondent's submissions regarding the need for the Panel to consider *Charter* values when determining the appropriate disciplinary sanction. She submits that section 3(a) of the *Act*, being the duty to preserve and protect the rights and freedoms of all persons, applies to these proceedings.

[45] The Respondent submits that this requires the Panel to consider how the Respondent's Cantonese-speaking ethnic client base and employees will be affected by any suspension that may be imposed on the Respondent.

[46] The Respondent relies on several Supreme Court of Canada decisions in support:

(a) *Doré v. Barreau du Québec*, 2012 SCC 12, where the court stated that administrative bodies are not only empowered, but are required to consider *Charter* values within their scope of expertise;

(b) *Loyola High School v. Quebec (Attorney General)*, 2015 SCC 12, where the court found that when *Charter* rights are engaged, reasonableness requires proportionate balancing that gives effect, as much as possible, to the protections under the *Charter* that are at stake vis-à-vis the statutory mandate of the administrative body; and

(c) *Law Society of BC v. Trinity Western University*, 2018 SCC 32, which defined *Charter* values as "those values that underpin each right and give it meaning, and which help determine the extent of any given infringement in the particular administrative context and, correlatively, when limitations on that right are proportionate in light of the applicable statutory objectives."

[47] When asked during her examination in chief what the impact of a suspension would be on her clients, the Respondent replied as follows:

(a) Many of her clients are small businesses who do not want to go to a large firm or to someone they do not know or if there is going to be a language barrier;

(b) She is concerned that her clients would simply wait for her suspension to conclude or not obtain advice in a timely manner;

(c) Many clients have a difficult time during Covid negotiating with landlords or reducing their staff compliment; and

(d) General issues surrounding Covid, including that some of her clients are not computer literate, will present problems for them.

[48] Earlier in her testimony, the Respondent opined that it was increasingly difficult to find a Cantonese-speaking lawyer in the Lower Mainland. The parties submitted evidence of the number of self-identifying Cantonese-speaking lawyers. Of the eight listed in a legal directory, two were in-house counsel and three were in large downtown Vancouver law firms. No evidence was submitted regarding the number of Cantonese-speaking notaries, paralegals or interpreters in the Lower Mainland.

[49] The Law Society submits that the Respondent has no standing to raise a derivative *Charter* rights argument. However, *Charter* values are different than *Charter* rights.

[50] The Panel is cognizant of the need to consider *Charter* values and balance them with the duty under the *Act* to protect the public interest.

[51] In this regard, we adopt the guidance from the Court of Appeal in *Howe v. Nova Scotia Barristers' Society*, 2019 NSCA 81 where the court listed four factors to be considered when disciplining a racialized lawyer:

> [179] The L.S.U.C. proceedings outline factors that should be considered when sanctioning a racialized lawyer. I would summarize them as follows:
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> 1. a decision maker can give mitigating effect to systemic discrimination when it impacts on misconduct and influences the lawyer's actions (*Law Society of Upper Canada v. McSween*, 2012 ONLSAP 3);
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> 2. there must be a causal connection between systemic or individual racism and the lawyer's actions giving rise to findings of misconduct (*McSween*; *Law Society of Upper Canada v. Hamalengwa*, 2015 ONLSTH 57*)*;
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> 3. when addressing the sanctioning of a racialized lawyer, it is appropriate to consider the community's need to have access to lawyers from their community in the justice system (*Law Society of Upper Canada v. Robinson*, 2013 ONLSAP 0018; *LSUC v. An*, 2017 ONLSTH 181; *Law Society of Upper Canada v. Batstone*, 2015 ONLSTH 214; *Law Society of Ontario v. Bahimanga*, 2018 ONLSTH 60);
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> 4. *The overarching considerations are the requirements for a self-governing profession to govern itself in the public interest, and to*

> *maintain public confidence in the integrity and trustworthiness of members of the legal profession* (*Robinson, An, Law Society of Upper Canada v. Adams*, 2018 ONLSTH 20, *Law Society of Upper Canada v. Dadepo*, 2018 ONLSTH 48).
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> [emphasis added]

[52] By definition, any suspension of any lawyer may negatively affect their staff and clients irrespective of those groups' gender, ethnic or racial backgrounds, ages or linguistic abilities. Moreover, the logic is inescapable that a longer suspension is of greater consequence than a shorter suspension.

[53] The impact of a suspension, however, cannot override the duty to protect the public and "maintain public confidence in the integrity and trustworthiness of members of the legal profession," as stated in *Howe*.

[54] Having considered all of the submissions before us, we find that the need for general deterrence and protection of the public outweighs any negative impact on the Respondent's clients or employees.

DECISION ON DISCIPLINARY ACTION

[55] We find the Respondent's wilful blindness in allowing her firm's trust accounts to be used by PL effectively as his private bank account warrants significant rebuke and attracts a lengthy suspension. The conduct occurred repeatedly over a period of almost two years, without attempts to make adequate or any inquiries, and without the provision of substantial or, in many cases, any legal services.

[56] We have considered the submissions of the parties regarding disciplinary action. In our view, the relevant jurisprudence supports a suspension of two weeks to six months.

[57] We have also considered the following cases in determining the appropriate length of suspension in this matter:

(a) *Law Society of BC v. Gurney*, 2017 LSBC 32: The respondent was suspended for six months, ordered to disgorge fees, and subject to practice restrictions regarding his trust account. The respondent allowed his trust account to be used to process approximately $26 million in overseas funds under suspicious circumstances. The respondent failed to make inquiries and did not provide any legal services regarding these transactions. He was a senior solicitor without a professional conduct record.

(b) *Law Society of BC v. Hammond*, 2020 LSBC 30: The respondent was suspended for two weeks for allowing his trust account to process almost $500,000 US without making adequate inquiries or providing legal services in connection with the subject funds. The respondent was a senior solicitor with no professional conduct record. He cooperated with the Law Society, made admissions and expressed remorse.

(c) *Law Society of BC v. Hsu*, 2019 LSBC 29: The respondent was suspended for three months and restricted from practising securities law. She flowed $14 million through her trust account, which facilitated fraud. She ignored the red flags, but the panel found she was duped. She was a junior lawyer who was not familiar with securities law. She readily admitted the misconduct and had no professional conduct record.

(d) *Law Society of BC v. Daignault*, 2020 LSBC 18: The respondent was suspended for two weeks. He allowed his trust account to be used to process three transactions without making adequate inquiries or providing any legal services. The respondent admitted the conduct, expressed regret and had no professional conduct record.

(e) *Law Society of BC v. Uzelac*, 2020 LSBC 58: The respondent was suspended for four months. He allowed his trust account to process funds without making adequate inquiries or providing legal services. The respondent was a senior lawyer with a significant conduct record.

[58] The Respondent ignored a multitude of obvious red flags. She utterly failed in fulfilling her duty as gatekeeper of her firm's trust accounts.

[59] PL continues to be her client, yet she has not made any inquiries of him regarding the impugned transactions. We find this to be a significant aggravating factor that impacts the length of the suspension to be ordered.

[60] Considering all of the factors set out above, we find that a three-month suspension is appropriate in this case given the repeated nature of the breaches by the Respondent and her continued failure to safeguard the integrity of her firm's trust accounts.

DECISION ON COSTS

[61] The Law Society seeks a total of $60,671.42 in costs payable by the Respondent.

[62] The Respondent submits that the appropriate amount of costs payable should be set at $17,482.59, a reduction of approximately two-thirds of the amount sought by the Law Society.

[63] The Panel sought and received information about the costs awarded in the *Gurney* case, being $24,714 (204 units equaling $20,400 in fees and $3,000 in disbursements).

[64] *Gurney* was a novel, groundbreaking case with several pre-hearing applications. As well, *Gurney* costs were assessed on Scale A ($100 per unit) and not Scale B ($150 per unit) as is currently being sought by the Law Society.

[65] We have reviewed in detail the Bills of Costs proposed by both parties.

[66] The Law Society submits that we must consider and apply the tariff of costs unless it is "reasonable and appropriate" to do otherwise. The Law Society is entitled to costs, absent special or extenuating circumstances. It is also said that the Bill of Costs submitted by the Law Society is "presumptively reasonable".

[67] We find no merit in the arguments that either counsel unduly prolonged the hearing of this matter or did not make appropriate admissions.

[68] We find this matter was of ordinary difficulty and Scale A applies.

[69] We do find that some of the units claimed by the Law Society are excessive and make the following reductions:

(a) Item 1 preparation: we reduce the maximum 10 units claimed to 5 units;

(b) Item 3 disclosure: we reduce the units claimed from 15 to 12;

(c) Item 9 notice to admit: we reduce the maximum 20 units claimed to 15 units; and

(d) Item 12 witnesses: we reduce the maximum 10 units claimed to 5 units.

[70] We authorize fees in the amount of 310 units at Scale A for a total of $31,000.

[71] The Law Society seeks reimbursement for the costs of transcripts in the amount of $7,209.83. The Panel did not order transcripts in this matter. We do not agree that ordering the transcripts was necessary or prudent. As such, the costs claimed for transcripts are disallowed.

[72] We order that the costs of disbursements payable by the Respondent be set at $4,261.59, inclusive of GST.

[73] In these circumstances, the Law Society is entitled to costs under the tariff in Schedule 4 to the Rules, but the proper application of the tariff is as we have found above.

[74] Accordingly, the Panel hereby orders that the Respondent pay to the Law Society costs in the sum of $35,209.83.

CORRIGENDUM

[75] The Respondent requests that we make the following changes to paragraph 4 of the F & D decision:

> Change the last sentence of paragraph 4 from "At all times she was an employee and was never a partner, as she chose to remain an employee." to "<u>At all times she was an employee and was never an associate under contract, as she chose to remain an employee."</u>

[76] The Law Society takes no position on this change. Consequently we so order.

[77] The Respondent also requests a change to paragraph 20 of the F & D decision. The Law Society opposes this request. We decline that request as to do so would significantly alter our finding as currently set out in paragraph 20.

ORDER

[78] We order that

a. the Respondent be suspended from the practice of law for a period of three months beginning September 1, 2021, or on another date agreed to by the Law Society and the Respondent;

b. the Respondent pay $35,209.83 in costs to the Law Society, payment of which is to be made by May 1, 2022, without interest; and

c. the last sentence of paragraph 4 of the F & D decision be changed to read: <u>"At all times she was an employee and was never an associate under contract, as she chose to remain an employee."</u>