

2013 LSBC 17

Report issued: July 05, 2013

Oral Reasons on Facts and Determination: April 25, 2013

Citation issued: October 4, 2012

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

## **AMANDEEP CHANDI SINGH**

Respondent

### **Decision of the Hearing Panel on Facts, Determination and Disciplinary Action**

Hearing date: April 25, 2013

Panel: Lee Ongman, Chair, Glenys Blackadder, Public representative, Jennifer M. Reid, Lawyer

Counsel for the Law Society: Alison Kirby

Counsel for the Respondent: Henry Wood, QC

## **Background**

[1] This hearing was ordered in a citation authorized by the Discipline Committee on September 6, 2012 and issued on October 4, 2012. The Respondent admits that, on October 5, 2012, he was served through his counsel with the citation and he waives the requirements of Rule 4-15 of the Law Society Rules.

[2] The citation issued against the Respondent contains eight allegations:

(a) five of the allegations relate to breaches of the accounting rules, including a failure to immediately rectify and report trust shortages; and

(b) three of the allegations relate to his conduct in borrowing \$20,000 from a client of the firm, failing to advise the client that he was not representing his interests, and improperly withdrawing funds from the trust account rather than the general account to repay part of the loan.

[3] The Law Society has proposed that the appropriate disciplinary action for professional misconduct in this matter is:

(a) a fine of between \$5,000 and \$10,000, payable in two equal instalments due on October 31, 2013 and April 30, 2014;

(b) a condition under Section 38(5)(c) of the *Legal Profession Act* ("the Act") that the Respondent not be a signatory to a trust account for five years, ending April 30, 2018 and thereafter until relieved of this condition by the Discipline Committee;

(c) a condition under Section 38(7) of the Act that the Respondent, for a period of three years ending April 30, 2016 and thereafter until relieved of this condition by the Discipline Committee, enter into and comply with a medical monitoring agreement on terms satisfactory to the Practice

Standards Committee having regard to recommendations 1 to 4 and 6 to 8 of Dr. Baker in his opinion dated April 5, 2013.

[4] The Law Society also seeks costs of \$8,000 calculated in accordance with the Tariff, payable by October 31, 2013 or by such other date as the Panel may direct.

[5] The Law Society is not seeking a suspension and submits that the proposed sanction of the appropriate disciplinary action in respect of the professional misconduct has been tempered by the Respondent's disability.

[6] At the conclusion of the hearing, the Panel gave its decision on facts and determination orally. The Panel accepted the Agreed Statement of Facts, reviewed the submissions of counsel and the Respondent's global admission to the conduct described in the eight allegations of the citation, and found that the Respondent's conduct amounted to professional misconduct. The Panel then went on to hear counsel's submissions on disciplinary action. The Panel reserved its decision on the appropriate discipline sanction and our reasons follow.

## Facts

[7] The Respondent was admitted to the bar in British Columbia on May 21, 1999. After his call he practised in Greater Vancouver with K & Company until April 2002, following which he practised as a sole practitioner for two months. On July 1, 2002, he started to practise in Surrey under the firm name of Singh Abrahams, with Mishal Abrahams and MJ. At all times material to this matter, the Respondent practised at Singh Abrahams (the "Firm") in Surrey, with two other lawyers.

[8] On July 5, 2010, the Respondent ceased to practise at the Firm and commenced practice with the firm Singh Thind and Associates.

[9] Law Society counsel and counsel for the Respondent filed an Agreed Statement of Facts. That Agreed Statement of Facts refers to each allegation and sets out the facts relevant to the Respondent's addiction to alcohol (the disability). The relevant facts are as follows:

### **ALLEGATION 1**

1. On May 20, 2009, Mr. Singh attended in Surrey at the Scottsdale branch of the Bank of Montreal, where the Firm operated its trust account and general account. Mr. Singh withdrew \$500 in cash from the trust account, using the Firm bank card. The signature on this transaction record is that of Mr. Singh.
2. Mr. Singh has no recollection of making this withdrawal. He believes that it could have been withdrawn from the trust account by mistake by the bank teller, which he says has happened before.
3. At the time of this transaction, the Firm's general account was not in an overdraft position.
4. Mr. Singh admits that he withdrew \$500 from trust, contrary to Rule 3-56(1) of the Law Society Rules.

### **ALLEGATION 2**

5. Mr. Singh admits that he improperly authorized the withdrawal of funds from a pooled trust account by electronic transfer by setting up an electronic transfer capacity that permitted the withdrawal of funds from trust in circumstances contrary to the requirements of Rule 3-56 (1.3) and (3.1).

### ALLEGATION 3

6. Mr. Singh admits to trust shortages as set out in Allegation 3.

7. Between June 2009 and June 2010, there were insufficient funds on deposit in the trust account to meet the Firm's obligations with respect to funds held in trust for its clients. The amount of the trust shortage varied from time to time. The investigation report records the month-end trust shortage as follows:

Month	Amount of Shortage (\$)
June 30, 2009	9,399.10
July 31, 2009	14,809.00
August 31, 2009	43,436.54
September 30, 2009	65,050.54
October 31, 2009	581,858.29
November 30, 2009	102,536.54
December 31, 2009	75,362.20
January 31, 2010	88,656.01
February, 28, 2010	82,201.91

The investigation report concluded that the trust shortage of \$581,858.29 in October 2009 was caused by a timing difference in the recording of one single large deposit.

8. Mr. Singh did not report the online transfers and the resulting trust shortages to the Law Society until June 1, 2010, when he authorized his counsel to contact the Law Society.

9. Mr. Singh admits that, in respect of a trust shortage of an amount varying between approximately \$9,399 and \$581,858.29, which commenced in June 2009:

(a) he failed at all material times between June 2009 and June 2010 to maintain sufficient funds on deposit in the pooled trust account to meet the Firm's obligations with respect to funds held in trust for clients, contrary to Rule 3-55;

(b) when he became aware of an actual trust shortage in mid-February 2010, he failed to immediately pay enough funds into the account to eliminate the shortage and did not cause the shortage to be eliminated until July 2010, contrary to Rule 3-66(1); and

(c) he failed to make a written report to the Executive Director of the Law Society immediately and did not make a report until June 2010.

### ALLEGATION 4

10. Mr. Singh admits to the following facts with respect to Allegation 4 of the citation which deals with

Mr. Singh admits to the following facts with respect to Allegation 4 of the Statement of Facts, which deals with the failure to deposit trust funds to the pooled trust accounts. The Agreed Statement of Facts on this allegation is as follows:

- (a) On or about April 19, 2010, Mr. Singh was retained by a client to arrange for her brother's judicial interim release after he was retained [sic] by Canada Border Services Agency. Mr. Singh received a retainer of \$1,000 in cash and issued a receipt. Mr. Singh did not prepare or deliver a retainer letter due to the urgency of the circumstances.
- (b) On April 19, 2010, Mr. Singh caused this cash to be deposited to the Firm's general account.
- (c) Mr. Singh caused a statement of account to be prepared and delivered to the client for total fees, disbursements and taxes of \$1,000.
- (d) Mr. Singh admits that the \$1,000 he received as a retainer was not deposited to a pooled trust account, contrary to Rule 3-51(1).

## **ALLEGATION 5**

11. The Agreed Statement of Facts relating to Allegation 5 (the failure to maintain books, records and accounts) sets out the following:

- (a) The 89 online transfers from the trust account to the general account that were made between June 1, 2009 and June 16, 2010 were not recorded in the Firm's books within seven days after the transaction. In many instances, the transactions were not recorded for months, although the transactions and the fact that they were not recorded were both identified by the bookkeeper in the monthly trust reconciliations provided to Mr. Singh.
- (b) Mr. Singh admits that 89 trust transactions were not recorded promptly and in any event within seven days after a trust transaction, contrary to Rule 3-63(1).
- (c) Mr. Singh admits that monthly trust reconciliations were not prepared within 30 days of the effective date of the reconciliation, contrary to Rule 3-65, for the months of March 2010, April 2010 and May 2010, contrary to Rule 3-65.

## **ALLEGATIONS 6, 7 AND 8**

12. In the summer of 2009, KB retained Mr. Singh to represent him in respect of the suspension of his driver's licence (the "Matter"). In due course, KB was represented by Mr. Singh's partner. KB and his wife had previously retained Mr. Singh in connection with immigration matters. Mr. Singh also has been a customer of KB's business.

13. At all material times, the Matter was ongoing and had not been resolved.

14. In or about October or November 2009, Mr. Singh became aware that the Bank would no longer permit the Firm's line of credit to exceed its maximum of \$150,000 and it would "bounce" cheques written on the general account if there were insufficient funds. In mid-December 2009, Mr. Singh was aware from statements to him by his partner that the Firm would be "short" money in the general account.

15. In or about mid-December 2009, Mr. Singh spoke with KB and told KB that he and his partner needed to borrow \$20,000 on a short-term basis and he was looking for a private lending arrangement. KB agreed to lend \$20,000 to them (the "Loan").

16. Mr. Singh prepared a promissory note in respect of the Loan. The promissory note was for the principal amount of \$20,000 payable on February 28, 2010 and was signed by Mr. Singh and his partner.
17. On December 29, 2009, as Mr. Singh was with family in California, his partner asked an associate to go to the home of KB and pick up the cheque for the Loan, which he did. Mr. Singh was not aware at that time that KB provided the Loan funds by a cheque written to his joint account with his wife, AB.
18. Mr. Singh did not advise KB or AB that he was not protecting their interests in December 2009 when they entered into the Loan, nor at any time thereafter. Further, he did not recommend at any time that they obtain independent legal advice.
19. The Loan was deposited to the Firm's general account and used to pay general operating expenses.
20. When the Loan was repayable at the end of February 2010, Mr. Singh, his partner and the Firm had insufficient funds to repay it. Mr. Singh spoke with KB and told him that they needed the Loan funds for another two months and proposed that he pay the accrued interest only and the Loan be extended. KB agreed to an extension of one month to March 28, 2010.
21. Mr. Singh prepared and signed another promissory note in respect of the Loan, payable on March 28, 2010 at an interest rate of 10 per cent per annum. The promissory note is dated March 2, 2010. At this time, Mr. Singh also paid interest of \$600 to KB.
22. On or about March 24, 2010, AB by email asked Mr. Singh to repay the Loan in full on March 28, 2010. AB called the Firm many times to speak with Mr. Singh or his partner about repayment of the Loan, but she was unable to speak with either of them and her phone calls were not returned. She also sent a number of emails, including emails between March 25, 2010 and April 10, 2010, to which Mr. Singh replied on April 1, 2010 and April 8, 2010.
23. When the Loan was repayable on March 28, 2010, Mr. Singh, his partner and the Firm had insufficient funds to repay it.
24. On April 13, 2010, Mr. Singh provided to AB three cheques payable from the Firm's general account as follows:
- (a) #3485, dated April 13, 2010, in the amount of \$300 for interest accrued on the Loan in March 2010;
  - (b) #3486, dated April 23, 2010, in the amount of \$5,000 as partial repayment of the principal amount of the Loan; and
  - (c) #3487, dated May 21, 2010, in the amount of \$5,000 as partial repayment of the principal amount of the Loan.
25. On April 23, 2010, AB negotiated cheque #3486 in the amount of \$5,000; it was returned due to insufficient funds.
26. On April 26, 2010, his partner deposited \$35,000 to the Firm's general account, then transferred the funds to the trust account as part of his repayment of trust funds that Mr. Singh had wrongfully withdrawn from the trust account. Mr. Singh understood from discussions with his partner that \$5,000 of these funds were to be used to partially repay the Loan by replacing cheque #3486.
27. On April 30, 2010, Mr. Singh withdrew \$5,000 from the trust account by purchase of a bank draft.

Mr. Singh delivered the bank draft to AB.

28. The \$15,000 balance of the Loan was repaid by Mr. Singh's partner in May 2010.

29. Mr. Singh admits allegation 6 that he borrowed the principal amount of \$20,000 from KB and his wife when KB was a client of the Firm, which transaction was not of a routine nature to, nor in the ordinary course of, the client's business, contrary to Chapter 7, Rule 4 of the *Professional Conduct Handbook*.

30. Mr. Singh admits allegation 7 that when he entered into the Loan with KB and his wife, he failed to advise them that he was not protecting their interests.

31. Mr. Singh admits that he withdrew \$5,000 from trust on April 30, 2010, contrary to Rule 3-56(1).

## **GLOBAL ADMISSION OF PROFESSIONAL MISCONDUCT**

[10] The Respondent admits in the Agreed Statement of Facts and in his oral evidence at the hearing of this matter that his conduct as set out in the Agreed Statement of Facts constitutes professional misconduct.

## **Decision**

[11] Since the decision in *Law Society of BC v. Martin*, 2005 LSBC 16, it has become well-established law that the test for professional misconduct is whether the facts as made out disclose a marked departure from that conduct that the Law Society expects of its members.

[12] While a finding of professional misconduct requires a degree of fault or culpability, that may be the result of negligence as well as intentional. The panel in *Martin* concluded at paragraph [154]:

The real question to be determined is essentially whether the Respondent's behaviour displays culpability which is grounded in a fundamental degree of fault, that is whether it displays gross culpable neglect of his duties as a lawyer.

[13] The Panel agrees with this Respondent that his admitted misconduct constitutes professional misconduct because it clearly discloses a marked departure from the standard expected of members of the legal profession.

[14] The behaviour exhibited by the Respondent during the relevant period of time described in the citation occurred when the Respondent was unable to control his addiction to severe extended bouts of alcohol consumption. The Respondent's irresponsible attention to matters of financial accountability showed a complete disregard for the rules and standards expected from members of the Law Society. Financial responsibility is the cornerstone at the heart of the integrity of a lawyer without which the legal profession suffers immeasurable harm.

[15] Counsel's submissions, the admission of the Respondent and the clear reading of Part 3 of Division 7 of the Rules, lead the Panel to the logical conclusion that the Respondent's admitted behaviour during the relevant time amounts to professional misconduct.

## **APPROPRIATENESS OF THE SANCTION**

[16] Following the decision on the merits, the Panel heard submissions from counsel for the Law Society and counsel for the Respondent as they submitted a joint recommendation as to the appropriate disciplinary

action. The submission included a range as to the fine. The exact figure, they jointly agreed, was to be determined by this Panel.

[17] Serious professional misconduct involving breach of trust accounting rules, shortage of trust funds, and borrowing funds from a client would normally include a significant period of suspension from the practice of law. Both counsel concurred with that statement.

[18] Counsel for the Law Society and Respondent's counsel included details of the Respondent's disability in the Agreed Statement of Facts and raised the duty of accommodation for a disability under the Human Rights Code: *Fossom v. Society of Notaries Public of British Columbia*, 2011 BCHRT 310 and *Gichuru v. Law Society of British Columbia* (No. 4), 2009 BCHRT360.

[19] The Respondent has a disability as established in the Agreed Statement of Facts. The relevant facts are again described in paragraphs 20-23 following.

[20] The Respondent has a history of alcohol dependency and is an alcoholic. In or about 2008, the Respondent's marriage broke down, following which his alcohol consumption increased and became more frequent. In the period between 2008 and August 2010, the Respondent tried to stop drinking on a number of occasions and was sober for a period of approximately nine months beginning in March 2009 and ending in December 2009.

[21] In the period between January 2008 and August 2010, the Respondent's health was significantly affected by his consumption of alcohol. He was hospitalized on many occasions for health problems related to his consumption of alcohol:

(a) On February 13, 2008, he was admitted to hospital for hematemesis, an upper GI endoscopy was performed and some varices were banded, and he was discharged February 16, 2008.

(b) On March 27, 2008, he was admitted to hospital for hematemesis, an upper GI endoscopy was performed and some varices were banded and he was discharged March 29, 2008.

(c) On April 7, 2008, he was admitted to hospital emergency department for a concern regarding hematemesis and discharged the same day.

(d) On April 11, 2008, he was admitted to hospital for upper GI bleeding, an upper GI endoscopy was performed and three varices were banded, and he was discharged on April 15, 2008.

(e) On May 3, 2008, he was admitted to hospital for upper GI bleeding, given treatment and discharged May 4, 2008.

(f) On October 30, 2008, he was admitted to hospital for hematemesis and relapse of alcoholism, an upper GI endoscopy was performed and some varices were banded and he was discharged on October 31, 2008.

(g) On December 1, 2008, he was admitted to hospital emergency for a concern regarding hematemesis and discharged that day.

(h) On December 13, 2008, he was admitted to hospital for hematemesis, given treatment, and discharged on December 15, 2008.

(i) On March 17, 2009, he was admitted to hospital and diagnosed with minor GI bleeding, given treatment and discharged the next day.

(j) On January 17, 2010, he was admitted to hospital emergency department for a concern regarding GI bleeding and discharged the same day against medical advice.

(k) On May 21, 2010, he was admitted to hospital emergency department related to alcohol intoxication and discharged the same day against medical advice.

(l) On June 23, 2010, he was admitted to hospital for a concern regarding GI bleeding and was discharged the next day against medical advice.

(m) On July 19, 2010, he was admitted to hospital emergency department for alcohol intoxication with physical threats of violence to himself and family, received treatment and was discharged the next day.

[22] During this period, the Respondent also attended residential treatment programs at a BC recovery centre on several occasions:

- (a) a 42-day program from May 8 to June 20, 2008;
- (b) a 10-day program from January 16 to 26, 2009;
- (c) a 28-day program from March 20 to April 17, 2009; and
- (d) a 60-day extended program from April 17 to June 17, 2009.

During the program from March 20, 2009 to April 17, 2009, the Respondent was not permitted to leave the centre. During the extended program that started on April 17, 2009, the Respondent resided at the centre but was permitted to organize his own day, with an expectation to attend morning sessions.

[23] Since approximately August 2010, the Respondent has been in stable recovery from alcohol dependence. Dr. Hedges, a medical doctor who examined Mr. Singh, opines that, assuming the Respondent's self-report of extremely heavy and almost daily alcohol consumption from January through July 2010 is accurate, "his mental, emotional and cognitive function would have been profoundly impaired throughout that time."

[24] On August 26, 2010, the Respondent gave an undertaking to the Law Society in which he undertook to immediately cease acting as a signatory to any account that holds trust funds, as defined in Rule 1 of the Law Society Rules, and to immediately deliver any trust funds that he receives to his current law partner.

[25] Through the Practice Standards Department of the Law Society and as a result of recommendations made by the Practice Standards Committee on January 26, 2012, the Respondent has taken the following steps:

- (a) On February 14, 2012, the Respondent gave an undertaking to report the consumption of any alcohol or mood or mind-altering drugs to the Practice Standards Department within 72 hours and to abide by any written direction from it with respect to his law practice.
- (b) The Respondent provided irrevocable letters of direction authorizing his AA sponsor and his law partner to report to the Practice Standards Department any behaviour by him that gives rise to a concern that he had consumed alcohol or could relapse.

[26] We accept the fact that the Respondent is an alcoholic and as such suffers from a disability. The Panel expresses its appreciation for the time and effort that counsel and the Respondent devoted to considering the issues and facts in order to reach an Agreed Statement of Facts.

## **ANALYSIS**

[27] The purpose of a disciplinary process is to fulfill the Law Society mandate set out in Section 3 of the Act to protect the public in the administration of justice by and we emphasize subparagraphs (b), (c), and (d) set

out as specifically important to this case, namely:

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

- (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, ...

[28] Law Society counsel submits that the Panel must order sanctions against the Respondent, but those sanctions need be tempered by the duty to take into consideration the effect of the disability influencing the misconduct. Furthermore, counsel argues, given the severe nature of the professional misconduct by the Respondent in this case, a period of suspension would be warranted, were it not for the Respondent's disability.

[29] Counsel referred us to the leading decision in determining the appropriate penalty for a breach of the Rules; *Law Society of BC v. Ogilvie*, [1999] LSBC 17. The factors for this Panel to consider on disciplinary action are set out in the *Ogilvie* case. These include:

- (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.

### **The Nature and Gravity of the Conduct Proven**

[30] Law Society counsel submitted that strict compliance with Part 3 Division 7 of the accounting Rules is fundamental to the maintenance of the legal profession's reputation for trustworthiness and integrity. This is succinctly stated in many of the authorities counsel have jointly provided to us. Compliance with trust accounting obligations goes to the heart of maintaining confidence in the integrity of the legal profession. Rigid adherence to the Rules must be enforced to ensure the highest standard of accountability. In other words, non-compliance with these most basic financial rules of accountability is deserving of a severe

penalty.

### **Age and Experience of the Respondent and Prior Discipline**

[31] The facts establish that the Respondent is an experienced practitioner with an impressive education. The Professional Conduct Record shows two previous conduct reviews and a referral to the Practice Standards Committee.

### **Impact upon the Victim**

[32] There was no evidence of lasting financial harm to any victims. The harm is, as always in such cases, upon the legal profession and the public through diminished public confidence in the profession.

### **The Advantage Gained, or to be Gained by the Respondent**

[33] The Respondent gained an immediate advantage in borrowing funds from his client. The delay in repayment of the funds borrowed caused inconvenience to the client and family, but ultimately no financial loss.

### **Number of Times the Offending Conduct Occurred**

[34] The facts show that the conduct occurred frequently over many months and this was not an isolated incident, which weighs against the minimum range for a fine.

### **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**

[35] The Respondent acknowledges his misconduct, his breach of the Rules and has expressed remorse. He blames much of the misconduct on his addiction to alcohol at the relevant times. He has abstained from alcohol use since August 10, 2010 and implemented new office procedures to ensure compliance with trust accounting rules in future.

### **Possibility of Remediating or Rehabilitating the Respondent**

[36] The evidence shows that the Respondent began a treatment plan in August 2010 and has abstained from alcohol, reports to the Practice Standards Committee on a regular basis and attends frequent AA meetings as a member and as a speaker. There is a strong likelihood of rehabilitation. The Respondent's counsel submitted that the acknowledgement of the misconduct, steps to disclose and redress the wrong, and the ongoing remediation and rehabilitation program undertaken by the Respondent should be considered favourably in accepting the recommendations for the sanctions to be imposed.

### **Impact on the Respondent of Criminal or Other Sanctions or Penalties and Impact of the Proposed Penalty on the Respondent**

[37] The sanctions in the range recommended are manageable by the Respondent, although his counsel submits that the Respondent's firm still has yet to fully recover from the financial setback suffered during the relevant time of the misconduct.

## Need for Specific and General Deterrence

[38] The protection of the public and the maintenance of the public's confidence in the regulation of the profession require firm sanctions. This case involves many breaches of multiple Rules. A clear message must be sent that, regardless of the personal or financial circumstances of a lawyer, the paramount duty of the Law Society is to protect the public.

[39] *Law Society of BC v. Batchelor*, 2012 LSBC 09, succinctly states at para. [49] the principle of progressive discipline as follows:

The principle of progressive discipline stipulates that a lawyer who has had prior discipline, whether for the same or different conduct and whether that conduct has been joined in one proceeding or dealt with by way of successive proceedings, will be subject to a more significant disciplinary sanction than someone who has had no prior discipline.

[40] The Respondent's professional conduct record consists of two conduct reviews and a referral to Practice Standards. Regular and predictable sanction that can be easily understood by the public provides a level of comfort with the standard of regulation in the profession. Progressive discipline sends a message to the public that financial irresponsibility will not go unpunished.

[41] Counsel for the Law Society cited a number of cases dealing with breaches of various accounting rules and prepared a table setting out the facts and the punishment imposed for comparison purposes. We find that the recommended sanction is within the parameters of the cases cited to us in that summary.

[42] The factors described herein taken from the *Ogilvie* decision need to be considered together with the principle of progressive discipline and the duty to accommodate a disability before finalizing an appropriate disciplinary action.

## Decision

[43] The Panel finds that the sanction jointly recommended by the parties is within the appropriate parameters and reasonable and fair in the Respondent's circumstances. We accept the joint submissions as to disciplinary action and order that the Respondent pay a fine in the amount of \$10,000. We find that the highest sanction in the range suggested is appropriate because this is a case deserving of a suspension had there not been a willingness to accommodate the Respondent's circumstances. In addition, this is not the Respondent's first disciplinary issue.

## ORDER

[44] The Panel orders that the Respondent:

- (a) pay a fine of \$10,000, payable in three equal instalments, payable on April 30, 2014, October 31, 2014, and April 30, 2015;
- (b) is subject to a condition under section 38(5)(c) of the Act that the Respondent not be a signatory to a trust account for five years ending April 30, 2018 and thereafter until relieved of this condition by the Discipline Committee;
- (c) is subject to a condition under section 38(7) of the Act that the Respondent, for a period of three years ending April 30, 2016 and thereafter until relieved of this condition by the Discipline Committee, enter into and comply with a medical monitoring agreement on terms satisfactory to the Practice

Standards Committee having regard to the recommendations numbered 1 through 4 and 6 to 8 by Dr. Baker in his opinion dated April 5, 2013; and

(d) pay costs to the Law Society of \$8,000 on or before October 31, 2013.