

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

Randeep Singh Sarai

Respondent

**Decision of the Hearing Panel
on Application for Reinstatement**

Hearing date: August 25, 2010

Panel: Kathryn Berge, QC, Chair, Stacy Kuiack, Herman Van Ommen

Counsel for the Law Society: Jason Twa

Appearing on his own behalf: Randeep Sarai

Overview

[1] Mr. Sarai (the "Applicant") applies to be reinstated as a member of the Law Society of British Columbia. He has not been a member since he let his membership lapse at the end of 2005. As a result he now must establish that he meets the statutory test for Law Society membership.

[2] The Applicant was originally called to the bar in British Columbia on May 22, 2002. Many serious difficulties with his practice almost immediately ensued.

[3] A citation alleging professional misconduct was authorized against him on May 14, 2003 (the "2003 Citation"), not quite a year after his admission. The 2003 Citation asserted that the Applicant had professionally misconducted himself by breaching multiple undertakings on real estate files and allowing multiple other errors to be made in trust accounting and the general handling of his practice. As a result, an application was made by the Law Society for the Applicant's suspension from practice. On May 30, 2003 a Law Society hearing panel determined that the Applicant be allowed to continue practising pending the 2003 Citation hearing, subject to supervisory conditions, one of which was that a practice supervisor oversee his practice pending that hearing.

[4] The 2003 Citation was heard in 2005 by a one-bencher panel (the "Discipline Panel"). A decision was issued on May 9, 2005 [2005 LSBC 17] ("Discipline Panel Decision"). The Discipline Panel found that the Applicant had committed professional misconduct and imposed a penalty of a one-year suspension commencing June 15, 2005. However, at the end of 2005, the Applicant allowed his membership to lapse due to non-payment of fees owed to the Law Society. He did not reapply for membership until now.

[5] Therefore, since January 1, 2006 the Applicant has not been a Law Society member. .

[6] Since his suspension, the Applicant has worked in the private sector, including in the real estate lending industry where he supervised a complex commercial lending program where he has significant responsibility for overseeing the work of solicitors retained to act for his employer.

[7] This hearing's purpose is to determine whether the Applicant will be permitted to again become a member of the Law Society. To do that he must satisfy the requirement of section 19(1) of the *Legal Profession Act*, which provides that:

19(1) No person may be enrolled as an articulated student, called and admitted or reinstated as a member unless the benchers are satisfied that the person is of good character and repute and fit to become a barrister and a solicitor of the Supreme Court.

[8] Section 22(3) of the *Legal Profession Act* provides that, following a hearing, the panel must grant the application, grant it subject to appropriate conditions or limitations, or reject it.

[9] The Applicant has the burden of proving that he meets the character and fitness test on a balance of probabilities (Rule 2-67). In *Re. McOuat*, June 12, 1992 Panel Decision at p. 11 (affirmed by the Court of Appeal in *McOuat v. Law Society of BC* (1993), 78 BCLR (2d) 106), the panel commented on the central question of what constitutes good character:

What constitutes good character and repute and fitness to become a barrister and a solicitor of the Supreme Court? In an article entitled, "What is 'Good Character'?" published in *The Advocate*, (1977) v. 35, at 129, Mary Southin, QC (as she then was), considered the meaning of the terms, stating:

I think in the context "good character" means those qualities which might reasonably be considered in the eyes of reasonable men and women to be relevant to the practice of law in British Columbia at the time of application.

Character within the Act comprises in my opinion at least these qualities:

1. An appreciation of the difference between right and wrong;
2. The moral fibre to do that which is right, no matter how uncomfortable the doing may be and not to do that which is wrong no matter what the consequences may be to oneself;
3. A belief that the law at least so far as it forbids things which are *malum in se* must be upheld and the courage to see that it is upheld.

What exactly "good repute" is I am not sure. However, *the Shorter Oxford Dictionary* defines "repute" as "the reputation of a particular person" and defines "reputation" as:

1. The common or general estimate of a person with respect to character or other qualities; the relative estimation or esteem in which a person is held.
2. The condition, quality or fact of being highly regarded or esteemed; also respectability, good report.

In the context of s. 41 I think the question of good repute is to be answered thus: would a right-thinking member of the community consider the applicant to be of good repute? ...

If that right-thinking citizen would say, knowing as much about an applicant as the Benchers do, "I don't think much of a fellow like that. I don't think I would want him for my lawyer", then I think the Benchers ought not to call him or her.

[10] The test of good character and repute has both subjective and objective aspects. This was explained by

the hearing panel in *McOuat*, supra, at p. 12:

The word "character" in the expression "good character and repute" has been treated in many decided cases, especially the older ones, as importing the character or "characterization" given the applicant by other persons, what may be called a subjective sense. An example is *Leader v. Yell* (1864), 16 CB (NS) 584; 143 ER 1256 where Erle CJ said

Good or bad character does not depend on what a man knows of himself; it means his general reputation in the estimation of his neighbours.

In the same case Byles J. said

... character does not mean a man's real conduct and mode of life, but it means his reputation among his neighbours.

In more recent cases the words "good character" seem to be applied in the context of "strength of character" or "character defect". Used in that way the expression "good character" refers to what a man's personality, principles and beliefs actually are as opposed to the way the community regards him, whether or not he has earned the good or bad regard in which he is held. This sense may be considered objective.

One tends to naturally consider it more important that a lawyer be a good person and have and act upon correct principles as opposed to being regarded, rightly or wrongly, by others as seeming to be good or bad. But we think we are required to consider the regard in which the candidate is held by others as well as the qualities of character Mr. McOuat possesses, that is both the subjective and objective senses of "good character".

[11] In this same case, the panel explained the fitness test at pp. 17-18:

The demands placed upon a lawyer by the calling of barrister and solicitor are numerous and weighty and "fitness" implies possession of those qualities of character to deal with the demands properly. The qualities cannot be exhaustively listed but among them must be found a commitment to speak the truth no matter what the personal cost, resolve to place the client's interest first and to never expose the client to risk of avoidable loss and trustworthiness in handling the money of a client.

[12] The Applicant's fitness and character are to be assessed at the time of the hearing (*Re: McOuat*). The standard is not one of perfection. The hearing panel in *Re: Lee*, 2009 LSBC 22 at para. [79] stated this principle by quoting *Law Society of Upper Canada v. Schuchert*, [2001] LSDD No. 63, at para. 18:

The relevant test is not whether there is too great a risk of future abuse by the applicant of the public trust, but whether the applicant has established his good character at the time of the hearing on a balance of probabilities. The test does not require perfection or certainty. The applicant need not provide a warranty or assurance that he will never breach the public trust.

[13] This hearing must enquire into the following:

(a) The circumstances surrounding each of the allegations contained in the July 23, 2003 citation issued by the Law Society of British Columbia, as particularized on the Schedule to the citation amended January 20, 2005;

(b) The Applicant's prior suspension, commencing July 1, 2005, for a one year period and the conditions imposed on his practice by a Law Society of British Columbia Hearing Panel;

(c) The circumstances surrounding legal services he performed for a client in which he:

i. Failed to secure discharges of mortgages on two properties between June 2003 and June 2004;

ii. Failed to secure a discharge of assignment of rents on one property between June 2003 and June 2004;

iii. In June 2003, reported to the client confirmation of the registration of a mortgage in the Land Title Office, which mortgage was not actually registered until October 7, 2004, despite being executed over three months earlier and the transfer of property having taken place on June 30, 2003;

iv. Failed on approximately 75 files to provide closing reports with State of Title Certificates, despite written instructions from the client to do so.

(d) The Applicant's failure to make payments to the Law Society of British Columbia for payment of costs arising out of the discipline hearing in accordance with the terms of the November 8, 2005 letter agreement;

(e) The Applicant's failure to file his Trust Report by the time required by Rule 3-72:

i. For the period ending April 30, 2005, which was due by July 31, 2005; and

ii. For the period May 1, 2005 to December 31, 2005, or to the closure of the Trust Account, which was due by March 31, 2006.

(f) The Applicant's performance in the Professional Legal Training Course.

[14] An Agreed Statement of Facts was submitted to this Panel. The Applicant also gave evidence and was cross-examined by Law Society counsel.

[15] The Applicant took the position that he was of good character and repute. He readily admitted that, at the time of his 2005 suspension from practice, he was not fit to be a barrister and solicitor of the Supreme Court as he did not have the required skills, training and maturity to meet the required standards of practice. He asserted that his work and life experience from his suspension onward have now given him the foundation to join the legal profession once again and meet the expected standards. Although he would prefer not to have conditions imposed upon his right to practise, he is quite willing to complete any required remedial training and submit to such supervision as the Law Society may impose.

[16] The Law Society took the position that, if the Applicant is to be readmitted to membership, it must be on conditions such that the public's right to be served by competent and skilled lawyers is met. Counsel for the Law Society asserted that, if the conditions required are very onerous, it may be that this meant that the Applicant was not fit to practise.

[17] It was common ground between the Law Society and the Applicant that there were no concerns about the Applicant's honesty in the matters that led to his 2005 suspension.

[18] The Applicant cooperated and made extensive admissions in the 2003 Citation Hearing and did so again in preparation for this hearing. He was notably contrite and stressed that he accepts full responsibility

for the many failures in his practice in 2002 through 2005.

Issue

[19] Has the Applicant demonstrated that he is currently of good character and repute and fit to be a barrister and a solicitor of the Supreme Court?

Facts

Discipline in 2005

[20] The full extent of the gravity of the matters dealt with by the Discipline Panel can only be understood by reviewing the extensive reports submitted to that panel and now to this Panel. A summary of the matters that were the subject of the 2003 Citation is set out below:

- (a) The firm at which the Applicant was a partner, Legge Sarai, breached the Law Society Rules by:
 - (i) failing to account to clients on 35 different files for funds received on their behalf. Legge Sarai, in many instances, received funds but failed to pay the insurance binder fee or purchase title insurance;
 - (ii) depositing funds other than trust funds into trust;
 - (iii) on two occasions failing to maintain sufficient funds on deposit in trust to meet its obligations;
 - (iv) failing to maintain the required trust books, records and accounts;
 - (v) failing to maintain general books, records and accounts and failing to maintain an accounts receivable ledger or other suitable system;
 - (vi) failing to maintain a proper billings file;
 - (vii) failing to record each trust and general transaction within the required time frames;
 - (viii) failing to record in its general books and accounts all funds received on account of fees or otherwise from or on behalf of clients; and
 - (ix) failing to retain the trust books, records and accounts relating to the most recent five year period at his chief place of practice;
- (b) The Applicant failed to immediately pay sufficient funds to eliminate a trust shortage created by his partner, Mr. Legge, and failed to report the trust shortage to the Law Society;
- (c) The Applicant failed to comply with the terms of his Practice Supervision Agreement in failing to provide 104 files to his practice supervisor;
- (d) The Applicant breached numerous undertakings in his real estate conveyancing practice, both prior to entering into a Practice Supervision Agreement and after entering into a Practice Supervision Agreement, including undertakings to pay property taxes, to discharge builders' liens and to not submit documents for registration until all funds were in trust;

(e) With respect to his real estate conveyancing practice, the Applicant failed to acquire and maintain adequate knowledge of the necessary practice and procedures and failed to serve those clients in a conscientious, diligent and efficient manner, including:

- (i) a consistent pattern of disorganized files;
- (ii) preparing Statements of Adjustment and Orders to Pay that were amended but not initialed by clients;
- (iii) acting in a conflict of interest on three real estate projects;
- (iv) failing to discharge builders' liens in a timely manner;
- (v) failing to follow up on holdback funds due to clients, provide State of Title Certificates to lenders, to accurately report to clients, retain a lien holdback and to pay property taxes;
- (vi) failing to fulfill undertakings;
- (vii) failing to receive confirmation of insurance coverage for clients on the properties they purchased before the transaction was complete;
- (viii) failing to follow instructions provided by institutional lenders;
- (ix) failing to follow instructions found in contracts of purchase and sale;
- (x) failing to report to institutional lenders and clients;
- (xi) failing to place lawyers and notaries whose clients' were private lenders on appropriate undertakings not to pay out funds to private lenders until a registrable discharge was in the hands of the lawyer or notary;
- (xii) failing to place lawyers or notaries for the opposite party in real estate transactions on proper undertakings to protect the interests of his clients;
- (xiii) failing to request or give undertakings with respect to builders' lien holdback funds or funds remitted to pay GST; and
- (xiv) acting in a conflict of interest in acting for both the borrowers and a private lender on the same file; and

(f) The Applicant breached trust accounting rules in failing to report trust shortages.

[21] The 2005 Discipline Panel Decision comments at some length about the enormity of the Applicant's misconduct alleged in the citation under consideration. The Panel summed up as follows:

[15] ... It is unlikely that a more extensive array of real estate practice misconduct will come before a discipline panel in the future. The circumstances of this practice are unique and should not be permitted to repeat in the future. The scope of the circumstances leading to this citation is massive. ...

[22] However, the Panel also found the Applicant's conduct in some areas of his practice to be creditable:

[32] There was a certain Jekyll and Hyde characteristic of the Respondent's behaviour in his conduct of the practice. In the work he was doing on his "other files", those that did not have a real property component, he performed well, conducted himself with all due propriety, acted promptly and

effectively in respect of matters requiring attention and in respect of those files, attracted no attention from either the Law Society or from disgruntled clients. In short, he was in respect of his "other" files a typical young lawyer learning his way and working hard to find appropriate treatment for file problems presented to him.

Other Failures to Practise at a Minimum Level of Confidence

[23] In addition to the matters that were the subject of the 2003 Citation, further evidence of the Applicant's failure to practise with a minimal level of competence in other matters with respect to one client prior to his suspension was also included in the Agreed Statement of Facts before this Panel. These matters can be summarized as follows:

- (a) On one occasion, the Applicant forwarded mortgage proceeds to a purchaser's notary without putting the recipient on an undertaking to discharge prior encumbrances;
- (b) On other occasions, he failed to note that the discharges had not been filed and failed to comply with Rule 3-89 to notify the Executive Director that the vendor had failed to file discharges within 60 days;
- (c) On another file, the Applicant filed a mortgage with an incorrect legal description and was requested to withdraw the mortgage. He did so on September 4, 2003. However, he failed to file a replacement mortgage until October 7, 2004. During that time he took no steps to protect his clients' interests.

Conduct Subsequent to Suspension

[24] Other conduct subsequent to the Applicant's suspension was also included in the Agreed Statement of Facts before this Panel, as follows:

- 45. On November 8, 2005, Mr. Sarai and the Law Society agreed to costs arising out of the Discipline hearing fixed in the amount of \$50,000 on the following terms:
 - a. In the event Mr. Sarai did not resume practice by March 1, 2007, then the three year period for paying costs would commence on March 1, 2007;
 - b. In the event Mr. Sarai failed to make a required payment, and within 30 days of so failing did not apply for an extension of time under Rule 5-10 of the Law Society Rules, then the Law Society may initiate an action against Mr. Sarai (the "Costs Action") for the remainder of the costs owing; and
 - c. Mr. Sarai will not file a defence in the Costs Action and, upon request, would provide the Law Society with a Consent to Judgment in the Costs Action, subject to agreement with the Law Society as to the balance of the costs owing.
- 46. Mr. Sarai failed to start making payments by March 1, 2007. As a result, the Law Society commenced the Costs Action against him on February 18, 2009. The Costs Action was settled in April 2009.
- 47. Mr. Sarai failed to file a trust report that was due on July 31, 2005. He did not file the trust report

until November 30, 2007, incurring late filing fees totalling \$12,124.

48. On April 3, 2008, the Discipline Committee reduced the late filing penalties to \$8,400, due immediately. Mr. Sarai paid this amount on March 9, 2009.

49. Mr. Sarai attended the May 2001 session of the Professional Legal Training Course ("PLTC"). He passed the Advocacy and Drafting assessments each with the minimum mark required of 70 and passed the Part I Qualifications Examination with a mark of 72.5. Mr. Sarai failed Writing (65), Interviewing (68) and the Part II Qualification Examination (53.5).

50. In September 2001, Mr. Sarai again attempted the Writing and Interviewing assessments and re-wrote the Part II Qualification Examination. While he passed the Interviewing (71) and Part II Qualification Examination (71.5), he failed the Writing Assessment (60).

51. Mr. Sarai required the permission of the Credentials Committee to make a third attempt at the Writing Assessment, which was granted. Mr. Sarai passed the Writing Assessment on his third attempt.

Applicant's Evidence

[25] In the course of the Applicant's testimony before this Panel, he submitted a statement and testified to its truth. In that statement he attempted to explain his experience in practice that led to his suspension and set out for this Panel what has changed since 2005:

I had virtually no experience in this area prior to opening up, as neither trust procedures or real estate conveyancing is taught in either law school or PLTCs and nor [sic] did my place of articling work conduct real estate transactions. I relied heavily on my staff to process and manage the files, an error which cost me dearly and one which I ought to have known was wrong. ...

I therefore relied heavily on my conveyancers and legal staff to organize and arrange the files. I would do the sign-ups, make sure everything was in order, but neglected on the details, particularly the full extent of the undertakings. I thought it was normal course of business "as everyone did this", but was wrong. In many cases, I accepted verbal undertakings, or verbal confirmations for things such as house insurance, when I should have waited for written confirmations. When files and transfers were done, I relied on my staff to follow up with the reporting letters and simply confirm that everything was in order and signed the letters. I did not have the checks in place to ensure that all the necessary steps were being followed with respect to reporting, discharges, and state of title certificates. I was negligent. ...

I was just so overwhelmed with my personal circumstances and the demands of the practice that I was not as thorough and diligent as I ought to have been. Subsequently, I was suspended at my discipline hearing for one year commencing July 1, 2005 and ordered to pay costs. The decision was very strong and forced me to realize the gravity of my errors. I am glad I learnt this lesson when I was young, rather than years later when it could have snow-balled and caused more serious repercussion to those I acted for and to my family and reputation.

[26] It cannot be said strongly enough that the Applicant's failings during his short-lived practice were colossal. It is worthy of note that the Discipline Panel stated that it thought Mr. Sarai was ungovernable (para. [34] of the Discipline Panel Decision) and that, since he provided no explanation for his conduct in those early years, the Discipline Panel was left to speculate as to what caused the behaviour (para. [32]).

[27] At the hearing, the Applicant attempted to explain to this Panel how such a total failure occurred from 2002 to 2005:

(a) Part of his justification for his failures was his father's health crisis and subsequent death, which occurred during the critical period leading up to the 2003 Citation. His father lived with him and unfortunately suffered a major heart attack shortly after the Applicant opened his new office in 2003. His father then suffered several more heart attacks and passed away in May 2004. The Applicant testified that he often spent up to six hours a day at the hospital. The combined effect of the Applicant's distress about his father's ill-health and the effects of his absence from the office contributed to the Applicant's lack of attention to his files during the material time;

(b) The Professional Legal Training Course, his articles and his early experience at the bar included absolutely no training in real estate conveyancing, the implications and import of a trust condition, or the proper use of a trust account;

(c) When he was first practising, the Applicant believed that a breach of undertaking was not really a significant matter, provided the substance of the matter was dealt with at some time; in the context of conveyancing, he thought of it in procedural terms. However, he now understands that an undertaking is something entirely different: it is an unequivocal promise that must never be broken;

(d) He now understands that the practice that he was engaged in, which involved a high volume of conveyancing, required a command of detail and the ability and knowledge to instruct paralegals as to opposed to relying on them to handle the files properly. He did not experience any particular problems in his litigation files. In hindsight he feels that he is not suited to residential real estate conveyancing and does not intend to resume this sort of practice should he be readmitted to Law Society membership.

[28] A matter of particular concern is that many of the failings that were the subject of both the 2003 Citation and this hearing occurred while the Applicant was under practice supervision. Although he knew his completed files would be reviewed by his practice supervisor, he continued to breach undertakings and mishandle his files. He testified that he did not receive instruction or supervision on the proper reorganization and administration of his practice so as to prevent the errors being made in the first place.

[29] The Applicant's explanation now is that he was overwhelmed and did not seek out this information. This, combined with inexperience, led him to accept that the supervisory review of files took place only after the files were completed. When errors were noted they were brought to his attention and added to the already-lengthy 2003 Citation. The Applicant's evidence is that, with the benefit of hindsight he can see that this approach was entirely ineffective in teaching him the skills that he needed in order to be a successful practitioner.

[30] As earlier mentioned, although the Applicant's failings were significant, it must be noted that none of his past misconduct was motivated by greed or dishonesty. The Hearing Panel affirmed this in the following manner:

[16] There are several characteristics of the circumstances of the Respondent that require an explanation. The Legge Sarai firm ceased its business operations as a partnership on April 30, 2003, and Mr. Sarai was left "holding the bag". Mr. Legge did not contribute to the accumulated losses and debts of the firm. *To his considerable credit, Mr. Sarai took full responsibility for the debts of the firm and has ensured that there are no unpaid creditors. ...*

[21] *While there were numerous breaches of undertaking observed by the Law Society, it was also noted that at the end of the day there was no substantial harm done as a result of those breaches of undertaking. The harm was limited to the inconvenience suffered by other members of the Law Society and by members of the public who were required to deal with the consequences of the Respondent's sloppy practices. ...*

[43] To ensure that the Respondent is clear that I have read and appreciated the force of the significant array of letters of support, I note that in the absence of those letters the penalty imposed by me would be even more severe than that which is contemplated herein.

[44] As I indicated to the Respondent and his counsel at the conclusion of the hearing, I had initially contemplated that the only outcome from this hearing that would be just and equitable in all of the circumstances would be for the Respondent to be disbarred. However, the strong ethic of community service as evidenced by the letters of support provided for him, together with the significant lack of experience of the Respondent in his years at the Bar, combine to produce an ameliorating effect on the penalty that should otherwise be provided.

[*emphasis added*]

[31] Evidence before this Panel provided an understanding of how the Applicant's abilities may have improved since his suspension in 2005 and his current character and reputation. This evidence fell into two categories:

(a) *Fitness to practice:* The Applicant testified that, since mid-2005, he has gained employment experience, which has led to a better understanding of competent real estate and general legal practice. He testified in some detail about this experience since his suspension. At first he found that he could get no work at all. A period of significant poverty ensued, particularly as he devoted all available spare cash to paying off the significant practice debts that remained after his practice was closed following his 2005 suspension. Time was limited because he also had to attend to the closing of his practice and painstaking repair of all of the errors that were still outstanding. He had a young family and found that he had no choice but to return to his pre-law employment in the construction industry. His construction background coupled with his legal training led to him eventually being offered a position in December, 2008 as the manager of special loans for a major publically-traded capital investment firm. He was promoted to Vice-President of Loan Remediation a short time later. By the time of this hearing, he had approximately 20 months experience in this position.

In his current position, he instructs counsel across Western Canada on various matters including foreclosures and various insolvency and restructuring applications. He works with several leading counsel and instructs a selection of very capable and well-respected solicitors practising primarily in real estate matters. He has been able to observe first-hand the standards to which proper counsel adhere. This has led to a fundamental change in his experience and expectations and has given him much of the training in real estate legal work that his early practice experience lacked. The Applicant's evidence was that his current work experience will enable him to practise law at the level that he has come to see is expected.

(b) *Character and repute:*

(i) the Applicant submitted letters of reference from several of the counsel with whom he works closely. They describe him as "intelligent", "honest" and "decent". One said he

"demonstrated a thoughtful, principled and solution-oriented approach to resolving the legal issues and conflicts that presented themselves." Another said, "I have found Mr. Sarai to be capable and effective at identifying relevant issues and bringing forward suggested strategies for discussion and debate among the lawyers and business people alike."

(ii) Both before and after his 2005 suspension, the Applicant was extensively involved in community affairs to the benefit of many. The Honourable Wallace Oppal, QC wrote as follows:

Mr. Sarai has an excellent reputation in the community. He has performed much public service particularly in the Indo-Canadian community and in the larger community. I know that he has been involved in raising scholarship funds for Indo-Canadian students so that young people in the community not fall prey to criminal activity. I know that he has given much time to helping young people. He is an extremely caring person who has a reputation both in the Indo-Canadian community and the community at large for honesty and integrity. In my respectful view he is an ideal candidate for reinstatement.";

(iii) In his testimony, the Applicant volunteered that, before an individual provided a letter of reference, that person was provided with a link to the Discipline Panel Decision and received a copy of the 2003 Citation. Taking this step ensured that no party provided such a letter without being fully informed of the gravity of the Applicant's past professional misconduct and the penalty imposed by the Discipline Panel.

[32] The Applicant testified regarding two further factors relevant to his current character, reputation and fitness to practise:

(a) Although his community volunteer work remains significant, in the years since his 2005 suspension, he has reduced his volunteer commitments dramatically. He has done this both in order to devote himself to his growing family and to achieve success in his current employment. He asserted that the reduction in these volunteer commitments will be of assistance in ensuring that he will have the time to devote to practice, should he be readmitted as a Law Society member;

(b) Similarly, with the maturity that has come during the Applicant's period of suspension and non-membership, he now realizes that if family or personal demands become so acute that he cannot properly supervise his practice (as occurred during the period of his father's illness and death), he must make short or long-term arrangements to have his practice covered, including making arrangements for a custodian.

Reasoning

[33] After reviewing all of the evidence before us, this Panel has no difficulty finding that the Applicant is credible, honest in his dealings with others, including clients and third parties, and possesses a good reputation in the community.

[34] The issue is whether or not the Applicant is fit to be a barrister and solicitor. By fitness, we mean not only having the requisite knowledge of substantive law including practice and procedure but more importantly, the character trait of demanding of himself, at all times, consistent attention to detail and performance to the high standards demanded of all lawyers. We find that he is indeed fit, subject to demonstrating the required substantive knowledge of both real estate and general practice. We can ensure he demonstrates the requisite knowledge by imposing terms on his reinstatement.

[35] We are prepared to accept that the complete failure of the Applicant's previous real estate practice resulted from his engagement in a type of practice for which he was unsuited and untrained. It did not arise from an inability or unwillingness to perform to the standards expected of lawyers.

[36] In giving evidence and making submissions, the Applicant showed sincerity and contrition for his past failings. We are satisfied that, as a result of added maturity and the experience in his new job with able solicitors, he can now perform to the standards required of all lawyers and not repeat his past failings.

[37] This decision conforms with the decision of hearing panels in other cases where an otherwise honest and credible applicant for readmission must meet conditions aimed at ensuring that he practises under the supervision of the Law Society and completes some remedial educational requirements (*AS v. Law Society of BC* (22 May 1987) and *DN v. Law Society of BC* (23 April, 1981)).

Conclusion

[38] We find that the Applicant has met the burden of proof of establishing his good character, repute and (subject to some further education and testing) his fitness to be, once again, a barrister and solicitor of the Supreme Court of British Columbia.

[39] Therefore, we are prepared to grant the Applicant's application for reinstatement for membership in the Law Society, conditional upon his:

1. passing or completing the following courses and examinations:
 - (a) the Law Society requalification exams;
 - (b) the Law Society Small Firm Practice course,
 - (c) all modules of the Practice Refresher course;
 - (d) the Law Society Communication Tool Kit;
2. following completion of condition (1), he:
 - (a) only practise in a firm of four or more lawyers or otherwise in a practice situation approved by the Practice Standards Committee; and
 - (b) not engage in practice involving mortgaging, conveyancing, subdivision and other work of a similar nature until he has satisfied the Practice Standards Committee that he has obtained the proper training and knowledge to do so; and
3. paying the costs for a one-day hearing in the amount of \$2,900.