

2017 LSBC 19
Decision issued: May 30, 2017
Citation issued: May 29, 2013

THE LAW SOCIETY OF BRITISH COLUMBIA

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

and a Section 47 Review concerning

LEONIDES TUNGOHAN

RESPONDENT

**DECISION OF THE REVIEW BOARD
ON CLARIFICATION AND COSTS**

Submissions: December 23, 2016
and January 25 and 26, 2017

Review Board: Greg Petrisor, Chair
Don Amos, Public representative
Jeff Campbell, QC, Bencher
Woody Hayes, Bencher
Carol Hickman, QC, Lawyer
John Hogg, QC, Lawyer
Linda Michaluk, Public representative

Discipline Counsel: Alison Kirby
Appearing on his own behalf: Leonides Tungohan

- [1] Mr. Tungohan's section 47 review was dismissed on December 12, 2016.
- [2] Pursuant to the Hearing Panel's decision on disciplinary action, Mr. Tungohan was ordered to produce an accountant's report confirming that his general account and trust account are in compliance with Law Society accounting rules. The Hearing

Panel ordered that these reports be produced on a quarterly basis until relieved of this condition by the Practice Standards Committee. Mr. Tungohan applied pursuant to Rule 5-20(3) of the Law Society Rules for a stay of the order until the decision of the Review Board. His application for a stay was granted. As the section 47 review has been dismissed, the stay order has now expired.

- [3] The Law Society has sought clarification regarding the accountant's report. The Hearing Panel's order was that Mr. Tungohan produce accounting reports on a quarterly basis, due within 30 days of each quarter. The audit period should include the time period from the date of the Decision on Disciplinary Action (June 5, 2015). If the first report has not already been submitted, it should be submitted within 30 days of this Ruling.
- [4] The Law Society seeks costs in the amount of \$12,119.96. Mr. Tungohan opposes an order for costs.
- [5] Rule 5-11(2) of the Law Society Rules provides that a Review Board may order that an applicant or respondent pay the costs of a review. Rule 5-11(3) states that in calculating costs, the Review Board must have regard to the tariff of costs in Schedule 4 to the Law Society Rules. Rule 5-11(4) allows the Review Board to order no costs or order costs in an amount other than that permitted by the tariff.
- [6] An award for costs ordinarily follows the result of the proceedings, unless there is a principled basis to make another order pursuant to Rule 5-11(4). A number of factors may be relevant to a consideration of whether to depart from an order based on the tariff of costs, including:
- (a) the seriousness of the misconduct;
 - (b) the financial circumstances of the Respondent;
 - (c) the cumulative effect of the proceedings and penalty, including the amount of any fine, the amount of the requested costs, and any suspension that is ordered; and
 - (d) the extent to which the conduct of each of the parties has increased or saved costs associated to the proceedings.
- [7] In all of the circumstances of this case, it is our view that the order for costs should follow the tariff of costs in Schedule 4 of the Rules. The amount proposed by the Law Society is based on the tariff. We order that Mr. Tungohan pay costs for this review in the amount of \$12,119.96.