2007 LSBC 29
Report issued: June 8, 2007
Citation issued: February 9, 2005

The Law Society of British Columbia
In the matter of the *Legal Profession Act*, SBC 1998, c.9
and a section 47 review concerning

Douglas Warren Welder

APPLICANT

Decision of the Benchers on Review

Review date: January 19, 2007

Quorum: **Majority decision:** James Vilvang, Q.C., Chair, Terence La Liberte, Q.C., Jan Lindsay, Ken Dobell, Joost Blom, Q.C., Ronald Tindale, Kathryn Berge, Q.C., Dirk Sigalet, Q.C., Leon Getz, Q.C.

Counsel for the Law Society: Brian McKinley
Counsel for the Respondent: Alan R. Perry

Introduction

[1] On February 9, 2005, the Law Society issued a citation (the " Citation") against Douglas Warren Welder (the " Applicant") alleging that he had failed to remit funds collected for Goods and Services Tax, Social Service Tax and employee source deductions. It was alleged that the Applicant's failure constituted professional misconduct.

[2] By way of an Agreed Statement of Facts dated July 22, 2005, the Applicant admitted the facts alleged against him and also admitted that, on the facts, he professionally misconducted himself.

[3] In a decision issued November 16, 2005 a Hearing Panel of the Law Society (the " Hearing Panel") found the Applicant guilty of professional misconduct and ordered that he be suspended from the practice of law for one year from that date (the " Hearing Decision").

[4] On November 19, 2005, the Applicant filed a Notice of Review seeking a reconsideration of the penalty imposed by the Hearing Panel.

[5] The hearing on Review took place on January 19, 2007.

A Preliminary Question

[6] At the commencement of the Review, the Applicant applied to withdraw his admission that he was guilty of professional misconduct. He made it clear that, if permitted to do this, he intended to rely on the decision of a Hearing Panel of the Law Society in *Re: Lawyer 6*, 2005 LSBC 33, in support of an argument that he had not committed professional misconduct.

[7] That decision was issued on September 29, 2005, which is after the Applicant's admission of

misconduct on July 22, 2005, but before November 16, 2005, the date upon which the Hearing Panel decision that imposed the one-year suspension on the Applicant was issued

[8] The facts in *Re: Lawyer 6* are succinctly set out in the following passages from the decision of the Hearing Panel:

> [4] On July 17, 2003, the Respondent informed the Executive Director, pursuant to Rule 3-45(2)(a) of the Law Society Rules, that he had signed a Notice of Intention to Make a Proposal to his creditors under the *Bankruptcy Act*.
>
> [5] Law Society staff then requested certain information from the Respondent concerning his financial status and drew his attention to Rule 3-45(4)(a) concerning his trust account and the Respondent responded to the inquiry. Law Society staff later requested further information about GST collected from his clients during the 2002 taxation year, but apparently not remitted.
>
> [6] The Respondent answered this inquiry with the explanation that since 1995 he had routinely remitted GST on a yearly basis, rather than quarterly. He also explained that the Receiver General had never questioned his having done so.
>
> [7] In August, 2003, the Respondent made an amended Proposal to Creditors which was accepted. In June, 2004, he provided the Law Society with a copy of a Certificate of Full Performance of Proposal dated March 29, 2004.
>
> [8] The Respondent admitted that he had not remitted amounts totaling $7,690.69 which he had collected from his clients in 2002 for the payment of GST, . . .

[9] Counsel for the Law Society in *Re: A Lawyer 6* contended that the admitted failure to remit GST was either professional misconduct or conduct unbecoming a lawyer. The Respondent's position had been that the failure to remit could not support a finding of guilt in the circumstances of the Respondent's bankruptcy, characterizing the collection and remittance of GST as " primarily a business obligation" that " raised no professional issue such as dishonesty."

[10] The Hearing Panel in *Re: Lawyer 6* " was not persuaded that members of the public, including the Respondent's clients, would hold him or the legal profession in disrepute for failing to remit when he had made a proposal in bankruptcy, which was accepted by his creditors and fully performed, essentially resulting in his financial obligations, including the obligation to pay the unremitted GST, being wiped clean."

[11] We do not get to consider the relevance, if any, of the decision in *Re: Lawyer 6*, unless we first conclude that the Applicant can withdraw his admission of guilt. It is to that question that we now turn.

[12] Mr. Perry, for the Applicant, and Mr. McKinley, for the Law Society, agreed that this is a point of first impression in this jurisdiction. They also agreed that the matter is one for the exercise of discretion by the tribunal, on the application of criteria similar to those applicable to requests to withdraw a plea of guilty in a criminal case.

[13] There are two disciplinary decisions - one in Manitoba and the other in Ontario - that seem to bear on the point. The facts in those cases bear little resemblance to those here.

[14] In *Law Society of Manitoba v. Williams*, [2000] L.S.D.D. No. 33, the lawyer was cited for, among other things, two counts of consuming an alcoholic beverage in court and one count of advising the court that the beverage had been prescribed for him when it had not. The hearing panel accepted the lawyer's plea of guilty to these three counts. At a subsequent penalty hearing, the lawyer sought to withdraw his guilty plea. Relying on the reasons for a decision of the Supreme Court of Canada in *Adgey v. The Queen*, [1975] 2 S.C.R. 426, 13 CCC (2d) (177), the hearing panel denied this request, saying:

> . . . the pleas were entered by the member with full knowledge of the facts giving rise to the respective counts under the citation, and after the member had been granted an opportunity to consult counsel. The member also had foreknowledge of the possible results of entering such pleas.

[15] The second case is *Law Society of Upper Canada v. Coady*, [2005] L.S.D.D. No. 11 (on appeal, 2005 ONLSAP 0005). In this case, a hearing panel, relying upon an agreed statement of facts containing admissions, found that the lawyer had engaged in professional misconduct and permitted her to resign. Subsequently, she applied to set aside the agreement and resile from her admissions on the basis that they had been made under duress and hence not voluntarily. The hearing panel, with one member dissenting, permitted her to do so on the ground that, for various reasons, her admissions could not be considered to have been made voluntarily.

[16] All members of the hearing panel in *Coady* (supra) accepted the proposition that, to be valid, a guilty plea must be voluntary and unequivocal. The plea must also be informed; that is, the accused must be aware of the nature of the allegations made against him or her, the effect of the plea, and the consequences of the plea. Accordingly, if it could be shown on credible and competent evidence that any of these conditions was not fulfilled, the plea could be withdrawn.

[17] The principle of these decisions is clearly right, and we accept them as being applicable in this jurisdiction and hence to the question before us.

[18] As we understand it, the Applicant does not contend that his admission was not voluntary. Rather, his position appears to be that he made it under a misapprehension as to its consequences. In essence, he seems to say that he made the admission on the understanding that it would attract a monetary sanction somewhere between $2,000 and $5,000, and perhaps a suspension of a few months duration, not the one year that the Panel imposed upon him.

[19] By way of background, the Applicant relies on certain extracts from the transcript of the proceedings before the Hearing Panel. The transcript is part of the record on this Review.

[20] In his submissions to the Hearing Panel on behalf of the Law Society, Mr. McKinley reviewed the Applicant's Professional Conduct Record. He noted that, in 2002, an earlier Hearing Panel had found the Applicant guilty of admitted professional misconduct for, among other things, having " failed to hold and remit funds collected from clients for GST and PST." This resulted in a fine of $2,500, a reprimand and the imposition of certain conditions requiring periodic reports to the Law Society.

[21] Mr. McKinley continued his submissions as follows (Transcript, page 11, lines 5 - 17):

> I have not been able to find any decision on penalty which deals with similar circumstances, that is, a member who has repeated conduct of failing to remit taxes after being disciplined once before. In my submission, that is a serious aggravating factor which ought to take the penalty, which would be appropriate in these circumstances for a first-timer, outside the range of penalties which have been imposed on members who have failed to remit GST and PST and source deductions for the

> first time. My review of the authorities to date is that the range for first-timers appears to be a fine in the range of $1,000 to $3,000.

[22] Mr. McKinley then referred to what he described as " mitigating considerations" , " both financial and personal" , and concluded:

> I suggest that the panel may wish to consider the options that are available to it in terms of a much higher fine than what is imposed for people who do this for the first time. The option of a short suspension may also be available to send the appropriate message - that repeated misconduct of this nature is not acceptable.

[23] Towards the end of his submissions before the Hearing Panel, Mr. McKinley was asked by a member of the Panel: " So the Law Society is asking for a fine and costs, is that it?" and responded, " Yes. Or a suspension if you feel that's necessary."

[24] The implication of the Applicant's reliance on these passages from the transcript is that, when he made his admission, he understood that this would result in a fine of moderately more than $3,000 and a " short suspension" . He does not say that he was misled into believing that this would be the result of his admission or that the Law Society, and in particular Mr. McKinley, made any promise to him in this regard. Rather, his position is that had he known at the time of his hearing that his bankruptcy might provide a defence to the charge of professional misconduct - as it did in *Re: Lawyer 6* - he would not have admitted misconduct.

[25] In our view, the real question is whether, at the time he made his admission, the Applicant understood that the question of penalty remained one for the exercise of discretion by the Hearing Panel, having regard to whatever view of the facts it chose to take. That the Applicant may have admitted " guilt" on the basis of a misapprehension of the likely extent of the disciplinary risk that his admission created, although perhaps unfortunate, seems to us neither here nor there.

[26] Our conclusion, therefore, is that the Applicant has not demonstrated by credible and competent evidence that he was uninformed as to the effect and consequences of his plea.

[27] It follows that, in our opinion, the Applicant cannot withdraw his admission of professional misconduct and we reject his application to do so. This conclusion makes it unnecessary for us to express any opinion on the decision of the Hearing Panel in *Re: Lawyer 6*.

[28] We should, however, add this. The facts in *Re: Lawyer 6* are somewhat unusual and differ significantly from those here. Because of those differences, we do not think that that case provides any answer to the complaint of professional misconduct against the Applicant. In the circumstances, and independently of the considerations referred to in the preceding paragraphs, we see little point in permitting the Applicant to withdraw his admission so as to rely on *Re: Lawyer 6*.

Review of Penalty

The Standard of Review

[29] Pursuant to Section 47(5) of the *Legal Profession Act*, after a hearing, the Benchers may:

(a) confirm the decision of the panel; or

(b) substitute a decision the panel could have made under the *Act* or Rules.

[30] The test to be applied by the Benchers on a Review under Section 47 is that of " correctness" . This standard was established in the cases of *Law Society of BC v. Dobbin*, [1999] LSBC 27 and *Law Society of BC v. Hordal*, 2004 LSBC 36, and was more recently confirmed the case of *Law Society of BC v. Geronazzo*, 2006 LSBC 50.

[31] The Benchers must determine if the decision of the Hearing Panel is correct, and if not, the Benchers must substitute their own judgment.

Position of the Parties

[32] The position of the Applicant in this Review with regard to the one year suspension from the practice of law can be summarized as follows:

(a) counsel for the Law Society in submissions on penalty sought " a much higher fine" than that imposed on " first offenders" (which he states appears to be a fine in the range of $1,000.00 to $3,000.00) or a " short suspension" ;

(b) the Panel must consider the impact that a one-year suspension would have on a sole practitioner, in particular " the effect that (this) penalty would have on Mr. Welder and his family" ;

(c) there do not appear to be any prior decisions on penalty in British Columbia dealing with similar circumstances (i.e.: a second " offence" of failure to remit GST/PST or payroll remittance) and the Hearing Panel acknowledges that it was in " uncharted territory" ;

(d) the one-year suspension has historically been directed at much more serious breaches of conduct, generally involving misconduct in relation to clients or the public directly.

[33] The Applicant asks this Panel to find that a one-year suspension is unduly harsh and to substitute for that penalty a significant fine or short suspension.

[34] The Law Society's position on penalty can be summarized as follows:

(a) The penalty imposed by the Hearing Panel was correct. The Hearing Panel properly considered the need for a significant penalty to meet the needs of specific and general deterrence to preserve public confidence in the legal profession and primarily to ensure the protection of the public from a re-occurrence of the misconduct. On the evidence available to the Hearing Panel, it appeared likely that, if the Applicant was allowed to continue in practice, a repeat occurrence of the misconduct was very likely. It was necessary to impose a penalty sufficient to prevent re-occurrence of the offence and to ensure the maintenance of public confidence in the integrity of the profession and in the ability of the profession to regulate itself;

(b) The submissions of the Law Society at the original hearing of the citation as to an appropriate penalty should not, and cannot restrict a hearing panel in the determination of an appropriate penalty under all the circumstances. When a hearing panel imposes a more severe sanction than that suggested by counsel for the Law Society, it should provide sufficient reasons for doing so.

[35] Counsel for the Law Society submitted that penalties imposed for first-time offenders in similar circumstances to that of the Applicant appear to be fines in the range of $1,000 - $3,000. Counsel for the

Law Society also informed this Panel that there have been no previous cases where a lawyer has been found to have committed this misconduct for a second time.

[36] Counsel for the Law Society referred this Panel to a number of decisions that can be summarized as follows:

1. In *Law Society of BC v. Payne,* [1999] LSBC 44, the Respondent was suspended for one year for recklessly misappropriating client trust funds and failing to keep proper books and records. He had ceased membership in the Law Society at the time of the penalty hearing.

2. In *Law Society of BC v. Legge,* [2003] LSBC 42, the Respondent was suspended for eight months for a number of instances of misconduct, including trust shortages, numerous accounting rule violations, failing to remit PST, GST and employee source deductions, failing to provide a competent quality of service to clients and failing to respond to the Law Society.

3. In *Law Society of BC v. Sarai*, 2005 LSBC 17, the Respondent was suspended for one year for a number of instances of misconduct including failing to provide competent service to clients, breaching numerous undertakings, breaching numerous accounting rules and breaching the terms of a practice supervision agreement, and for failing to eliminate a trust shortage or report the shortage to the Law Society.

4. In *Law Society of BC v. Nader*, Discipline Case Digest 01/26, the Respondent was suspended for 18 months for fraudulently billing the Government of Canada for work he had already done for clients on a *pro bono* basis. It is worth noting that Mr. Nader had been diagnosed with a serious illness and was extremely stressed at the time of the misconduct. Otherwise, the Panel may have disbarred him.

5. *Law Society of BC v. Martin*, [2003] LSBC 16, involved a Respondent who was suspended for 18 months for lying to a client and to third parties about a matter, and for providing trust cheques that were not supported by deposits, with false assurances that the funds would be available. Mr. Martin had a previous suspension for similar misconduct. The Panel considered disbarment, but ultimately imposed the suspension on the basis that Mr. Martin was making significant progress in his recovery from drug addiction.

6. *Law Society of BC v. Jamieson*, 1999 LSBC 11, was a case in which the Respondent lied to the Law Society in his response to a complaint from a client, and then fabricated three letters to support his misrepresentation. He was suspended for eight months, and the Panel noted that, although the conduct was serious, he was extremely remorseful, he was unlikely to re-offend, he admitted his misconduct at the investigative stage and he did not have a record of disciplinary offences.

7. *Law Society of BC v. Grunberg*, Discipline Case Digest 95/6, involved a Respondent who entered into agreements with clients without taking steps to ensure that the clients received independent legal advice. He was suspended for eight months.

8. In *Law Society of BC v. Dobbin*, [2002] LSBC 16, a Panel suspended Mr. Dobbin for 10 months for breaching an undertaking to the Law Society to respond within 14 days to Law Society correspondence respecting a complaint, failing to provide competent service to a client and failing to comply with Practice Review recommendations. The Panel also imposed a number of practise conditions to be in place on his return to practice.

[37] All of the above cases involve significant elements of dishonesty that manifest in the fraudulent billing of clients, lying to clients, or significant trust account discrepancies. The facts in the above noted cases bear little resemblance to those here.

[38] The Hearing Panel, in its decision at page 5, paragraph 23 stated the following with regard to the financial situation of the Applicant:

> The picture that emerges from all of the foregoing is that of a debtor, who has incurred additional debt while (a) paying his wife maintenance of $1,000.00 which permits her to purchase a new condominium, (b) paying $400.00 per month on a piece of property which he deposes to have no value, (c) permitting his wife to encumber her home, a prima facie family asset, and thereby decreasing its value, and (d) increasing his rental payments to his wife by 35% to cover her additional costs as a result of the aforementioned re-mortgaging.

[39] The Hearing Panel further states at paragraph 25:

> The Panel was advised by Law Society Counsel that because these monies are not placed in a separate trust account they are not considered " trust funds" and so the Respondent cannot be accused of wrongfully taking trust funds. Nevertheless, this Panel views the taking of those monies, given to a lawyer for a specific purpose and used by that lawyer for his own purposes, as a serious breach of a fiduciary obligation.

[40] The Hearing Panel, at paragraph 27, makes the following finding:

> This Panel believes that if permitted to continue practising law, the Respondent's past and present behaviour indicates that he will continue to accumulate further indebtedness while increasing the value of his supposedly valueless assets. The condoning of such behaviour by the Law Society would reflect badly on that institution.

[41] The Hearing Panel, at paragraph 29 of its Decision suspending the Applicant from the practice of law for a period of one year, also imposed the following conditions on the Respondent following his return to practice:

> . . . as provided in section 38(5)(c) of the *Legal Profession Act* we further direct, as a condition imposed upon the practice of the Respondent, that the Respondent provide on a monthly basis, evidence satisfactory to the Discipline Committee of the Law Society of the Respondent's full compliance with the tax remitting requirements of the *Income Tax Act*, the *Excise Tax Act* and the *Social Services Tax Act* and that he continue to provide that evidence until relieved of this condition by the Discipline Committee. As a further condition placed upon the Respondent's practice, we direct that the Respondent fully cooperate with the Discipline Committee from time to time and at all times by providing to that Committee all information requested by that Committee so as to ensure that that Committee is able to determine and ensure that the continued practice by the Respondent poses no danger to the public interest. This condition will also endure until the Respondent is relieved of this condition by the Discipline Committee.

Discussion

[42] This second citation represents a continuing offence from the first citation. As directed in the

penalty for the first citation, the Applicant reported to the Discipline Committee regarding the PST and GST remittances that were due between the February, 2002 date of the penalty on the first citation and the July 22, 2005 date of the admission of professional misconduct. His reports made it clear that he failed to pay all of these sums due to the responsible Government agencies. His failure to properly remit all of the PST and GST due, as well as the additional matter of failure to remit collected employee payroll deductions, represents the basis of the second citation. We must decide whether the Hearing Panel on this second citation erred in its decision regarding its imposition of a one-year suspension as a penalty.

[43] The Review Panel was advised that, following the Applicant's bankruptcy in 2004, he began remitting all necessary GST, PST and employee deductions in the proper manner and has continued to provide the Discipline Committee with the required reporting.

[44] The Applicant was frank that, during the period in which the offence occurred, he chose to direct the revenue generated by his practice to fund his investments and attend to the financial needs of his family rather than to the full payment of the taxes and remittances due, pursuant to the various statutes.

[45] Section 3 of the *Legal Profession Act* provides the objects and duty of the Law Society as follows:

> (a) to uphold and protect the public interest in the administration of justice by
>
> (i) preserving and protecting the rights and freedoms of all persons,
>
> (ii) ensuring the independence, integrity and honour of its members, . .

[46] In the case of *Law Society of British Columbia v. Ogilivie*, [1999] LSBC 17, a number of non-exhaustive factors with respect to the professional misconduct penalty process were listed as follows:

> (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 deterrents;

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

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

[47] In coming to its decision to impose a one-year suspension, the Hearing Panel took into account the previous character of the Applicant, the need for general deterrence, the need to ensure the public confidence in the integrity of the profession, and the fact that this was the second time that the Applicant had professionally misconducted himself in this manner. The Panel noted that there were no precedents for penalty in a second offence of this nature and, in respect of this, noted at page 2, paragraph [5] of the Hearing Panel Decision:

> When giving evidence at the Law Society hearing held on February 14, 2002, (which hearing was dealing with the initial citation issued for the Respondent's failure to remit taxes collected from clients) the Respondent estimated that the amount of money he owed to different arms of the Governments of Canada and British Columbia, was between $242,000.00 and $270,000.00. He testified, at that hearing, that his net annual income for 1999 was about $130,000.00 and for 2000 about $86,000.00. He said that he had not then considered bankruptcy but rather that he wanted to repay the monies that were owed.

[48] This second citation involved a continuing offence from the first insofar as there was never an intervening period between the citations in which the Applicant began properly remitting GST and PST. There is no evidence that the penalty in the first instance motivated him to change his conduct. The Hearing Panel's decision regarding the second citation was based upon the Applicant's continued failure to remit GST, PST and, in addition, failure to make the required employee remittances. That decision properly found the previous similar professional misconduct of the Applicant to be an aggravating factor in determining penalty.

[49] However, in coming to its decision regarding penalty on this second citation, the Hearing Panel did not place any weight on the mitigating factors in favour of the Applicant. In the view of this Review Panel, the Hearing Panel erred by not taking into consideration the following:

(a) the Applicant acknowledged his misconduct. This is evidenced by the admissions in the Agreed Statement of Facts and the fact that he honestly disclosed the non-remittance of funds. This is a significant mitigating factor as it is evidence that there is hope for the rehabilitation of the Applicant;

(b) the impact of the penalty upon the member: in the hearing before this Panel, the Applicant submitted that the one-year suspension would be such a blow to his practice that it was not likely that he could ever regain sufficient momentum to successfully practise again. We agree that a consequence this harsh is unwarranted by the offence itself, and that such an outcome is a likely result of such a suspension.

[50] Therefore, in our view, the Hearing Panel erred in basing its penalty on deterrence and preservation of the public confidence and integrity of the profession to the virtual exclusion of the other factors outlined in *Ogilvie* (supra) and, in particular, the rehabilitation of the Applicant and impact of the penalty upon him.

[51] Given the nature of the misconduct and the fact that this is the second such offence committed by the Applicant, a suspension is warranted. However, the weight given to the mitigating factors outlined above need to be at least equal to the public confidence aspect of the Hearing Panel's penalty.

[52] Therefore, for the above noted reasons, this Review Panel agrees with the Applicant's submission that a one-year suspension is unduly harsh. This Review Panel is of the view that a penalty is in order for the reasons outlined by the Hearing Panel, but the length should be reduced to one that is more in line with suspensions in other cases of professional misconduct of a similar gravity, and one that will not remove the likelihood that the Applicant will be able to return to his practice.

[53] In coming to this decision that a one-year suspension is an incorrect penalty, this Panel distinguishes the facts in this case from those in *Legge* (supra). In that instance, the Respondent was suspended for a period of one year after being found guilty of numerous charges including trust shortages and incompetence, in addition to failure to remit GST, PST and employee payroll deductions.

[54] Further, in coming to its decision, this Panel is mindful of the direction set out in the *Hordal* (supra) decision that it is inappropriate for the Benchers on review of a decision to merely " tinker" with the length of a suspension or magnitude of a fine.

[55] We agree with the Hearing Panel that the penalty imposed must take into account the fact that the Applicant failed to fulfill a fiduciary obligation. Of particular note is the breach of the obligation owed by the Applicant to his employees arising from the misappropriation of employees' *Income Tax Act* remittances. These employee contributions are collected from them on the basis that they will be remitted in satisfaction of the employees' obligations to pay income tax and their portion of required contributions to Employment Insurance and Canada Pension Plan. Having been collected by the Applicant on this basis, the Applicant accepted a fiduciary obligation to remit the funds for the purpose for which they were collected. The breach of a fiduciary duty by a lawyer is indeed an aggravating factor in any charge of professional misconduct.

Decision

[56] Having regard to all the considerations we have referred to, it is this Review Panel's conclusion that the Hearing Panel erred in imposing a one-year suspension. Accordingly, we order that the Applicant:

(a) be reprimanded;

(b) be suspended from the practice of law for a period of three months, which suspension is to begin three weeks from the date of issuance of these reasons;

(c) be subject, upon his return to practice, as provided in the *Legal Profession Act*, section 38 (5)(c), to the following two conditions on his practice :

(i) he must provide on a monthly basis, evidence satisfactory to the Discipline Committee of his full compliance, including payment in full on a monthly go-forward basis, with the tax remitting requirements of the *Income Tax Act*, the *Excise Tax Act* and the *Social Services Tax Act*;

(ii) he must fully cooperate with the Discipline Committee at all times by providing to that Committee all information requested by it so as to ensure that the Committee is able to determine and ensure that the continued practice by the Applicant poses no danger to the public interest.

Both of these conditions will endure until the Applicant is relieved of them by the Discipline Committee.

(d) pay the costs of these proceedings in the sum of $2,450 within three months of the date of issuance of this decision.