

2021

NOVA SCOTIA BARRISTERS' SOCIETY

IN THE MATTER OF: The *Legal Profession Act*, S.N.S. 2004, c. 28 and the Regulations of the Nova Scotia Barristers' Society, as amended

BETWEEN: The Nova Scotia Barristers' Society

- and -

Christopher Ian Robinson of Halifax, Nova Scotia

SANCTION DECISION

Restrictions on Publication: By Order dated November 15, 2021, under section 44(3) of the *Legal Profession Act*, no person shall publish, broadcast, or otherwise disclose any information that identifies or may tend to identify clients, complainants, and independent third-party witnesses

Heard before: Harvey L. Morrison, K.C. Panel Chair
Sarah M. Kirby, Panel Member
Dr. Ian Reid, Public Representative, Panel Member

Dates of Hearing: November 14, 15 and 27, 2023; last written submission received December 6, 2023

Date of Decision: January 3, 2024

Legal Counsel Justin Robichaud, K.C. and Virginia Gillmore for the Nova Scotia Barristers' Society
Christopher Ian Robinson on his own behalf

Introduction

1. In its decision dated February 17, 2023, the Panel found Mr. Robinson (the “Member”) to be guilty of professional misconduct in respect of four counts of the Nova Scotia Barristers’ Society’s complaint dated June 8, 2021. The Panel found that the member was not guilty of professional misconduct in respect of count 4 of the complaint.

2. As directed by s. 45(4) of the *Legal Profession Act*, the Panel must now determine the appropriate sanction to be imposed on the Member. The range of sanctions that may be imposed by the Panel is very broad. Section 45(4) states, in relevant part, that the Panel may “do one or more of the following:”

- a) where the member is a lawyer, disbar the member;
- c) permit the member to resign his or her membership;
- d) for any period the hearing panel considers appropriate,
 - i) suspend the member from practising law,
 - ii) confirm, vary or impose restrictions on the member’s practice
- e) order the member to pay an amount not to exceed twenty thousand dollars to be paid into the Fund;
- f) order that restitution be made to any person;
- g) reprimand the member;
- h) order the member to pay all or any part of the costs incurred by the Society in connection with any investigation or proceedings relating to the matter in respect of which the member was found guilty and, in particular, to pay the costs of the proceedings authorized by Sections 36 to 38;
 - i) order the member to submit to an assessment or examination, or both, as the hearing panel considers appropriate;
 - ia) order the member to submit to a medical assessment;
- l) resolve to bring an application pursuant to Section 50;

- n) make any other order to take any other action the hearing panel determines to be appropriate in the circumstances including an order to retain jurisdiction to monitor the enforcement of its order.

Preliminary Issue

3. At the commencement of the Sanction Hearing, the Panel expressed concern over the use of the January 2023 practice review report in the Barristers' Society submissions. The Barristers' Society's counsel expressed the view that the practice review report was relevant but ultimately agreed that the practice report should not be considered by the Panel in its deliberations. Consequently, the Panel has not referred to the practice review report in coming to its determination of the appropriate sanction.

Overview of Submissions

4. In their submissions on behalf of the Society, Mr. Robichaud and Ms. Gillmore asserted that the Member should be suspended for period between six and nine months, that certain conditions would have to be fulfilled before he could return to practice and that the Member should pay costs in the amount of 50 percent of external counsel's total legal fees at the conclusion of this matter. In their brief, counsel for the Barristers' Society advised that as of September 8, 2023 the 50% contribution would amount to \$22,500.00

5. For his part, the Member submits that a fine of \$10,500.00 or a two-week suspension is an appropriate sanction. The Member also submits that \$10,500.00 constitutes an appropriate costs award.

Analysis

6. The purposes of professional discipline proceedings are threefold; "to protect the public, to maintain high professional standards, and preserve public confidence in the legal profession"; MacKenzie, *Lawyers and Ethics & Professional Responsibility and Discipline* (Online), §26.1. See also *Law Society of Saskatchewan v Abrametz*, 2022 SCC 29, at para. 53. According to MacKenzie's text, these purposes are accomplished by:

supporting proper client representation, the administration of justice and the legal system, and public confidence in the legal profession and its regulation through the imposition of appropriate conduct orders. The public is protected by ensuring that the offender does not have the opportunity to repeat the offence. The protection of the reputation of the profession as one in which every lawyer 'may be trusted to the end of the earth' has been described as the most fundamental purpose of all.

7. In its decision in the *Lyle Howe* case, 2017 NSBS 4, the Hearing Panel identified 11 principles from the authorities that were helpful in guiding the determination of an appropriate sanction, namely:

- 1) The nature and gravity of the proven allegations play an important role. This includes the impact the impugned behaviour has on clients, the public, and the courts.
- 2) Punishment and denunciation are principles best left to the criminal courts when dealing with criminal offences, not disciplinary sanctions.
- 3) Specific deterrence and general deterrence should be emphasized where appropriate.
- 4) The sanction must recognize the strong need to protect the public.
- 5) The sanction must act to uphold and maintain the public's trust and confidence in and the reputation of the profession.
- 6) Rehabilitation of the offender can play a role in the sanction imposed.
- 7) The sanctions imposed in other cases.
- 8) The level of risk to the public caused by allowing the lawyer to continue to practice must be considered.
- 9) A breach of integrity or dishonesty is a consideration, but neither automatically leads to disbarment. However, substantial breaches of integrity will significantly impact the public's confidence in the profession.
- 10) Disbarment is not reserved for only the worst offenders.
- 11) Mitigation factors play a role, although in a case of serious misconduct may not override other factors, including the need to maintain the public's confidence in the profession.

Mitigating factors can include:

- a. the age and experience of the lawyer;
- b. previous character;
- c. mental and physical health;
- d. acknowledgment of wrongdoing;
- e. community support; and
- f. impact of systemic, actual and historical racism.

8. In *Howe v Nova Scotia Barristers' Society*, 2019 NSCA 81, the Court of Appeal observed that the Hearing Panel identified the principles set out above and noted that “Mr. Howe does not take issue with the principles, nor the mitigating factors identified by the Panel.” (at para. 175). Although the Court of Appeal did not explicitly adopt those principles, there was no suggestion that they were not sound. In this case, both the Society and the Member have relied on the 11 principles adumbrated by the Hearing Panel in the *Howe* case.

9. Not all of the principles are precisely relevant to this case; some are hortatory. For example, the second principle says that “punishment and denunciation are principles best left to the criminal courts.” is an overarching principle of which all disciplinary tribunals must be mindful. In its determination of the appropriate sanction, the Panel is mindful that overarching principle. Our focus must be on the three purposes of disciplinary proceedings: the protection of the public, the proper regulation of the profession and the preservation of public confidence in the legal profession.

10. The Panel has found it useful to group related principles together in order to make the analysis less repetitious. The Panel will base its analysis on the following:

- 1) the nature and gravity of the findings of professional misconduct and, in particular the impact of that misconduct on clients, the public, and the courts.
- 2) Specific and general deterrence.
- 3) The protection of the public. Is there a risk to the public if the lawyer is allowed to continue to practice?
- 4) The sanction must be designed to uphold, maintain, and enhance the public’s trust and confidence in the legal profession.

- 5) Rehabilitation of the Member.
- 6) The sanction imposed must be proportionate.
- 7) The role of the mitigation factors.

Nature and Gravity of the Professional Misconduct

11. The instances of professional misconduct of which the Member has been found guilty comprise both integrity and civility concerns. Those concerns arose in two different contexts. The first comprise the incidents in the *Gallagher Holdings* matter. The second arose in connection with the two incidents involving A.B.

12. Before considering the nature and gravity of these particular matters, it is necessary for the Panel to comment generally on how the Member addressed himself to the evidence relevant to sanction. In its Merit Decision, the Panel referred to its decision on preliminary motions of November 23, 2021, where it stated that the Member accepted that he did not argue with Moir, J.'s findings or characterization of his conduct. He did not, however, accept the Moir, J.'s findings automatically and necessarily would lead to a finding by a Hearing Panel that he was guilty of professional misconduct. The Panel stated at paragraph 14, quoting from its November 23rd decision:

The Hearing Panel considers that a consensus was reached, and it was a consensus justified by the principles of the law of abuse of process and that it is, therefore, unnecessary to embark on a lengthy discussion of those principles. At the merits hearing, the Member will not be permitted to lead evidence or make argument that the specific findings of Moir, J. were wrong or should not have been made. The Member shall be entitled to lead evidence and make submission that in the particular circumstances that the conduct which is the subject of these findings does not constitute professional misconduct. Accordingly, the Panel unanimously concludes that the motion of the Society should be granted: the findings of the fact made by Moir, J. set out above are to be considered final and shall not be challenged by the Member.

13. Notwithstanding that ruling, the Member's evidence and submission during the Merits Hearing "were often couched in terms that were meant to suggest that the factual conclusions of Moir, J. were not justified on the facts" (at para 24). During the Sanctions Hearing, the Member's

evidence and submissions amounted to a more pointed attack on the findings of Moir J. as well as those of Scanlan, J.A. in the Court of Appeal. The Member repeatedly said, with respect to some of Moir, J.'s findings that "I didn't do it." He justified this evidence by saying (in relation to the mitigating factor of acknowledgement of wrongdoing) that he could not "acknowledge guilt if I didn't do those things." The Member went on to say that it was a "matter of conscience" that he "would not admit to doing the thing that he didn't do." The Member also asserted that Moir, J.'s findings "flew in the face of the facts" and that the entire disciplinary process was the result of Moir, J.'s personal animus against him. The Member also accused Scanlan, J.A. of bias.

14. In the Panel's view these positions advanced by the Member are untenable. The Panel has found that the Member has committed the acts as found by Moir, J. and that those acts constitute professional misconduct. The Panel's determination of the appropriate sanction will be based on those findings.

Gallagher Holdings

15. In its Merits Decision, the Panel found that the Member did not conduct himself with integrity in the following circumstances:

- a. obstructing the discovery process (Merits Decision, paragraphs 37-38, 43)
- b. evading the disclosure of relevant telephone records and emails (Merits Decision, paragraphs 63-64)
- c. filing two pretend affidavits (Merits Decision, paragraphs 69)
- d. insulting fellow members of the Bar during court proceedings (Merits Decision, paragraphs 93-94)
- e. disparaging opposing counsel and insulting certain judges of the Supreme Court (Merits Decision, paragraphs 111-112, 124-124)

16. The Member admitted that he did file affidavits which he purported to take the oath of the affiants while in their presence. That did not in fact happen. The Member signed the jurats in the absence of the affiants. The affidavits were not, in the Member's submission, "pretended" because the evidence they contained was the same as in the affidavits were later properly sworn. He said he did so because he wished to forestall a motion by opposing counsel, Mr. Keith.

17. The filing of an improperly sworn affidavit is a serious matter that is made more serious by the fact that the Member did not “own up” to the fact immediately. The fact that the jurats were improperly executed only came to light later during discovery examination.

18. Counsel for the Barristers’ Society referred to a number of cases that considered the scope of sanctions for the filing of false documents. The range of sanctions imposed was very broad, from reprimands at the low end to a 12-month suspension on the high end. Cases in which lengthy suspensions were imposed often involved forgery of some sort such as the forging of the client’s signature. The Panel views the Member’s misconduct, although serious, does not warrant a sanction of suspension at the highest end of the spectrum.

19. Of the remaining instances of breaches of the duty to conduct himself with integrity related to the *Gallagher Holdings* matter three occurred during the litigation process and two occurred outside of court. The three instances that occurred during the litigation of the *Gallagher Holdings* matter involved obstruction of the discovery process, evading disclosure and insulting fellow members of the Bar. Any one of these instances of professional misconduct is deserving of some sanction but taken together they demonstrate a pervasive disrespect for the litigation process and its participants. See Moir, J.’s Costs Decision, at paragraph 94. This is a grave finding that requires a significant response by way of sanction.

20. The other incident involved, what the Panel has termed, the *Gallagher Holdings* emails. In those emails the Member referred in an insulting manner to opposing counsel in the *Gallagher Holdings* case and to judges of the Nova Scotia Supreme Court: Merits Decision (paragraph 100 et seq.). Moir, J. in his Costs Decision said these comments showed “abject disrespect for counsel opposite and the judges. That comment was adopted by Scanlan, J.A. speaking for the Court of Appeal. The Panel found that the Member’s conduct breached Rules 2.1-1 and 2,1-2 of the Code of Professional Conduct.

21. In another *Gallagher Holdings* communication, a text, the Member threatened his client that if he was not paid, he would not deliver his closing argument in the case. The Member testified

that this threat was baseless but he now concedes that he was wrong to send the text. The Panel found that by making the threat, the Member breached the Code of Professional Conduct.

22. These incidents while not as grave as the incidents of obstruction of the litigation process are sufficiently grave to warrant sanction. They have a corrosive effect on the administration of justice by making it less likely that matters could be dealt with reasonably and efficiently. Insulting comments such as those made by the Member generate friction and are not conducive to a litigation process that will function in a reasonable manner to the benefit of clients and the public. Moreover, threatening clients cannot but diminish the reputation of the legal profession and is thus deserving of sanction.

23. The Member argued that the public would not be concerned by the email comments and would recognize them for what they were, banter among friends. The Panel does not accept this contention. Even allowing some latitude to the Member given the circumstances in which the comments were made, the adverse impact on the other participants in the litigation process and their corrosive effects on the administration of justice clearly indicate that some significant sanction is warranted.

Incidents Involving A.B.

24. The other two incidents of professional misconduct that require consideration relate to the child protection proceedings that involved A.B. The first in point of time occurred at a case conference held on December 11, 2018. In its Merits Decision, (paragraph 126 *et seq.*) the Panel concluded that the Member had breached Rules 7.2-1, 2.1-1 and 2.1-2. The basis of this finding was that the Member behaved in an abusive, intimidating and bullying manner. The Member attempted to excuse his behaviour by saying that it was a reaction to the effect governmental overreach had on his client. The Panel has accepted that the Member honestly believed that his client was the victim of governmental overreach. At the Sanction Hearing the Member went further than he did at the Merits Hearing. He accused A.B. of condoning racist actions by the child protection personnel. This particular allegation was not raised by the Member in his cross-examination of A.B. If he was going to make an argument on that ground he should have put it

A.B. so she could respond. The Panel has not taken this particular, and late, allegation into consideration in its determination of an appropriate sanction.

25. The Member's honest belief that his client was the victim of government overreach does not excuse his deliberate adoption of abusive and intimidating behaviour at the case conference. The Member believes that this behaviour ultimately led to the return of his client's children but that is something that is unknowable on the evidence before the Panel. When the issue is professional discipline, the end does not automatically justify the means. Abusive and bullying conduct cannot but have serious adverse effects on the administration of justice and on maintenance of high professional standards. It is conduct that is sufficiently grave as to warrant a significant sanction.

26. The other incident occurred in a photocopy room at the Devonshire Court House (see Merits Decision, Paragraph 178 *et seq.*) The Member acknowledges that he got too close to A.B. and encroached on her "personal space." He does not consider that he otherwise did anything wrong. The Panel in its Merits Decision disagreed and found that the Member breached Rules 2.1-1, 2.1-2, 6.3-4 and 7.2-1. The actions of harassment and intimidation that are at the root of that finding are very grave indeed. They deserve a significant sanction. As noted above, such conduct adversely affects all of the participants in the litigation process including clients.

Specific and General Deterrence

27. The objective of specific deterrence in the context of professional discipline is to "minimize the likelihood of further professional misconduct by impressing on the licensee the importance of meeting all ethical obligations, not only those that were breached before:" *Law Society of Ontario v. Marler*, 2018 ONLSTH 147, at paragraph 18. As its name implies specific deterrence is directed to the particular member "so that recurrence will be unlikely": *Law Society of Upper Canada v. Wendy Lorraine Maroon*, 2005 ONLSHP 21, at paragraph 27. General deterrence on the other hand is directed to the wider profession. The sanction imposed is something "the entire membership should take into account and is designed to deter the membership at large from engaging in a certain course of conduct:" *Law Society of Upper Canada v. Paolo Falzone*, 2012 ONLSHP 40, at paragraph 7. In this case the selection of an appropriate sanction compels the

Panel to have regard to specific deterrence so as to impress on the Member the importance of meeting all ethical obligations.

28. The Member called evidence from a client with respect to a perspective on his representation. She was fulsome in her praise of what the Member did for her in connection with the child protection proceedings that gave rise to a number of the counts in the Complaint. The Member also introduced a supportive email from another client. This evidence confirms the Member's close attachment to the causes of his client. But the fulfillment of his duty of zealous representation to his clients does not obviate or diminish the need for the Member to comply with his obligations to others such as other counsel and the court as specified in the Code.

29. The Member argues that with respect to certain incidents and in particular the incidents involving A.B. he has "self-deterred." The Member argued that self-deterrence exists because he has decided that he will not undertake child protection matters or contentious matters for family or friends. In other words, by not undertaking those matters which might cause him to become too intense, the Member has removed the temptation to do so. The Panel notes that it is not the removal of temptation that is relevant, but the need for the Member to alter his behaviour. In the Panel's view specific deterrence remains a factor because of the need to impress on the Member the need to comply with all of his ethical obligations under the Code of Professional Conduct. It is of particular importance that it be brought home to the Member that his ethical obligations are owed not only to his client, but extend to the court, other counsel, the general public and the administration of justice in general.

30. General deterrence is also relevant. The sanction that is imposed must be one of which the entire membership of the Barristers' Society will take into account and must be one that will serve to deter the membership at large from engaging in the kinds of professional misconduct that the Member has committed.

31. The Panel has related in its Merits Decision and summarized here the instances of professional misconduct of which the Member has been found guilty. That conduct is evidence of

the Member's lack of respect for the other participants in the litigation process as well as his belief that bullying and intimidation have a legitimate place in a litigator's "toolbox."

32. The sanctions imposed must be such as to deter other members of the Barrister's Society from engaging in such conduct. Litigation is not a tea party but, if it is to serve its purpose in a civilized society, neither is it not an occasion for abusive conduct, bullying, intimidation and "abject disrespect" for other counsel and the courts.

Rehabilitation

33. Although the issue of rehabilitation was not raised by either the Barristers' Society or the Member, it is a factor that can "play a role in the sanction imposed." The Panel considers that the Member is intelligent and articulate and provided he accepts the Panel's findings as to the nature and gravity of his misconduct and learns from them, rehabilitation is possible.

Range of penalties

34. The Society's counsel have referred in their submissions on sanction to a number of cases that demonstrate only that the breadth of sanction is very wide indeed. Many of the cases deal with improperly executed or sworn documents. In others the conduct at issue does not closely resemble the facts of this case.

35. The Member asserts, citing a number of cases, that a global fine of \$10,500.00 is the appropriate sanction, or alternatively a two-week suspension.

36. The cases cited by both parties demonstrate quite clearly that the sanction imposed depends on the entire context of the incidents of professional misconduct. An appropriate sanction would be one that lies along the spectrum of sanctions imposed in other cases. But as we have noted above that spectrum is broad and can range from reprimands through fines to suspension.

37. The sanction imposed must also be proportional to the gravity of the misconduct as found by the Panel. In this case the Panel has found the Member to be guilty of multiple breaches of the

Code of Professional Conduct. Many of the instances of misconduct involved breaches of two or more sections of the Code.

38. In light of the numerous breaches of the Code and the gravity of those breaches, the Panel believes that, in determining the appropriate sanction, it should adopt a global approach. In *Re Murray Lessing*, 2013 LSBC 29, the Review Panel stated at para. 77:

- (a) The question of whether a suspension or fine should be imposed as 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 find, it should be done on an individual citation basis.

39. As the Review Panel noted these principles are “general in nature” and, in a way, a default position. They should not be followed if it would be unfair to do so. In this case where there are multiple breaches of the Code that occurred in two matters and are of a similar nature, there is no unfairness to the Member if the Panel follows these principles.

40. Applying a global approach to the numerous breaches of the Code, the Panel considers that a suspension is warranted. The conduct of the Member is symptomatic of the Member’s disdain for other members of the profession and of the courts. He feels that intimidation is a proper tactic to be employed in the conduct of litigation. There is a need for both specific and general deterrence. The Member’s conduct adversely affects the ability of all participants in the litigation process to achieve rational, reasonable, and efficient resolutions of legal disputes. Furthermore, the misconduct of the Member undermines the confidence and respect that the public needs to have in the legal profession. The need to maintain high standards of integrity is of critical importance. The Member’s conduct has a corrosive effect on those standards. It diminishes himself as well as the legal profession in general. Considering all of the factors outlined in the *Howe* case that are applicable here, the Panel considers that the appropriate sanction is a suspension of five months.

41. Are there any mitigating factors that would militate against a suspension of that length? In the Panel's view none of the mitigating factors identified in *Howe* are applicable here. The member is perhaps older than some lawyers that have a similar time at the Bar. The Member has, moreover, had previous experience in the financial services industry. The Member was called to the Bar in 2008. At the time of the events that formed the subject matter of the complaints against him, the Member had been engaged in the practice of law for approximately 10 years. As he said during the Sanction Hearing he doesn't portray himself as a litigator, "I am one." Consequently, the Panel does not consider the Member's age or experience to be mitigating factors.

42. The second mitigating factor identified in *Howe* is the Member's previous character. The Member does not have a discipline record. He received a letter of counsel dated December 14, 2011. The letter of counsel noted that while his conduct did not amount to a breach of the Legal Ethics Handbook, he was counseled with respect to his incivility towards opposing counsel in a family matter. The circumstances that prompted the letter of counsel bear a certain resemblance to his conduct towards A.B. The Panel does not consider, therefore, that the Member's previous character is a mitigating factor here.

43. Mental and physical health and community support have not been raised as mitigating factors. They are, therefore, not been considered by the Panel in its determination of appropriate sanction.

44. Acknowledgement of wrongdoing is the fourth mitigating factor identified in the *Howe* case. The Panel has noted above, the Member's use of this factor to reiterate the position he had taken in the Merits Hearing that he did not do the things that Moir, J. found that he had done. The Member did, however, acknowledge that what he did in signing the jurats of the affidavits was wrong and he has testified that he has resolved not to do so in the future. With respect to the incident in the photocopy room involving A.B., the Member's acknowledgement was somewhat tepid. He agreed that he got too close to A.B. but that is as far as he would go. He did not acknowledge that he bullied or intimidated A.B. in the way he spoke to her.

45. In the Sanction Hearing, the Member admitted he was in the wrong in certain respects and observed that the key point was that it was necessary to take ownership of mistakes, learn from them and move forward. This is a very apt description of the proper way to approach mistakes made in the course of the practice of law. But in his next breath, the Member says that he was wrongfully convicted and, as a consequence, he cannot accept responsibility for the things that he believes he did not do.

46. Taking these two seemingly opposing positions together leads the Panel to conclude that the Member considers that once he has admitted to a wrong, he should be entitled to put the matter behind him. By doing so, it appears to the Panel that the Member regards the matter to be closed and he should be entitled to put the matter behind him. The fact that there were, and are, adverse consequences to others, to the standards of the profession, and to the administration of justice seem to him to be of no moment. He does not appear to have any insight into the effects his conduct has on anyone including A.B. It is for these reasons that the Member's acknowledgement of wrongdoing is not regarded by the Panel to be a significant mitigating factor.

43. Systemic, actual, and historical racism have had no impact on the Member himself. He testified that he becomes incensed when he encounters racism such as the racism that he alleges was behind the child protection matter involving his clients. To be offended by racist behaviour is natural, but that does not mean that this mitigating factor can be taken to apply to the Member and his personal circumstances.

44. As none of the mitigation factors identified in *Howe* are applicable, this Panel considers that a five-month suspension remains appropriate.

45. The Panel agrees with the conditions proposed by counsel for the Barristers' Society that must be met before the Member may return to practice. The Panel does direct that the Barristers' Society's Director, Professional Responsibility should ensure that the courses that the Member must take before returning to practice are readily available in Nova Scotia or virtually and at a moderate cost.

Costs

46. Under s.45(4) of the Act the Panel has the authority to make an award to costs against a member found guilty of professional misconduct. The award of costs must be reasonable and deduced from principle. It, moreover, must be rationally applied to the member's circumstances as well as transparent and justifiable with regard to the decision-making process.

47. The Barristers' Society's "Policy on Calculation of Hearing Costs" sets out a number of factors that should be considered in determining the amount of costs that the Member should be ordered to pay. The primary consideration in the Panel's view is the one identified in s. 3.1.1 of the Policy, namely "the need to balance the effect of the cost award on a member and the need for the Society to be able to effectively administer the professional responsibility process,"

48. In this case the Member is the proprietor of a small firm comprising of himself and on associate. If the award is too high the Member may not be able to pay it and the suspension becomes, in effect, disbarment. Furthermore, if the cost award is high it would have a chilling effect on the ability of a member to defend against allegation of professional misconduct.

49. Counsel for the Barristers' Society have submitted that an appropriate cost award should be 50% of external counsel's costs to the conclusion of the matter. The Panel has been provided with an amount up to September 8, 2023, i.e. before the commencement of the Sanctions Hearing. No further costs data has been provided. Without further costs data, the Barristers' Society must be taken to have abandoned any claim for the other costs specified in the Policy.

50. In the Panel's view, a fair award of costs payable by the Member to the Barristers' Society is \$20,000.00.

Conclusion and Orders

51. The Panel concludes as follows:

- a. The Member should be suspended from the Nova Scotia Barristers' Society for a period of five months. The beginning of the suspension period shall be fixed by the Society's Director, Professional Responsibility.

- b. Before the Member may return to practice, he must meet the following conditions:
 - i. He must adhere to the Cessation of Practice Guidelines
 - ii. He must complete a professional responsibility course offered by the Schulich School of Law or Osgoode Hall Law School. The Society's Director, Professional Responsibility shall ensure that such courses are readily available to the Member either in person or virtually and at a moderate cost
 - iii. He must complete 20 hours of continuing professional development courses offered by the institution or institutions approved by the Society's Director, Professional Responsibility. Those courses must be readily available to the Member either in person or virtually and at a moderate cost
- c. Failure to adhere to these conditions will result in continued suspension until such time as the conditions have been fulfilled
- d. The Member shall pay to the Barrister' Society costs in the amount of \$20,000.00 over a period of time to the Director, Professional Responsibility
- e. The Panel shall retain jurisdiction under s.45(5)(b) of the *Legal Profession Act* to monitor the enforcement of this order with respect to the courses specified in (ii) and (iii).

Dated at Halifax this 3rd day of January, 2024.

(Signed) _____
Harvey L. Morrison, K.C.
Chair of the Panel of the Hearing Committee
of the Nova Scotia Barristers' Society

I agree:

(Signed) _____
Sarah M. Kirby

(Signed) _____
Dr. Ian Reid

NOVA SCOTIA BARRISTERS' SOCIETY

IN THE MATTER OF: The *Legal Profession Act*, S.N.S. 2004, c. 28 and the Regulations of the Nova Scotia Barristers' Society, as amended

BETWEEN: **The Nova Scotia Barristers' Society**

Complainant

- and -

Christopher Ian Robinson of Halifax, Nova Scotia

Member

RESOLUTION

WHEREAS pursuant to a Complaint dated June 8, 2021 the Nova Scotia Barristers' Society (the "Society") charged Christopher Ian Robinson of the Halifax Regional Municipality, Nova Scotia with professional misconduct pursuant to the Regulations made under the *Legal Profession Act* S.N.S. 2004, c.28 and which charges were subsequently amended;

AND WHEREAS a hearing was held on October 31, November 1, 7. and 8, 2022 into the said charges before a Hearing Panel of the Hearing Committee of the Society (the "Panel");

AND WHEREAS the Panel, having considered the evidence adduced at the hearing and the submissions made by counsel for the Society and by Christopher Ian Robinson, found Christopher Ian Robinson guilty of professional misconduct in a decision dated February 17, 2023;

AND WHEREAS the Panel heard evidence and submissions as to penalty from counsel for the Society and from Christopher Ian Robinson on November 14, 15, and 27, 2023 with the last written submission received by the Panel on December 6, 2023.

THE PANEL HAS UNANIMOUSLY RESOLVED THAT:

- a. The Member should be suspended from the Nova Scotia Barristers' Society for a period of five months. The beginning of the suspension period shall be fixed by the Society's Director, Professional Responsibility.
- b. Before the Member may return to practice he must meet the following conditions:
 - i. He must adhere to the Cessation of Practice Guidelines.
 - ii. He must complete a professional responsibility course offered by the Schulich School for Law or Osgoode Hall Law School. The Society's Director, Professional Responsibility shall ensure that such courses are readily available to the Member either in person or virtually, and at a moderate cost.
 - iii. He must complete 20 hours of continuing professional development in courses offered by an institution or institutions approved by the Society's Director, Professional Responsibility. Those courses must be readily available to the Member either in person or virtually and at a moderate cost.
- c. Failure to adhere to these conditions will result in continued suspension until such time as the conditions have been fulfilled;
- d. The Member shall pay to the Barristers' Society costs in the amount of \$20,000.00 over a period of time to be established by the Society's Director, Professional Responsibility;
- e. The Panel shall retain jurisdiction under s.45(5)(b) of the *Legal Profession Act* to monitor the enforcement of this order.

Dated at Halifax this 3rd day of January, 2024.

(Signed) _____
Harvey L. Morrison, K.C.
Chair of the Panel of the Hearing Committee
of the Nova Scotia Barristers' Society

I agree:

I agree:

(Signed) _____
Sarah Kirby

(Signed) _____
Dr. Ian Reid