

2022 LSBC 12
Hearing File No.: HE20210010
Citation #1 issued June 3, 2021
Hearing File No.: HE20210081
Citation #2 issued December 13, 2021
Decision Issued: April 6, 2022

THE LAW SOCIETY OF BRITISH COLUMBIA TRIBUNAL
HEARING DIVISION

BETWEEN:

THE LAW SOCIETY OF BRITISH COLUMBIA

AND:

WILLIAM CAREY LINDE

RESPONDENT

**DECISION OF THE MOTIONS ADJUDICATOR
ON AN APPLICATION FOR PRODUCTION OF DOCUMENTS**

Written materials: March 27, 2022

Motions Adjudicator: Lindsay R. LeBlanc

Discipline Counsel: Morgan Camley
Appearing on his own behalf: William Carey Linde

INTRODUCTION

[1] On March 17, 2022 three applications were before me:

- (a) Law Society's application dated March 9, 2022 to have the two citations joined and set for hearing;
- (b) Respondent's application dated March 14, 2022 regarding alleged bias in a Discipline Committee meeting; and
- (c) Respondent's application dated March 16, 2022 for document production.

- [2] I was advised by the Respondent that he consented to the Law Society's application for joinder of the two citations and I made that order. I also scheduled the hearing of the two citations for three days commencing May 16, 2022.
- [3] The Respondent advised me that he was not prepared to speak to his applications on March 17, 2022 and he needed to have a decision on the application for document production before the recusal application as one would inform the other.
- [4] The Law Society agreed to respond to any outstanding document requests of the Respondent on or before March 24, 2022. On that basis, I ordered that the Respondent's application for document production would proceed in writing and that the Respondent file his submissions by April 1, 2022. Thereafter, I would notify the parties if further submission were required and they are not.
- [5] With respect to the Respondent's application, I asked the Respondent to outline how the documents sought were relevant to the matters and issues in the two citations.
- [6] Lastly, I notified the parties that they were to schedule a further case conference for April 7, 2022 and that I would give further direction on how the Respondent's second application regarding alleged bias would be considered either in these reasons or on April 7, 2022. I have provided directions in these reasons.

RESPONDENT'S POSITION ON DOCUMENT PRODUCTION

- [7] The Respondent's Notice of Motion seeks production of the following documents and information:
1. Clarification on the full specifics of the conflict causing recusals on files number 16, 17, 18, 19, 20, A5 and A6 at the May 27 2021 Discipline Committee meeting [sic] without disclosing the member's or third party names.

2. Similar clarification with respect to the hearing on December 2, 2021 on file numbers 7, 8, 16, 17, A5 and A6.
 3. Full transcripts of the portions of the June 3 2021 and December 13 2021 Discipline Committee hearings considering the Respondent's case.
 4. Copies of any and all policy directions, memoranda, directions or guidelines governing the benchers, committees and the Discipline Committee generally and with respect to conflict of interest particularly.
 5. Copies of presentations made by the LSBC to Harry Cayton in his capacity as evaluator of LSBC regulation and governance speaking to issues of conflict of interest and fairness to the membership including transcripts of verbal interviews and presentations.
- [8] The Respondent has since indicated that he is now only seeking document production of the following:
- (a) The factual background circumstances causing certain benchers to recuse themselves on matters before them on June 3 and Dec 13, 2021. (Recusal reasons)
 - (b) The Respondent's complete redacted file with the Law Society of British Columbia. (Respondent's LSBC file).
- [9] With respect to item (a) above, the Respondent submits that he is entitled to know the factual background underlying eight recusals that occurred at the Discipline Committee meetings of June 3 and December 13, 2021 and that redacting the names and facts would remove any concern for privilege. The Respondent submits that knowledge of the reasons for recusal in actual practice on those dates is a litmus test of the policy being applied properly or improperly with respect to the Respondent.
- [10] With respect to item (b) above, the Respondent says that he only seeks a redacted copy of his LSBC file and not an unredacted copy as set out in the original Notice of Motion. The Law Society has advised the Respondent that the request for a complete file will be considered as a request under the *Freedom of Information and Protection of Privacy Act* and will be responded to in accordance with that legislation.
- [11] The Respondent's submissions on the relevancy of the complete LSBC file are brief. The Respondent submits that in the circumstances of the citations, the Law Society must be governed by the principles and rights of fairness afforded an

accused by the Crown or a prosecutor in a criminal trial and that the complete file is properly part of its disclosure obligations.

DECISION

- [12] For the reasons stated below, I decline the relief sought by the Respondent and dismiss the Respondent's application for production of documents.
- [13] The Respondent seeks production of materials arising from Discipline Committee meetings, including information pertaining to matters not related to the citations.
- [14] Rule 4-8 of the Law Society Rules entitled "Confidentiality of Discipline Committee Deliberations" provides that no one is permitted to disclose any information or documents that form part of the consideration of a complaint under Rule 4-4 or the result of a consideration under Rule 4-4 unless disclosure falls within one of the exceptions to the Rule. The Respondent has not provided any basis as to how the disclosure being sought falls within one of the exceptions and I find that it does not.
- [15] The Respondent has been a member of the Law Society since January 4, 1972. The file being sought includes yearly practice declarations, law society payment details and other standard materials. The citations were issued in 2021 and pertain to allegations within the years 2019 – 2021. The Respondent has also failed to demonstrate how the entire file spanning over 40 years is relevant to the two citations and for that reason I decline to make such a broad disclosure order.
- [16] I find that the Law Society is properly considering the Respondent's request as part of its obligations under the *Freedom of Information and Protection of Privacy Act* and will not make an order that the entire file is disclosable in this proceeding.
- [17] I make the following orders:
- (a) The Respondent's March 16, 2022 application for document production is dismissed; and
 - (b) The Respondent's March 14, 2022 application concerning alleged bias will proceed by written submissions. I will receive the Respondent's written submissions and authorities on or before April 14, 2022 and thereafter notify the parties if I require further submissions from either of them.