2017 LSBC 18
Decision issued: May 30, 2017
Citation issued: May 11, 2015

THE LAW SOCIETY OF BRITISH COLUMBIA

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

and a hearing concerning

PIR INDAR PAUL SINGH SAHOTA

RESPONDENT

DECISION OF THE HEARING PANEL ON DISCIPLINARY ACTION

Hearing date:	November 24, 2016
Panel:	Phil Riddell, Chair Ralston S. Alexander, QC, Lawyer Glenys Blackadder, Public representative[1]
Discipline Counsel:	Alison Kirby
Appearing on his own behalf:	Pir Sahota

INTRODUCTION

[1] Glenys Blackadder sat with the Panel for the hearing of argument on the disciplinary action phase of this citation. For health reasons she was not able to participate in the writing of this decision, and the President has ordered, pursuant to Law Society Rule 5-3, that the Panel complete the hearing with the two remaining members.

[2] In our decision on Facts and Determination issued July 25, 2016, we found that the Respondent had committed professional misconduct by failing to comply with Law

[1] Ms. Blackadder did not participate in the preparation of these reasons.

Society accounting rules over a long period of time and in a series of particularized events numbering more than 50.

[3] We found that the Respondent had misappropriated trust funds by using one client's funds to cover a shortage in another transaction, and that this behaviour had occurred on numerous occasions and in differing ways. We did not find that the Respondent had personally benefited from the misbehaviour but that the sheer volume of incidents provided the necessary support for the misappropriation finding.

POSITION OF THE LAW SOCIETY

[4] The Law Society seeks a suspension of the Respondent for a period of six to twelve months. It also asks the Panel to impose restrictions on the practice of the Respondent when he returns to practice from the period of suspension.

[5] The requested practice restrictions include a requirement that the Respondent only practise as an employee of a law firm in a situation approved by the Executive Director, that the Respondent provide prospective employers with the Panel's decision on Facts and Determination, that the Respondent not operate or be a signatory on a trust account, that the Respondent be prohibited from involvement in trust transactions and trust funds and that the Respondent not be responsible for any financial record-keeping in connection with client files.

[6] The Law Society emphasizes certain of the considerations from the decision in *Law Society of BC v. Ogilvie*, 1999 LSBC 17 (the "Ogilvie Factors"); following the reasoning in *Law Society of BC v. Dent*, 2016 LSBC 05, the Law Society suggests that not each and every one of the Ogilvie Factors need be analyzed but instead consider the impugned behaviour under four main headings:

(a) Nature, gravity and consequences of the conduct;

(b) Character and professional conduct record of the Respondent;

(c) Acknowledgement of the misconduct and remedial action; and

(d) Public confidence in the legal profession including public confidence in the disciplinary process.

[7] Under the nature and gravity consideration, the Law Society emphasizes the large number of rules breaches and the gross neglect of the trust accounting rules. The Law Society characterizes the misappropriations as very serious while

acknowledging that the Panel had specifically not found any dishonesty or lack of integrity in the Respondent.

[8] The Law Society discussion of the character and professional conduct record notes an absence of prior discipline history but notes a referral to the Practice Standards Committee for assistance with the Respondent's file management and billing practices. The Respondent was required for a time to be under the supervision of a practice supervisor, though that requirement was removed following a subsequent review. The Law Society suggests that the absence of a discipline record is a neutral factor and not a mitigating factor.

[9] When considering the acknowledgement of misconduct and remedial action factor, the Law Society noted the apparent failure of the Respondent to appreciate the seriousness of the misbehaviour and repeated the Panel's view that the Respondent had not learned the requirements of the Law Society trust accounting rules despite two successful sessions with the Small Firm Accounting course and numerous engagements with Law Society accounting staff and both a Law Society audit and an independent forensic audit.

[10] The Law Society suggested that the fact that the Respondent had eliminated all trust shortages does not lessen or excuse the misconduct.

[11] Finally on the issue of the need to preserve the confidence of the public in the Law Society discipline process, the Law Society urged the Panel to recognize the need for the public to be assured that lawyers will not be permitted to disregard trust accounting rules with impunity. The sanctity of trust funds must be recognized, emphasized and enforced with appropriate sanctions meted out to those who abuse the public trust when lodging trust funds with lawyers.

[12] The Panel was then asked to review discipline outcomes in similar cases, though the Law Society acknowledged that the circumstances of the Respondent were unique and that, as is often the case, there were no precisely similar fact patterns in reported discipline decisions.

[13] The range of penalties imposed in the cases to which we were referred was from disbarment (in circumstances where the respondent did not participate in the hearing and that left the panel without a credible explanation for the misappropriations), a four-month suspension and a fine instead of a suspension (where the offending lawyer had been out of practice for 16 months). In all of the cases cited to the Panel, the offending behaviour was found to be intentional.

POSITION OF THE RESPONDENT

[14] The Respondent acknowledged that he had not performed to the level expected of lawyers. He noted that his difficulties originated with bad accounting staff assistance. He observed that at no time did he pay money to his general account from trust; all instances of trust shortages were the result of excessive payments to clients and others receiving trust money from him (vendors of property).

[15] He noted that he had repaid all trust shortages with his own money and that at no time had anyone suggested that he had acted dishonestly or with intent to misappropriate funds. All instances of identified trust shortages were explained by bookkeeping and other records errors.

[16] The Respondent argued that he had acted responsibly in this matter, in each instance doing all that was asked of him by the Law Society. He made much of the fact that there were no comparable cases where the misappropriations were innocent and occurred without intent by the offending lawyer. He suggested that his case was unique and that there was no utility in looking at previous discipline decisions because, in all cases, there was an element of intentional taking of funds that was not present in his circumstances.

[17] The Respondent observed that all of the financial mismanagement occurred in files where he was doing real estate transactions. The combination of under-trained staff and his own lack of experience in the practice area led to the many problems identified over the five years of trouble.

[18] The foundational response of the Respondent to the penalty suggestions of the Law Society was that he should be given a chance. He acknowledged that he had been slow to come to the appropriate realization of the misdeeds and of his chronic inability to comprehend and manage the Law Society accounting rules. He had found a solution.

[19] He had completely stopped doing real estate transactions. He had confined his practice to family files and civil and criminal litigation. He suggested that his current state of accounting compliance was on side Law Society Rules and that recent exchanges with the Law Society compliance staff had been normal. We will have more to say on this aspect of the case later in our decision.

DISCUSSION

[20] We begin with an acknowledgement that this is indeed a unique case. There is the very lengthy development of the Notice to Admit with the responses being almost

all in agreement with the premise advanced. In this regard, the Respondent has acted with respect for efficiency and has not contributed to the significant time taken with this hearing.

[21] We are of the opinion that this is not a case where it is appropriate to consider an abridged version of the Ogilvie Factors. The examination of the full range of factors is important to appreciate how unlike any previous discipline hearing this one has become. The Panel has confronted a very difficult situation while trying to accomplish an appropriate penalty that fits the circumstances of this case.

[22] The Ogilvie Factors are the following:

(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 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

[23] There is no doubt that the abiding and enduring breaches of Law Society accounting rules are a grave and serious matter. The rules are established to protect the public and to enable members of the public to entrust money to members of the legal profession with the confidence that the regulatory regime in place will provide appropriate safeguards. Any attempt to minimize the importance of strict compliance must be vigorously resisted. For that reason this is a very significant Ogilvie consideration.

The age and experience of the respondent

[24] The Respondent is 58 years of age and was initially licensed to practise law in India. It is clear that the 20 or so years of the Indian practice experience did not equip the Respondent to practise real estate transactions in British Columbia. The legal systems are different, and the Respondent was not equipped for the type of work required of him in a solicitor's practice in British Columbia.

[25] The Respondent had no exposure to trust accounting in his Indian practice – this was an entirely new challenge to be addressed. For the purposes of the Ogilvie Factors we should consider the Respondent to be older than normal and at the material time (2008 – 2013) to be starting in the practice with essentially no previous experience. On this factor, with this analysis, the Respondent gets the benefit of a lack of experience and reduced expectations in the result.

The previous character of the respondent, including details of prior discipline

[26] There is no suggestion of any deficiencies in the character of the Respondent – to the contrary, his efforts to restore from scarce personal resources all trust shortages that resulted from the mismanaged accounting speaks to his strength and honesty. He has no discipline history, and the intervention of the Practice Standards Committee is a logical consequence of all that this hearing has been about.

The impact upon the victim

[27] It appears from a thorough review of the materials presented that there is no victim of these various misdeeds. It is the uncontroverted evidence of the Respondent that no one complained of his misdeeds throughout the full four to five years duration. That is likely in part due to the fact that the Respondent restored trust shortages from his own pocket. It could be suggested that the legal profession is a victim in that it suffered the administrative burden of the investigation and supervision of the

Respondent following the results of the initial practice audit. In addition, it is possible to argue that the legal profession is a victim by reason of the negative publicity surrounding the misbehaviour of the Respondent. That argument was considered in *Law Society of BC v. Faminoff*, 2017 LSBC 04. We agree with the following observation at para. 98:

> Professional misconduct will almost always involve investigatory and regulatory costs. It could be argued that all professional misconduct harms the reputation of the profession. In our view, however, it is not necessary to identify the profession as a "victim" in every case. Referring to the legal profession as a victim may be perceived as insensitive to the clients or innocent parties who have suffered direct loss as a result of the lawyer's conduct. The concept of measuring harm to the profession can be fully recognized in the principle that the penalty must be guided by the protection of public confidence in the disciplinary process and the legal profession.

The advantages gained or to be gained by the respondent

[28] On this factor there appears to be no controversy that the Respondent gained nothing from the misbehaviour. His evidence was to the effect that the real estate practice cost him nothing but heartache and financial problems where he was regularly required to restore with his own money trust shortages resulting from mistaken overpayments. It does not appear that he made any effort to recover overpayments from the beneficiaries of those mistakes.

The number of times the offending conduct occurred

[29] This is a substantially negative characteristic where there are 50 plus documented instances of Rule breaches over a long span of time. There is no explanation offered for the continued efforts of the Respondent to continue in this practice area, which was so demonstrably beyond him. What little we know of his personal financial circumstances suggests that a need to look after his family's basic needs was a significant contributing factor to this continued effort to succeed against all odds.

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

[30] The Respondent has clearly acknowledged the misconduct. As noted in both our decision on Facts and Determination and earlier in this decision, the Respondent replied comprehensively to the Law Society Notice to Admit and, in virtually all circumstances, cooperated with staff to find appropriate resolutions to the trust shortages. In terms of other mitigating circumstances, it must be noted that the Respondent has abandoned the real estate practice that created almost all of the difficulties encountered in this citation. A more effective mitigation strategy is not possible.

The possibility of remediating or rehabilitating the respondent

[31] The Respondent appears to be a competent lawyer apart from the demonstrated accounting shortcomings. His ongoing practice has been scrutinized in depth by Law Society staff. The Panel has had an opportunity to review more recent exchanges with Law Society compliance staff, and most of what has transpired since the abandonment of the conveyancing work has been compliant. There is no need for remediation or rehabilitation as long as the Respondent stays away from real property conveyancing. We are able to ensure that outcome with appropriate practice conditions.

The impact on the respondent of criminal or other sanctions or penalties

[32] There are no criminal or other sanctions or penalties. This is not a relevant Ogilvie Factor.

The impact of the proposed penalty on the respondent

[33] The impact on the Respondent of the proposed suspension of six to twelve months would be the equivalent of a disbarment. His practice is not flourishing, and he is not likely to grow the practice to a size where he will be unable to manage the work flow. At the same time, were he not available for even six months to his existing client base and referral network, it would be very difficult if not impossible to re-establish an economically viable enterprise. The Law Society has acknowledged that his misdeeds are not of the nature that demand a disbarment, acknowledging as they do in argument that his honesty and integrity are not in issue. The proposed penalty, however, will have the practical consequence that is acknowledged to be unnecessary.

The need for specific and general deterrence

[34] The Law Society argues strongly for this consideration, suggesting that a strong message must be sent to the profession to ensure proper respect for strict compliance with the accounting rules. In the unique circumstances of this hearing, the argument is less compelling than it often is. When breaches of accounting rules result from intention and misappropriation for a lawyer's personal benefit, the argument for specific and general deterrence is compelling. However, we believe that the circumstances of this Respondent are so unusual that no one will seek comfort or precedential value from whatever outcome is determined appropriate, having regard to the extraordinary circumstances. The usual penalty that follows intentional misappropriation is well-known and provides all the general deterrence that is required.

[35] No lawyer, including the Respondent, would knowingly embark on the program in which he found himself, and therefore the need for specific deterrence is overstated.

The need to ensure the public confidence in the integrity of the profession

[36] The Law Society argues that this is a pivotal factor in determining the appropriate penalty. It argues that the privilege of self-regulation is founded in providing appropriate discipline outcomes in circumstances such as are found in this citation. We believe that the public concern with the integrity of the legal profession will not be impacted substantially by any discipline outcome here. The absence of victims in these circumstances reduces considerably the extent to which the public will be interested in the discipline outcome.

[37] The extraordinary number of breaches of Law Society Rules was a matter for concern within the administration of the Law Society. The staff responded vigorously and with significant resources allocated to the demonstrated problems. However, even the response of the Law Society became measured when it became apparent that there were no clients at risk and that the source of the wide-ranging problems was a lack of understanding and knowledge rather than a nefarious scheme to misappropriate trust funds. It is clear to all that there is no moral risk with the Respondent and that his character makes all of the consequences much more difficult to manage. The behaviour fits no known mould. The regulator has no baseline against which to compare this most extraordinary factual matrix. This characteristic makes all of the responses abnormal.

[38] We are not satisfied that the public confidence in the integrity of the profession will be negatively impacted by an outcome of this citation that is less aggressive than a suspension for six to twelve months.

The range of penalties imposed in similar cases

[39] As noted above, the quest for similar cases is a difficult one in this case. In virtually every instance of misappropriation there was found to be an element of intention. That is not present here. In none of the cases to which the Panel was referred is the explanation for the misbehaviour a complete lack of understanding of the foundational principles of trust accounting. The forensic auditor of the Respondent's books and records reported that the Respondent did not know how to reconcile his trust account. We note in passing that that is a failing likely suffered by many lawyers but it becomes a significant failing when a lawyer is practising as a sole practitioner without appropriately trained staff.

[40] The range of penalties in similar cases is another of the not very helpful Ogilvie Factors. Our comprehensive review of all factors has a purpose. It is provided to demonstrate the entirely unique circumstances of this Respondent and to suggest that the traditional approaches to penalty are not as helpful in these circumstances as they are in more conventional penalty considerations.

[41] During the Respondent's argument on penalty, he observed that his then present state of practice had changed for the better since his very difficult early days of practice, which were the subject of much of our consideration in the Facts and Determination phase of the hearing. He noted that all was now in compliance with Law Society Rules and that the Panel should review this as evidence that there was no need for further supervision and that we could be entirely comfortable with his practice methodology going forward (paraphrased).

[42] In response to this evidence/argument from the Respondent, the Law Society introduced in evidence the report from a relatively recent compliance audit conducted for the period from January 1, 2014 to July 24, 2015. The report was issued in early September 2015. The report of the compliance audit did not reflect the state of play described by the Respondent. The number of "U" (unsatisfactory) notations significantly outnumbered the "S" (satisfactory) notations.

[43] Following the conclusion of the hearing, the Respondent realized (he had not done so when the report was submitted in evidence by the Law Society) that it was probable that the Panel would take negative inferences from the Report of the Compliance Audit. He requested and was granted leave to introduce, for the Panel's review, his rather extensive response to the report of the Compliance Auditor.

[44] His response comprised 122 pages of memoranda and supporting documents. It is not entirely coherent, and it does not track the chapter and verse of the Compliance

Audit Report. It was submitted after the end of the hearing, and the Panel did not have the benefit of any explanation of the response or the extent to which the contents of the 122 pages did in fact respond to the Compliance Audit Report.

[45] Two issues worthy of note did emerge from the response. The flawed nature of the QuickBooks accounting program described in our Facts and Determination decision was reiterated. The Respondent noted in his response that his ability to reconcile the trust bank account was hampered by the previously identified deficiencies in the program. It was also explained that the failure to provide a trust reconciliation for a particular account for a one-year period was due to the fact that there were no transactions in the account during the year. A letter from the financial institution was included to verify that fact.

[46] The most important consideration that emerged from the compliance audit and the response to it was that, at the material time, the Respondent had continued with his woefully under-resourced real estate transaction practice. By the time of the discipline action phase of the hearing, held on November 24, 2016, the Respondent testified that he was no longer doing real estate transactions.

[47] The Panel was trying to determine an appropriate penalty for these circumstances. We were having trouble with the gulf between the requested six- to twelve-month suspension request of the Law Society and the reprimand suggested by the Respondent. The absence of on point penalty authority was hampering progress. As noted above, there are virtually no prior cases where the circumstances of the guilty respondent with financially non-compliant records, was the result of anything but intentional misbehaviour. We noted in our earlier decision that there are no authorities available to us describing inadvertent misappropriation, yet that characterization clearly describes this Respondent. Absent *mala fides*, the appropriate penalty is elusive.

[48] Following the conclusion of the Disciplinary Action phase of the hearing, we learned of a decision of a review panel of Benchers on an appeal by the Law Society where a panel had determined a two-month suspension penalty in circumstances somewhat similar to those under consideration here. There are important factual distinctions to be drawn but in our view the case of *Faminoff* provides some assistance to this Panel in its quest for an appropriate penalty.

[49] The Panel requested the Law Society and the Respondent to comment on the impact of *Faminoff* on the issues under consideration. Both responded.

[50] The facts in *Faminoff* are these. On numerous occasions, Mr. Faminoff received retainer funds from clients and deposited them directly to his general account when

he had not issued or delivered a statement of account. Upon learning of a pending Law Society compliance audit, Mr. Faminoff created a number of backdated accounts (44) in an attempt to suggest that the funds deposited to his general account were in payment of the backdated accounts and were therefore properly paid. The deceit was not discovered during the compliance audit, but subsequent investigations some months later caused Mr. Faminoff to confess to the misleading behaviour. The citation also dealt with a breach of undertaking allegation where the respondent had paid settlement funds without obtaining appropriate signatures. Mr. Faminoff suggested in the hearing that his intention in preparing the backdated accounts was not to mislead the Law Society but instead was to "catch up on overdue paperwork" and assist with the compliance audit. The hearing panel found that the backdating of accounts was with the intent to mislead the Law Society.

[51] The hearing panel determined the appropriate penalty to be a two-month suspension, and both parties sought a review of the decision. The Law Society had suggested a suspension of five to six months and the Respondent agreed with a suspension but thought that one month was the appropriate duration. The Law Society sought a review on the basis of a number of alleged errors on the part of the hearing panel, including findings that the stress and embarrassment of the Respondent was a mitigating factor, that the lack of misappropriation was a mitigating factor, that the absence of victims was a mitigating factor, that the absence of personal financial gain was a mitigating factor and that the Respondent admitting the misconduct when confronted and the promptness of that admission were mitigating factors. The Law Society also alleged error by the hearing panel in its failure to place sufficient weight on the misleading behaviour and the need to protect the public interest. The Law Society also complained of the hearing panel's emphasis on the remorseful attitude of the Respondent.

[52] The respondent on the review sought leave to introduce new evidence to demonstrate the extent to which he had suffered following the release of the discipline decision by the hearing panel. That application was refused by the review board.

[53] The review board determined that it was necessary to ensure that the penalty was within an appropriate range of penalties where the professional misconduct finding was for similar circumstances to other reported decisions. It specifically noted that it was not for the review board to substitute its own judgment of what an appropriate penalty should be but instead to ensure the correct range of outcomes had been met.

[54] The review board also noted that it is not necessary for the hearing panel to establish the correct range of penalties. The discipline outcome in similar cases is but one of the Ogilvie Factors for the hearing panel to consider. Instead, it is the task of the review board to establish the appropriate range of penalties and to ensure that the hearing panel's determination fell within the range.

[55] The Law Society responded to our request for submissions on the impact of *Faminoff* by suggesting that it was not helpful for this Panel since it primarily dealt with the need of the review board to establish the correct range of penalty and that the actual penalty in the circumstances was not helpful because the facts were different. The Law Society emphasized the misappropriation characteristic of this hearing rather than the misleading behaviour described in *Faminoff*.

[56] The Respondent's response to our request for submissions on the impact of *Faminoff* concentrated on the misbehaviour indicated by the intentional misleading of the Law Society. He noted that it was his opinion that the misbehaviour indicated in *Faminoff* was more serious in that it involved elements of intentional misbehaviour while his own misdeeds were not intentional. He also observed that he did not breach any undertakings and that he did not deposit client funds directly to his general account as was demonstrated in *Faminoff*.

[57] The Respondent suggested that the Law Society seeking a five- to six-month suspension in *Faminoff* and a six- to twelve-month suspension for him, in light of the more serious allegations against *Faminoff*, suggested discrimination and bias against him. While we do not agree that there is any discrimination or bias indicated, we do believe that the Respondent made an important point in the apparently disproportionate penalty duration sought. We also believe that the decision in *Faminoff* is helpful to us in reaching an appropriate penalty determination.

[58] The Law Society's emphasis on the misappropriation characteristic in this case does not fully canvass the usefulness of the decision. We found a technical misappropriation based upon a strict interpretation of the definition. The reality is that the misappropriation cases are less helpful than argued because this case is itself an outlier. In this case, there is no personal gain to the Respondent, instead he is likely out of pocket for having made up the trust shortages from his own funds where a party was negligently overpaid. We have found no similar cases in our review of the authorities provided. In the reported penalty cases for misappropriation, there is universally an element of personal gain and intentional misappropriation of client funds. We do not have that here.

[59] We have determined that, in addition to the penalty being within an appropriate range as eloquently described in *Faminoff*, it is also necessary for the penalty to be internally consistent. By that we mean that equally important as the range of comparable penalty for comparable misbehaviour is the determination that more serious misbehaviour receive a more serious penalty than less serious misbehaviour.

[60] If that internal consistency is not present, those interested in the discipline process will be left to question why a particularly egregious incident of misbehaviour is accorded a lesser penalty than one where the misbehaviour is perceived to be less troublesome.

[61] This internal consistency is usually present when examinations of outcomes within a particular type of professional misconduct are undertaken. A repeated failure to respond to the Law Society over a long period of time will generally attract a more serious penalty than an isolated event of no response. The usual rationalization for obvious discrepancies in outcomes is that the facts are materially different and the penalty in each case must be decided on the particular circumstances of the professional misconduct, and the circumstances of the responsible lawyer.

[62] We take no exception to that approach but caution the need to ensure that more serious misconduct is accorded a more serious penalty than less serious misconduct, especially when considering different categories of professional misconduct. The risk is diminished when comparing penalty outcomes within a single category of misconduct.

[63] We believe that the Respondent made a valid point when he questioned the difference in penalty proposed for his misdeeds as compared with the misdeeds of Mr. Faminoff. We characterize the misdeeds of Mr. Faminoff as significantly more serious than those of the Respondent in this case.

[64] Fabricating documents with the intention to mislead the Law Society borders on the most serious misconduct facing a regulator of a self-governing profession. How can a regulator rely upon a state of affairs found in a lawyer's office during an audit of that lawyer if it is possible that the foundational documents being reviewed are not genuine? The state of affairs displayed is intentionally falsely presented to provide a more benign review. In our view, this conduct is significantly more serious than any number of breaches of accounting rules, even where, in the case of this Respondent, the books and records are in a chaotic state.

CONCLUSION

[65] We feel that the need for internal consistency in penalty outcomes requires us to establish a penalty in this case that is less onerous than the penalty provided in *Faminoff* and, importantly, not disturbed on a review. To provide a more onerous penalty for behaviour we consider to be less troubling than that exhibited in *Faminoff*, suggests an aberrant outcome.

[66] This penalty will have a significant impact on the Respondent. There is no further need for specific deterrence – the type of work that spawned the accounting nightmare no longer forms part of the practice of the Respondent. To be abundantly clear in that regard, we impose a practice restriction on the Respondent such that he is not to be engaged in any capacity with files involving the purchase, sale or financing of real estate until relieved of this restriction by the Practice Standards Committee. If that restriction is not sufficiently clear we will hear further argument to clarify.

[67] We are not going to restrict the Respondent to working for another lawyer or firm as that is simply not a practical option for the Respondent. He has had significant difficulty finding employment, and it is for that reason he has established his sole practice.

[68] Similarly we are not going to restrict the Respondent's ability to be a signatory on a trust account as, in our opinion, his trust accounting troubles are all related to the real estate practice, which by this order he is no longer permitted to practise.

[69] We direct that the Respondent be suspended from the practice of law for a period of one month commencing on August 1, 2017. That date is chosen to provide the Respondent an opportunity to put his practice in order and make any necessary arrangements to cover obligations currently scheduled for June and July. The parties may agree on an alternative start date for the suspension.

COSTS

[70] The Law Society has submitted a draft bill of costs to a total amount $19,005.50. This bill includes three full hearing days and a full day for the DA phase of the hearing. We are of the opinion that with the Respondent's wide-ranging admissions in his response to the Notice to Admit, the hearing could have been conducted in two days at the most. The DA phase was only a one-half day event.

[71] Accordingly, we direct that costs be awarded the Law Society in the total amount of $14,505.50. We have deducted one and one-half days from that submitted. We

provide that the Respondent has until September 1, 2018 to pay the costs. We have provided this time frame on what we believe to be the relatively modest profitability of the practice of the Respondent and the setback that practice will suffer as a result of the suspension ordered.

ORDER

[72] In summary, we order as follows:

(a) The Respondent is suspended from the practice of law for one month commencing August 1, 2017 or a date agreed by the parties;

(b) The Respondent is prohibited from engaging in any capacity with files involving the purchase, sale or financing of real estate until relieved of this restriction by the Practice Standards Committee;

(c) The Respondent must pay to the Law Society costs in the amount of $14,505.50 on or before September 1, 2018.