

2006 LSBC 35

Report issued: September 18, 2006

Oral Reasons: August 2, 2006

Citation issued: January 3, 2006

The Law Society of British Columbia  
In the matter of the *Legal Profession Act*, SBC 1998, c.9  
and a hearing concerning

**Maneesh Saini**

Respondent

### **Decision of the Hearing Panel**

Hearing date: August 2, 2006

Panel: Bruce A. LeRose, Chair, Ken Dobell, Leon Getz, Q.C.

Counsel for the Law Society: James A. Doyle

Counsel for the Respondent: Garth McAlister

## **Background**

[1] On January 3, 2006, a citation was issued against the Respondent pursuant to the *Legal Profession Act* and Rule 4-13 of the Law Society Rules by the Executive Director of the Law Society of British Columbia pursuant to the direction of the Chair of the Discipline Committee. The citation, as amended, directed that this Panel inquire into the Respondent's conduct as follows:

1. You failed to comply with an Order of the Supreme Court of British Columbia, made April 29, 2005.

[2] This citation came before this Panel as a conditional admission of a disciplinary violation and consent to a specific disciplinary action pursuant to Rule 4-22 of the Law Society Rules. The Respondent admitted that she had professionally misconducted herself and consented to the following disciplinary action:

(a) a reprimand;

(b) a fine in the amount of \$2,500; and

(c) costs in the amount of \$2,500, both costs and fine payable on a quarterly basis over a period of two years.

### **Agreed Statement of Facts**

[3] An Agreed Statement of Facts was filed as Exhibit 2 in these proceedings. The Agreed Statement of Facts provided as follows:

1. Ms. Maneesh Saini was called to the Bar in British Columbia on May 23, 1997 and has been a Member of the Law Society of British Columbia since then (the " Member" ).

2. The Member initially practised for just over three years in Prince George, British Columbia and then moved to the Lower Mainland. At all material times, she practised at a firm called the Wellington Law Office. Her practice consists mainly of solicitors' work, with some family law and litigation files.

3. Mr. G.D. died in March 2005. At the time of his death, Mr. T.N. was the brother of G.D. and Mr. J.N. was his nephew.

4. At the time of G.D.'s death, Mr. K.C. lived in the residence of G.D.

5. T.N. and J.N. were not able to locate a Will. J.N. retained the firm Panchmatia Crimp. Mr. Panchmatia, a member of the Law Society, wrote to K.C. by letter dated April 8, 2005, stating, in part:

" We represent [J.N.], nephew of the late [G.D.].

...

[J.N.] intends to enter the residence of the late Mr. [G.D.] in his capacity as intended administrator. For this purpose would you please be present at the residence on Monday, April 11, 2005 at 4:00 p.m. Please contact us to confirm that this time is suitable to you.

We understand that you have undertaken various activities that may indicate that you may have been appointed the Executor under a Will. If you have been appointed Executor, or if you have another basis for the authority upon which you are acting, please confirm this to us, by providing us with a copy of the documentation upon which you rely."

6. The Member wrote to Mr. Panchmatia on April 10, 2005, stating, in part:

" This letter will confirm that we act for Ms. [K.B.], a named Executor in the last known Will of [G.D.].

Further to your letter of the 8th day of April, 2005, your client is not named in the last known Will of [G.D.] and is in no other way an interested party in this estate. As such, your client is not entitled to access to the property of the estate or disclosure of any kind.

..."

7. Mr. Panchmatia wrote to the Member on April 15, 2005, stating, in part:

" You objected to providing any information to us on the basis that [J.N.] was not an interested party in the estate of [G.D.], even though he was merely assisting the deceased brother to make inquiries. We have now been retained by the deceased's brother, [T.N.]. [T.N.] is one of the

people who would be entitled to share in the estate of [G.D.] under the Rules of Intestate Succession. Therefore, he is an interested party and entitled to disclosure.

On behalf of [T.N.] we request that you provide us with a copy of the Will of the late [G.D.] in which you state [K.B.] is a named Executor. Please provide us with a copy of this Will on or before April 23, 2005. We would be happy to send a courier to your office to pick up a copy of the Will if you would phone our office and let us know that it is ready. If we do not receive a copy of the Will by April 23, 2005, we intend to prepare a Citation pursuant to the Rules."

8. When the Will was not provided to Panchmatia Crimp, a Citation to Bring In A Will (the " Citation" ) was prepared and filed in the Chilliwack Registry on April 29, 2005. The Citation was addressed to the Member and provided:

" It appears from the Affidavit of [A.A.], sworn April 29, 2005, that a testamentary document signed by [G.D.], also known as [G.N.], of [address], who died on March 13, 2005, may be in your possession or control.

You are ordered to bring into the Registrar's Office at the Courthouse at 46085 Yale Road, Chilliwack, B.C. and leave with the Registrar any testamentary documents signed by [G.D.], also known as [G.N.], which is in your possession or control, within 14 days after service of this Citation on you.

If no testamentary document is in your possession or control, you are within the same time to file in the Registrar's Office an Affidavit to that effect and setting forth what knowledge you may have respecting any testamentary documents signed by [G.D.], also known as [G.N.].

9. The Citation was personally served on the Member on April 29, 2005.

10. At the time that she was served with the Citation, the Member had the original Will in her possession. She was intending to prepare an affidavit of the Executor for the Probate Application.

11. The Member did not take a copy of the Will to the Registrar as provided in the Citation, nor did she file an Affidavit stating why she did not respond.

12. By letter dated June 6, 2005, Ms. Crimp, of Panchmatia Crimp, wrote to the Law Society concerning the Member's failure to respond to the Citation.

13. By letter dated June 23, 2005, Gayle Myers, Staff Lawyer - Professional Conduct (the " Staff Lawyer" ), wrote to the Member, seeking an explanation on a number of matters, including the Member's failure to respond to the Citation.

14. The Member wrote to the Staff Lawyer on July 4, 2005. With respect to failing to respond to the Citation, she wrote:

" On the 29th of April I was in fact served with a Citation, a copy of which you have in your files. This Citation requires me to produce the original Will (not a copy). I required the original to be

marked as an Exhibit ' A' to the Affidavit of the Executor for the probate application, which would have been awkward if it had been submitted to the Court Registry. Being pressed for time, and since the probate application was almost ready, I chose to submit the original Will with the probate package instead of researching the mechanics for completing the probate application without it. At the time, we were awaiting a few more pieces of information but I believed the probate application would be ready within the time set out in the Citation.

On the 18th of May, I reviewed the probate documents with [K.B.] and [K.C.] (who had returned prematurely from India in response to [K.B.]'s distress over Mr. Panchmatia's letter). Apart from separation of the interest from principal in the Royal Bank balance and the address of one of the persons entitled to notice, the documents were then ready to go.

On the 21st of June, 2005, I met with [K.C.] and [K.B.] to complete the probate documents. The probate package was submitted to the Court Registry on the 28th of June, 2005.

I have since been advised that the Chilliwack Court Registry will place a copy of the Will on the Citation file and the original on the probate file. I could perhaps have provided the Court with a certified copy of the Will in place of the original, but that is not apparent from the Citation.

...

There are a number of practice points that I take away from this experience, any one of which may have prevented this matter escalating as it has:

1. I should have produced a certified copy of the Will to the Court for the Citation together with a written explanation that the original was not produced as being necessary for the Probate application and would be submitted shortly with the completed documents.

..."

15. The probate package was submitted to the Court Registry on June 28, 2005.

## **PROFESSIONAL AND PERSONAL LIFE**

16. Ms. Saini was born in India in 1969 and arrived in Canada as an immigrant in 1973 at the age of four.

17. Ms. Saini received a Commerce degree with honours from the University of Saskatchewan in 1990, and worked for IBM for three years from 1990 to 1993 when she commenced law school at the University of Saskatchewan.

18. She was called to the British Columbia Bar in 1997, after having articulated at Hope Heinrich in Prince George, where she continued as an associate until 2000.

19. She was called to the Alberta Bar in 2000, but never practised there.

20. Ms. Saini has worked under contract to the Information Services Corporation of Saskatchewan to assist in bringing the Saskatchewan Land Titles Registry online.

21. From 2001 to 2002, Ms. Saini was an associate with Baker Newby, doing solicitors' work.

22. From 2002 to the present time, she has been a sole practitioner; she initially set out to build a solicitor's practice, but took on some litigation work to top up her workload. She reports that she has begun to focus on solicitors' work now that more of it is coming in.

23. Ms. Saini reports that from about 2002 until late in 2005, she was the sole source of financial support for herself and four other adult family members, for whom she provided extensive household care, while at the same time running her law office as a sole practitioner.

24. Ms. Saini has cut back on the amount and types of work she takes in and is focusing on solicitors' work. She acknowledges the need to manage her workload more carefully, and has removed her name from the lawyer referral list for family law and most types litigation.

25. Ms. Saini has also taken steps to reduce the demands placed on her time by reducing the number of volunteer and community commitments she undertakes, so that she may better focus on cultivating her law practice.

#### Admissions

26. The Member admits that she failed to comply with an Order of the Supreme Court of British Columbia, made April 29, 2005, and that such failure amounts to professional misconduct.

[4] After considering the circumstances set out in the Agreed Statement of Facts and having heard the submissions of counsel, the Panel accepts the admission and finds the Respondent guilty of professional misconduct.

[5] The Panel finds the penalty proposed by the Respondent, and recommended by the Discipline Committee, to be appropriate in all of the circumstances.

[6] It is accordingly ordered that the Respondent:

- (a) be reprimanded;
- (b) pay a fine in the amount of \$2,500; and
- (c) pay costs in the amount of \$2,500, both costs and fine to be paid on a quarterly basis over a period of two years.

[7] The Executive Director is instructed to record the Respondent's admission on the Respondent's Professional Conduct Record, to impose the disciplinary action proposed by the Respondent and accepted by the Panel and to inform the Respondent and the complainant of the disposition.

[8] There will be publication of this decision in the normal course.