

2015 LSBC 20  
Decision issued: April 28, 2015  
Citation issued: February 25, 2013

**THE LAW SOCIETY OF BRITISH COLUMBIA**

**In the matter of the *Legal Profession Act*, SBC 1998, c. 9**

**and a hearing concerning**

**WILLIAM TERRENCE FAMINOFF**

**RESPONDENT**

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**DECISION OF THE HEARING PANEL  
ON DISCIPLINARY ACTION**

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Hearing date: March 26, 2015

Panel: Nancy Merrill, Chair  
William Everett, QC, Lawyer  
Graeme Roberts, Public representative

Discipline Counsel: Susan Coristine  
Counsel for the Respondent: Geoffrey Gomery, QC

**INTRODUCTION**

- [1] In its decision on Facts and Determination, this Panel found that the Respondent's conduct, in respect of the eight allegations in the citation, constituted professional misconduct.
- [2] The Respondent gave evidence at this hearing on Disciplinary Action and was cross-examined by counsel for the Law Society.
- [3] Counsel for the Law Society submits that the appropriate disciplinary action is a suspension of the Respondent in the range of five to six months, an order that the Respondent complete a remedial program prior to recommencing his practice, and costs.

- [4] Counsel for the Respondent accepts that a suspension is appropriate in this matter but submits that it should be limited to one month.

## **BACKGROUND**

- [5] Particulars of the Respondent's professional misconduct are set out in this Panel's decision on Facts and Determination, and are briefly summarized as follows:
- (a) the Respondent's preparing and back-dating 44 statements of accounts with the intention to mislead the auditor conducting a Law Society compliance audit of the Respondent's practice. The Respondent admitted preparing and back-dating the accounts in the Agreed Statement of Facts ("ASF") filed at the hearing on Facts and Determination. However, the Respondent denied that he did so with any intention to mislead the Law Society;
  - (b) the Respondent's breaches of the Law Society Rules (the "Rules") by improper handling of clients' trust funds on numerous occasions and by his failure to maintain accounting records. The Respondent admitted the breaches of the Rules in the ASF; and
  - (c) the Respondent's breaches of undertakings he gave to the Insurance Corporation of British Columbia ("ICBC"). The Respondent admitted the breaches of undertakings in the ASF.

## **LAW**

### **General**

- [6] Section 38(5) of the *Legal Profession Act*, SBC 1998 c. 9 (the "Act") provides that, where an adverse determination has been made against a lawyer, a hearing panel must do one or more of the following:
- (a) reprimand the lawyer;
  - (b) fine the lawyer;
  - (c) impose conditions and limitations on the lawyer's practice;
  - (d) suspend a lawyer for a specific period of time with or without conditions;
  - (e) disbar the lawyer; and/or

- (f) require the lawyer to do a number of things to improve or control his practice.

While a hearing panel is required to do one or more of the above, it has discretion as to which one or ones it should impose. (*Law Society of BC v. Lessing*, 2013 LSBC 29, at paras. 50 and 51)

- [7] Section 38(7) of the Act provides that a hearing panel may make such further orders and declarations and impose any conditions it considers appropriate (*Lessing* at para. 52).
- [8] As also noted in *Lessing* at para. 54, the starting point for how a hearing panel exercises its discretion to impose disciplinary action is s. 3 of the Act, which provides as follows:

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

- (a) preserving and protecting the rights and freedoms of all persons,
- (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, and
- (e) supporting and assisting lawyers, articled students and lawyers of other jurisdictions who are permitted to practise law in British Columbia in fulfilling their duties in the practice of law.

### **Globalization**

- [9] In *Lessing*, at para. 77, the review panel set out principles for the assessment of disciplinary action where there is more than one citation as follows:

... This Review Panel believes, as a general rule, in a situation of multiple citations, the following principles should apply:

- (a) The question of whether a suspension or fine should be imposed is best determined on a global basis of all the citations;

- (b) The question of the *length of the suspension* should be determined on a global basis; and
- (c) If it is decided to impose a fine, it should be done on an individual citation basis.

[emphasis added]

[10] This Panel believes that the principles of globalization have some application in cases, such as this one, where there is a single citation against a respondent that contains multiple allegations.

### **Ogilvie factors**

[11] A hearing panel, in exercising its discretion to impose disciplinary action, is also guided by the well-known factors set out in *Law Society of BC v. Ogilvie*, [1999] LSBC 17, at paras. 9 and 10.

[12] Not all of the *Ogilvie* factors come into play in every case, and the weight to be given to the factors may vary from case to case (*Lessing* at para. 56).

[13] In *Lessing* at para. 57, the review panel identified the following factors as particularly important in determining the appropriate disciplinary action:

- (a) protection of the public, including public confidence in the disciplinary process and the legal profession generally; and
- (b) rehabilitation of the respondent.

[14] In addition, in *Law Society of BC v. Hill*, 2011 LSBC 16, the panel commented at para. 3 as follows:

*It is neither our function nor our purpose to punish anyone.* The primary object of proceedings such as these is to discharge the Law Society's statutory obligation, set out in section 3 of the *Legal Profession Act*, to uphold and protect the public interest in the administration of justice. Our task is to decide upon a sanction or sanctions that, in our opinion, is best calculated to protect the public, maintain high professional standards and preserve public confidence in the legal profession.

[emphasis added]

[15] This Panel will consider the foregoing law and principles in determining the appropriate disciplinary action.

## ISSUES

### **Respondent's position**

[16] The Respondent, through his counsel's written submissions, has acknowledged that the conduct proven against him constitutes serious misconduct and accepts that a suspension is appropriate disciplinary action in the circumstances.

[17] Therefore, the primary issues for this Panel's consideration are:

- (a) what length of suspension is appropriate; and
- (b) whether the Respondent should complete a remedial program prior to recommencing his practice.

## ANALYSIS

### **Nature and gravity of conduct proven**

[18] The professional misconduct in this matter includes intentionally misleading the Law Society, a failure to comply with trust and accounting Rules, and breaches of undertakings.

[19] The Respondent submits that such misconduct must be placed in context.

[20] He says his misleading of the Law Society by preparing 44 back-dated statements of account, while intentional, was not carefully planned or crafted and should be contrasted with the conduct of other lawyers who have misled the Law Society by tendering a forged composite photocopy of the front and back of different cheques<sup>1</sup> or by lying to the Law Society and fabricating office copies of letters that were never sent.<sup>2</sup> Nor was his misleading compounded by further lies in an attempt to cover up and justify his actions as was seen in some cases.<sup>3</sup> In this matter, the Respondent admitted the back-dating as soon as the Law Society became suspicious and confronted him, and he was cooperative throughout the ensuing

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<sup>1</sup> *Law Society of BC v. Luk*, 2007 LSBC 13.

<sup>2</sup> *Law Society of BC v. Jamieson*, 1999 LSBC 11.

<sup>3</sup> *Law Society of BC v. Geronazzo*, 2006 LSBC 50; *Law Society of BC v. Hordal*, 2004 LSBC 36; and *Law Society of BC v. Strandberg*, 2001 LSBC 26.

investigation and these proceedings. He says his conduct was a reaction, under time pressure, to the pending compliance audit of his practice and involved an episode of misconduct, rather than a carefully planned and sustained course of conduct.

- [21] Regarding the failure to comply with the trust and accounting Rules, the Respondent says his actions did not involve dishonesty in terms of misappropriating clients' funds.
- [22] Regarding the breaches of undertakings, the Respondent says they arose as a result of sloppy office routines and his failure to take care. He further says that there were no adverse consequences or losses to ICBC as a result of the breaches of undertaking.
- [23] The Respondent submits (not by way of excuse, but rather to place his particular misconduct in perspective) that there is a gradation or degrees of intentional misleading conduct and breaches of undertaking and that his conduct in this regard was not the worst kind for the reasons set out above.
- [24] The Law Society submits that the Respondent's misconduct is of the very serious kind.
- [25] The back-dated accounts were prepared over a three-day period on the eve of a compliance audit of which the Respondent had prior notice. The Respondent remained silent about the back-dating at a time when he must have known that the Law Society auditor would be relying on his documentation and only acknowledged the back-dating when confronted by the auditor. The Respondent not only intended to mislead, he did mislead the Law Society's auditor.
- [26] The Law Society submits that the Respondent's breaches of the trust and accounting Rules were very serious misconduct in that they were ongoing and extensive, and demonstrated an apparent disregard for Rules specifically designed to protect the public in connection with a lawyer's handling of trust funds by ensuring that lawyers are accountable to their clients and others for the funds they receive. The Law Society does acknowledge that the Respondent's failure to comply with the trust and accounting Rules did not involve dishonesty in terms of misappropriation of client funds.
- [27] The Law Society submits that, while the Respondent's breaches of undertakings did not result in any losses to ICBC, the breaches were not an isolated incident, but rather an ongoing course of conduct suggesting a cavalier attitude toward

undertakings on the part of the Respondent. It further submits that any breach of an undertaking is a serious matter.

- [28] The Panel, considering the Respondent's misconduct on a global basis of all the allegations proven against him, does not agree that there is a qualitative difference in his actions that would lead to a conclusion that they should be considered less serious. The Panel agrees with the submissions of the Law Society that the nature and gravity of the proven misconduct is very serious and considers this an aggravating factor in its consideration of the appropriate disciplinary action.

### **Age and experience of the Respondent**

- [29] The Respondent was called to the bar on August 1, 1985. As of 2009, he had 24 years of experience, all in private practice. He began his practice in small firms, primarily in the field of immigration law. His small firm merged into a larger firm, where he remained for a short period. In 1991, he returned to a smaller firm and then an office-sharing practice. In approximately 1997, he became a sole practitioner. His practice has been primarily immigration law and personal injury matters.
- [30] As of 2009, the Respondent was a senior and experienced lawyer, and should have been familiar with the Law Society's Rules concerning the handling of clients' trust funds and maintaining accounting records. He certainly should have recognized the serious implications of intentionally back-dating accounts on the eve of a Law Society audit and of breaching undertakings. The Panel considers this an aggravating factor.

### **Previous character of the Respondent, including details of prior discipline**

#### **Professional Conduct Record**

- [31] The Respondent has a relevant Professional Conduct Record relating back to 1990, which was marked as Exhibit 4 by consent of the parties.
- [32] A previous citation against the Respondent was decided in January 1992 as to findings of fact and in November 1992 as to verdict. The decision as to penalty was made in May 1994 (collectively, the "Previous Discipline Proceeding").<sup>4</sup>

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<sup>4</sup> *Law Society of BC v. Faminoff*, 26 January 1992 (Facts); *Law Society of BC v. Faminoff*, 25 November 1992 (Verdict); *Law Society of BC v. Faminoff*, 10 May 1994 (Penalty).

- [33] The Previous Discipline Proceeding involved the Respondent's conduct in 1990 when he was an associate in LM, a large Vancouver law firm. There were the following findings of professional misconduct against the Respondent.
- [34] First, that he falsely represented to LM that certain hockey players were his clients and failed to disclose to LM the true nature of his relationship with the hockey players and the true nature of his personal interest in fees anticipated from that relationship.<sup>5</sup>
- [35] Second, that the Respondent, through active representations as well as non-disclosure, caused LM to pay the expenses of trips that were intended by the Respondent to further his personal interest. The Respondent intended that the primary purpose of the trips was to produce personal gain as opposed to furtherance of the interests of LM.<sup>6</sup>
- [36] In its decision on penalty in the Previous Discipline Proceeding, the hearing panel stated, in part, regarding the Respondent's conduct:
- ... The deceptions perpetrated by him placed him in a position of conflict with the duties owed to his firm which went beyond mere breach of the terms of his employment, and evidenced a disturbing lack of honesty and honour.<sup>7</sup>
- [37] The hearing panel imposed on the Respondent a reprimand, a fine of \$10,000, an order that he submit to a review of his practice, and an order to pay costs of \$15,000.
- [38] The Respondent entered into a Practice Supervision Agreement ("PSA") in relation to his personal injury files in early 1997. The PSA was concluded in 1998 and the Practice Standards Committee closed its file in the same year.
- [39] The Previous Discipline Proceeding was the Respondent's only encounter with the Law Society's disciplinary process prior to this matter. Counsel for the Respondent submits that his previous encounter was approximately 17 years prior to the facts giving rise to this citation, and the time between should be considered a mitigating factor.
- [40] However, the Previous Discipline Proceeding raised serious concern about the Respondent's lack of honesty and honour. More particularly, it found that the

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<sup>5</sup> *Faminoff* (Verdict) at p. 5

<sup>6</sup> *Faminoff* (Verdict) at p. 6

<sup>7</sup> *Faminoff* (Penalty) at p. 5

Respondent had made false representations and failed to disclose the true facts to his firm.

- [41] While there is a lengthy period of time between the Previous Disciplinary Proceeding and the current citation, the Panel finds that the Respondent's prior disciplinary record is an aggravating factor in its consideration of the appropriate disciplinary action and adopts the following language in *Law Society of BC v. Batchelor*, 2013 LSBC 09 at para. 48:

The Respondent's prior disciplinary record is an aggravating factor that requires an increase in the sanction to be imposed beyond the range of the sanctions imposed for similar misconduct by members without a disciplinary history. This increased sanction would be in accordance with the principle of progressive discipline, the need for specific deterrence and the need to ensure public confidence in the legal profession.

- [42] This is particularly so when the Respondent's previous conduct, while not exactly the same, did involve findings of false representations and a failure to disclose the true facts to his firm. Those findings were similar in nature to the findings of this Panel that the Respondent intentionally misled the Law Society. It is also an aggravating factor that the Respondent has had two similar findings against him during his career.

### **Reference letters**

- [43] The Respondent put in evidence, by consent, a booklet (Exhibit 5) containing eight reference letters from lawyers and non-lawyers. It was not clear whether the letters were solicited for the purpose of this hearing, but with the exception of one letter, the authors had all read the Panel's decision on Facts and Determination. There was no indication in any of the letters that the authors were aware of the Previous Disciplinary Proceeding against the Respondent.
- [44] The Respondent submits that the letters speak to his collegiality, courtesy, professionalism and emphatically to his loyalty and dedication to his clients' causes.
- [45] The Panel accepts that the Respondent is held in regard by certain lawyers and non-lawyers. However, some evidence of good character in eight reference letters does not justify the Respondent's professional misconduct.
- [46] The Panel finds the reference letters to be of little assistance in determining the appropriate disciplinary action.

**Impact on the victim**

- [47] The Respondent's failure to comply with the trust and accounting Rules and breaches of undertakings did not involve misappropriation of funds. There were no victims. Nor was there any misappropriation of funds in respect of the Respondent's intentional misleading of the Law Society in connection with the compliance audit.
- [48] The Panel considers this to be a mitigating factor in its consideration of the appropriate disciplinary action.

**Advantage gained or to be gained by the Respondent**

- [49] The Respondent did not gain any direct financial benefit from his conduct.
- [50] The Panel considers this to be a mitigating factor.

**The number of times the offending conduct occurred**

- [51] The Law Society points to the Respondent's repeated misconduct over an extended period of time. In particular, 44 back-dated statements of account over three days, approximately 51 breaches of the Rules regarding the handling of clients' trust funds at various times between February 2007 and December 2008, failing to properly maintain his accounting records between January 2007 and June 2010, and ten breaches of undertakings between January 2007 and April 2010.
- [52] The Respondent submits that the back-dated statements of account were a single episode carried out over three days and that the other instances of misconduct should be viewed, in substance, as involving a single course of misconduct.
- [53] The Panel finds the Respondent's global misconduct to have occurred numerous times and to have continued for an extended period of time. It is an aggravating factor in the Panel's consideration of the appropriate disciplinary action.

**Whether the Respondent has acknowledged the misconduct and taken steps to disclose and redress the wrong**

- [54] With respect to the allegations in the citation concerning his improper handling of clients' trust funds, his failure to maintain accounting records and his breaches of undertakings, the Respondent admitted those breaches of the Rules in the ASF. That the breaches constituted professional misconduct had to be proven by the Law Society at the hearing on Facts and Determination.

- [55] With respect to the back-dated statements of account, the Respondent admitted that his conduct constituted professional misconduct. However, he did not admit that he intended to mislead the Law Society by back-dating the statements of account.
- [56] His admissions significantly reduced the hearing time. His attitude throughout the investigation and disciplinary process was cooperative, including his agreement to be interviewed by Law Society counsel. This saved considerable time and expense.
- [57] The foregoing are mitigating factors in the Panel's consideration of the appropriate disciplinary action.
- [58] The Respondent, as was his right, never admitted that he intended to mislead the Law Society by back-dating the statements of account. However, following this Panel's finding that the Respondent did intend to mislead the Law Society, he appeared reluctant to acknowledge that intention. In his evidence in chief, he acknowledged that he should have told the Law Society auditor about the back-dating of the statements of account in advance of the compliance audit, that he accepted the Panel's finding that he intended to mislead and understood how that finding could be made by the Panel. He also took responsibility for and very much regretted his actions. On cross-examination, when it was put to the Respondent that he was still taking the position that he did not intend to mislead the Law Society, his response was that, in his mind at the time, he thought his back-dating of the accounts would assist the auditor.
- [59] While the Respondent did not formally acknowledge that he intended to mislead the Law Society, the Panel finds that his evidence demonstrated his understanding and acceptance of the Panel's decision and his sincere regret for what has happened.
- [60] The foregoing is a mitigating factor in the Panel's consideration of the appropriate disciplinary action.
- [61] The Respondent also gave evidence regarding steps taken to address his poor administration of clients' trust funds and failure to maintain accounting records.
- [62] Following the Law Society's compliance audit in 2009, the Respondent introduced the use of Quick Books accounting system, retained a CGA to do his books on a monthly basis and took two CLE courses in law office management in 2011 and 2013.
- [63] Since the Law Society's compliance audit, the Respondent has had Law Society trust audits conducted by an outside chartered accountant for the years 2012 to

2015. The results of the trust audits, recorded in Law Society trust reports, indicated that no exceptions were found and that the Respondent's accounts were in order.

- [64] The foregoing is a mitigating factor in the Panel's consideration of the appropriate disciplinary action.

### **Impact of the proposed penalty on the Respondent**

- [65] The Respondent is a sole practitioner and has been practising since 1985. He testified that 85 percent of his current practice involves personal injury matters and that 90 percent of his life is his practice. Ten percent is involved in other venture(s), but he does not derive any income from those sources.
- [66] His suspension will have a substantial impact as he is a sole practitioner. His clients will have to be notified and some may be obliged to go elsewhere or will choose to do so. The impact will be greater the longer the suspension lasts and could possibly ruin his practice.
- [67] The disciplinary process to date has caused the Respondent a great deal of embarrassment and stress. He has been practising in the shadow of this process. The decision on Facts and Determination is the second "hit" when his name is searched on Google. He has also had people calling him to ask about the decision. He has found those calls gut-wrenching and feels that he has let colleagues down.
- [68] The Panel finds that the suspension will have a serious impact on the Respondent and his practice. His practice is his only source of income. He has already endured substantial embarrassment and stress as a result of the disciplinary process. The Panel finds this to be a mitigating factor in its consideration of the appropriate disciplinary action.

### **The need for general and specific deterrence**

- [69] The Law Society relies on the integrity and cooperation of its members in carrying out its regulatory function. The Respondent's misconduct viewed globally represents a significant failure to adhere to the basic duties expected of him. His intention to mislead the Law Society during its compliance audit was a particularly serious attempt to interfere with an important regulatory function. The Panel finds this to be an aggravating factor in its consideration of the appropriate disciplinary action.

### **The need to ensure the public's confidence in and integrity of the profession**

- [70] The public's confidence in the integrity of the profession and the Law Society's ability to regulate the profession effectively would be undermined if it was not ensured that members who fail to follow trust and accounting Rules, breach undertakings, and intentionally mislead the Law Society are effectively regulated.
- [71] The Respondent submits that a one-month suspension, from the view of public confidence in the profession, will be seen as a significant penalty. He further submits that, in this case, his misconduct is of much greater concern to the Law Society and the profession than to the general public because it did not result in any misappropriation of funds, or loss or harm.

### **The range of penalties in similar cases**

#### **Breaches of the trust and accounting Rules**

- [72] In this case, the Respondent's misconduct in the handling of clients' trust funds and failing to maintain proper accounting records did not involve any misappropriation of funds, loss or harm to anyone.
- [73] In *Law Society of BC v. Cruikshank*, 2012 LSBC 27, the lawyer was cited for failing to comply with various accounting Rules, including failing to deposit trust funds as soon as practicable (two instances), withdrawing trust funds prior to delivering a bill (five instances), failing to maintain proper records, failing to prepare monthly trust reconciliations, two breaches of undertakings in civil litigation matters, failing to remit PST and GST, and failing to enter into written contingent fee agreements with five clients. On conditional admission the majority of the hearing panel accepted a one-month suspension. The minority panel member believed the suspension should have been significantly longer than one month. The lawyer's history included three conduct reviews (one for breach of undertaking) and one citation involving a car accident while he was intoxicated and lying to a police officer.

#### **Breaches of undertaking**

- [74] This Panel was referred to authorities involving breaches of undertakings in which the disciplinary action ranged from fines<sup>8</sup> to suspension<sup>9</sup>.

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<sup>8</sup> *Law Society of BC v. Bowes*, 2011 LSBC 15 and *Law Society of BC v. Chodha*, 2011 LSBC 31

<sup>9</sup> *Law Society of BC v. Heringa*, 2004 BCCA 97

- [75] In *Law Society of BC v. Heringa*, 2004 BCCA 97, the lawyer failed to comply with an undertaking to discharge a mortgage and was found to have committed professional misconduct. The hearing panel ordered a one-month suspension that was upheld by the BC Court of Appeal.
- [76] In this matter, the Respondent breached his undertakings on numerous occasions over a long span of time, whereas in *Heringa* it was an instance of a single breach of undertaking. However, the breaches of undertakings in this matter did not involve any misappropriation of funds, whereas, in *Heringa* there was apparent financial harm to the party that was relying on the undertaking that the mortgage had been discharged.

### **Intention to mislead the Law Society**

- [77] In *Law Society of BC v. Galambos*, 2007 LSBC 31, the lawyer was cited for representing to the court that motion materials had been served on the defendant in an action, when they had not been served. The representation had the effect of misleading the court. The misconduct was aggravated in that the lawyer was advised of the misstatement immediately following the court appearance and did nothing to correct it. By way of contrast, the Respondent admitted back-dating the statements of account immediately when confronted by the Law Society and cooperated with the investigation and this proceeding. The lawyer was suspended for a month.
- [78] The authorities counsel have referred to this Panel in relation to cases involving misleading conduct range from a suspension of one month to suspensions as high as eight months<sup>10</sup>.

### **DECISION ON DISCIPLINARY ACTION**

- [79] The authorities cited to this Panel regarding disciplinary action are helpful and provide some guidance and context for assessing appropriate disciplinary action. However, as the hearing panel in *Galambos* stated at para. 6:

We have canvassed the range of penalties in the authorities to which counsel for the Law Society has referred, and there is indeed a somewhat perplexing range.

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<sup>10</sup> *Law Society of BC v. Liggett*, 2012 LSBC 07; *Law Society of BC v. Strandberg*, 2001 LSBC 26; *Law Society of BC v. Jamieson*, 1999 21 Discipline Digest: 1 March 1999 Decision; *Law Society of BC v. Geronazzo*, 2006 LSBC 50; *Law Society of BC v. Hordal*, 2004 LSBC 36; *Law Society of BC v. Botting*, 2000 LSBC 30; *Law Society of BC v. Smiley*, 2006 LSBC 31; and *Galambos*

- [80] In the Panel's view, a decision on disciplinary action includes a review of authorities, but must in the end be grounded on the particular facts of each case and on the experience and common sense of the hearing panel.
- [81] As set out in paragraphs [13] and [14] above, it is not the Panel's function to punish or exact retribution. In most cases, the two important factors to be considered are the protection of the public, including public confidence in the disciplinary process and in the profession generally, and the rehabilitation of the member.
- [82] In this matter, the Respondent's professional misconduct involves breaches of trust and accounting Rules, breaches of undertakings, and intentional misleading of the Law Society. While all of the Respondent's misconduct is serious, his intentional misleading of the Law Society is the most serious finding.
- [83] The Panel has found a number of mitigating factors, including no misappropriation of funds, no victims, no advantage gained by the Respondent, steps taken by the Respondent to address the administration and accounting issues in his practice, his cooperation throughout the disciplinary process, and the significant impact of these proceedings on the Respondent, and on his clients and practice. That impact will be greater the longer the suspension lasts.
- [84] However, this Panel has concern about the seriousness of the Respondent's global misconduct and particularly his intentional misleading of the Law Society, and his Previous Discipline Proceeding involving false representations and deception.
- [85] In weighing these various factors, this Panel has also considered that the conduct giving rise to the Previous Discipline Proceedings occurred approximately 17 years before the conduct giving rise to this proceeding and that the back-dating of the accounts, while done intentionally, was immediately admitted to by the Respondent. The Panel has also found the Respondent's evidence, that he understands and accepts the Panel's decision on Facts and Determination and very much regrets what has happened, to be sincere.
- [86] In the Panel's view, a two-month suspension will satisfy the objectives of ensuring public confidence in the disciplinary process and the profession generally, and the Respondent's rehabilitation.
- [87] The Panel dismisses the Law Society's request for an order that the Respondent complete a remedial program prior to recommencing his practice at the conclusion of the suspension. In the Panel's view, a remedial program is unnecessary considering the steps the Respondent has already taken to improve his law office

administration and accounting and the CLE courses he has completed on law office management.

## **COSTS**

[88] The parties have agreed that the appropriate costs of this proceeding are \$8,430.

## **CONFIDENTIALITY**

[89] The Law Society sought an order pursuant to Rule 5(6) and 5(7) that:

- (a) The original citation, Exhibit 1, be sealed to prevent disclosure of confidential client information.
- (b) A copy of Exhibit 1 be redacted to remove client information in the form attached to the Notice of Application and be available to the public pursuant to Rule 5-7.
- (c) The original Agreed Statement of Facts, Exhibits 2(a)-(c) in this proceeding, be sealed to prevent the disclosure of confidential client information.
- (d) The Agreed Statement of Facts be redacted to remove client information, the form attached to the Notice of Application (“the Redacted Agreed Statement of Facts”), and be available to the public pursuant to Rule 5-7.
- (e) The Investigation Report, Exhibit 2D in these proceedings, be sealed to protect confidential client information.

[90] Counsel for the parties advised the Panel that they have reached agreement as to a form of order providing for the sealing and/or redaction of certain documentation in this proceeding to protect the disclosure of confidential client information.

## **ORDER**

[91] The Panel orders that:

- (a) the Respondent be suspended for two months, such suspension to begin on or before July 1, 2015;

- (b) the Law Society's request for an order that the Respondent complete a remedial program, prior to recommencing practice at the conclusion of the suspension, is dismissed;
- (c) the Respondent pay, forthwith, costs of \$8,430; and
- (d) the form of order, agreed to by the parties regarding the sealing and/or redaction of certain documentation in this proceeding to protect the disclosure of confidential client information, is granted and will be effective upon counsel for the parties endorsing their approval on the form of order and the delivery of same to the Law Society.