

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

VIVIAN CHIANG

Applicant

**Decision of the President's Designate
on an Application to Adjourn a S. 47 Review Date and
an Application for a Further Stay of Proceedings**

Application date:

President's Designate: Lynal Doerksen

Counsel for the Law Society: Henry Wood, QC

Applying on her own behalf: Vivian Chiang

[1] The Applicant has asked for a Review of the hearing panel decision on disciplinary action issued on September 25, 2013. The Review hearing is scheduled to take place on March 31, 2014. On October 31, 2013 a stay of the suspension ordered by the hearing panel was ordered with conditions (see 2013 LSBC 30). The Applicant seeks:

- (a) an adjournment of the Review hearing to a later date;
- (b) an extension of time to exchange written submissions; and
- (c) an extension of time to the stay of proceedings granted October 31, 2013.

[2] In support of this application is filed a six page memorandum entitled "Application for Adjournment and Extension of Time" dated February 17, 2014 and two affidavits. One affidavit dated February 17, 2014 contains recent email exchanges between the Applicant and counsel for the Law Society, Henry Wood, QC, and the second affidavit was previously filed November 9, 2011 in the Court of Appeal. The Law Society opposes the application and provides more of the email exchanges between Mr. Wood and the Applicant.

[3] It was previously ordered at a pre-review conference that the exchange of submissions for the Review hearing would occur on the following schedule:

- (a) the Record would be provided to the parties by January 15, 2014;
- (b) Applicant's submissions provided to Law Society counsel by February 10, 2014;
- (c) Law Society's response provided to the Applicant by February 28, 2014; and
- (d) any reply by the Applicant would be provided to Law Society counsel by March 7, 2014.

[4] The Applicant requests an adjournment of the Review hearing "as her electronic and documentary records, computer and printer became corrupted or malfunctioned." Despite the request by Mr. Wood for further details on February 12, 2014 about her computer and printer malfunction, no further details have

been provided by the Applicant.

[5] For the following reasons, the Applicant's request to adjourn the Review hearing is denied.

[6] As was held in *Howatt v. College of Physicians and Surgeons of Ontario*, [2003] OJ No. 138 (ONSCDC) at para. 31:

There is no doubt that the right to an adjournment before an administrative tribunal, including a disciplinary body, is not an absolute right. In each case, whether or not the adjournment should be granted must be considered in the light of the circumstances, having regard to the right of the applicant to a fair hearing weighed against the obvious desirability of a speedy and expeditious hearing into charges of professional misconduct. When balancing these two factors, the right of the applicant to a fair hearing must be the paramount consideration.

[7] For the hearing to proceed as scheduled is not unfair to the Applicant in this case. There is plenty of time until the Review hearing for the Applicant to submit her written submissions and the Applicant has already had plenty of time to prepare for the Review hearing. I note that some of the Applicant's submissions on this adjournment application, and in the "Application for Stay of Proceedings" contain submissions that will likely be made to the Review panel.

[8] Also, despite the difficulties with her computer and printer, the Applicant was able to prepare a thorough written memorandum for this application. In fact, a review of the Applicant's "Application for Stay of Proceedings" dated October 23, 2013 contains numerous paragraphs that are identical, or nearly identical, to the "Application for Adjournment and Extension of Time" filed in support of this application. Either the Applicant has a digital version of her previous submission or she has reconstructed them from a printed copy.

[9] I also note that this is a matter in which there will be no evidence called. The record is set, and it is a matter for the Applicant to make argument to the Review panel. The Applicant has acted as her own counsel throughout this matter and is obviously well aware of the issues she must address with the Review panel. This application is distinguishable from other cases that involve a change of counsel or illness or unavailability of a witness.

[10] However, as there is still plenty of time available before the scheduled Review hearing I will permit an extension of time to file written materials.

[11] With respect to the request for an extension of time to exchange written submissions, I will order the following:

- (a) The Applicant to provide her written submissions to Law Society counsel no later than March 13, 2014;
- (b) The Law Society's response by March 20, 2014; and
- (c) Any reply by the Applicant by March 27, 2014.

[12] The extension of the stay of proceedings, which is in effect until April 30, 2014, is not extended. However, as per the ruling of October 31, 2013, the Applicant can apply to the Review panel for an extension of the stay.