

THE LAW SOCIETY OF MANITOBA

IN THE MATTER OF:

SUBHASH CHAND KHANDELWAL

- and -

IN THE MATTER OF:

THE LEGAL PROFESSION ACT

Hearing Date: June 4, 2024

Panel: Grant A. Stefanson, K.C. (Chair)
Maureen Terra
Maureen Morrison (Public Representative)

Counsel: Ayli Klein for the Law Society of Manitoba
David I. Marr for the Member

REASONS FOR DECISION

INTRODUCTION AND CONCLUSION

1. Subhash Chand Khandelwal, also known as Sam Khandelwal ("Mr. Khandelwal" or the "Member") has been a practising member of the Law Society of Manitoba (the "Society") since 2011.
2. Between 2017 and 2021, a series of restrictions were imposed on Mr. Khandelwal's practice by way of a combination of the following:
 - (a) Undertakings signed by Mr. Khandelwal and provided to the Society on or about February 27, 2017, May 1, 2019 and May 28, 2020; and
 - (b) Prior decisions of the Discipline Committee of the Society as set out in Reasons for Decision dated May 27, 2020 and December 31, 2021 (the "Decisions") and the Orders contained in those Decisions ("Orders").

3. Pursuant to the provisions of Section 72(1)(j) of *The Legal Profession Act*, C.C.S.M. c. L107 (the "Act"), Mr. Khandelwal applies to the Discipline Committee for a variation of certain provisions of the Orders as follows:
 - (a) That Mr. Khandelwal shall complete a course of education in conflicts of interest; and
 - (b) That Mr. Khandelwal not act for opposing parties to a transaction, including but not limited to, acting for the purchaser and the vendor on real estate or business transactions.
4. Mr. Khandelwal requests confirmation that he has completed the required remedial education relating to conflicts of interest and that he be permitted to act for opposing parties to a transaction.
5. Counsel for the Society confirmed that the Society was in agreement with the variations requested by the Member.
6. At the conclusion of the hearing, we agreed to the proposed variations as being appropriate for the reasons set out below and we accepted the joint submission of counsel for the Society and counsel for the Member.

JURISDICTIONAL MATTERS

7. The Panel's jurisdiction to hear this matter is admitted. Mr. Khandelwal is a member of the Society. Mr. Khandelwal is not a member of any other Canadian law society.
8. Neither Mr. Khandelwal nor the Society objected to any of the Panel members.

ISSUE

9. Is it consistent with the Act, reasonable and appropriate to vary the practice restrictions requested by Mr. Khandelwal while protecting the public interest?

THE EVIDENCE AND THE POSITION OF THE PARTIES

10. The facts in the matter are not in dispute.
11. A statement of agreed facts was not provided to the Panel.

12. The evidence in this hearing consisted of the following:
- (a) A form of record consisting of ten (10) tabbed items as follows:
 - (i) Excerpts of the Act;
 - (ii) Excerpts of certain Rules of the Society;
 - (iii) Summary of restrictions on Mr. Khandelwal's practice;
 - (iv) Undertaking dated February 27, 2017;
 - (v) Undertaking dated May 1, 2019;
 - (vi) Undertaking dated May 28, 2020;
 - (vii) Reasons for Decision dated May 27, 2020;
 - (viii) Reasons for Decision dated December 31, 2021;
 - (ix) Letter from Mr. Khandelwal's practice supervisor, Gurdeep Chahal dated August 17, 2023; and
 - (x) The case of *The Law Society of Manitoba v. Black*, 2003 MBL 3 (the "Record")¹;
 - (b) *Viva voce* testimony by Mr. Khandelwal.
13. Mr. Khandelwal testified that he successfully completed a remedial education course of the Society relating to conflicts of interest in 2021. This was acknowledged by counsel for the Society.
14. Mr. Khandelwal acknowledged that his practice remains subject to a number of conditions and restrictions which are set out in the Orders and the Undertakings signed and delivered by Mr. Khandelwal to the Society.
15. Mr. Khandelwal provided a brief overview of the nature of his law practice. Mr. Khandelwal's practice consists primarily of residential and commercial real estate transactions and other business transactions. Given the nature of Mr. Khandelwal's practice located in suburban Winnipeg, he estimated that approximately one out of ten of his transactions involves a request by both parties to act for them.
16. Mr. Khandelwal confirmed that he understands the processes approved and mandated by the Society for handling conflicts and that he understands the importance of clear communication with all clients especially in the situation of a conflict of interest.
17. Mr. Khandelwal specifically acknowledged that he was not requesting to vary the existing condition on his practice whereby he has agreed that he will not act or both

¹ Marked as Exhibit 1 by Consent of counsel for the parties

the purchaser and a private lender on any transaction, including but not limited to a real estate transaction.

18. Both Mr. Khandelwal and counsel for the Society confirmed that on October 5, 2023, the Society revised Mr. Khandelwal's Undertaking to remove the supervision requirement and that Mr. Khandelwal has been practicing without supervision for over six (6) months without issue.
19. The letter from Mr. Khandelwal's supervisor, namely Gurdeep Chahal, dated August 17, 2023 confirms that Mr. Chahal regularly visited Mr. Khandelwal to discuss and supervise Mr. Khandelwal's practice between 2020 and 2023 and that supervisory reports were provided to the Society every three (3) months. Mr. Chahal has confirmed that Mr. Khandelwal has among other things good office systems in place.
20. On behalf of the Member, Mr. Marr submitted that Mr. Khandelwal is governable, conscientious and has abided by his existing conditions for many years. Mr. Marr further submitted that it is appropriate to vary the condition restricting acting for both sides to a transaction given Mr. Khandelwal's successful completion of the remedial conflict of interest course and Mr. Khandelwal's demonstration that he fully understands the consequences of a conflict and due to the number of years that Mr. Khandelwal has practised without issue.
21. On behalf of the Society, Ms. Klein confirmed that the Society agreed that it was appropriate to vary the conditions as requested by Mr. Khandelwal. Ms. Klein noted that the public interest is protected by the remaining restrictions on Mr. Khandelwal's practice by virtue of the Undertakings and the remaining conditions and restrictions set out in the Orders. Ms. Klein further confirmed that it is a credit to Mr. Khandelwal for completing the remedial educational course related to conflicts of interest and for practicing in compliance with the restrictions over the past several years.

ANALYSIS

22. We agree with the submission of counsel for the Society and counsel for the Member that the variation of the requested restrictions is part of a gradual and measured approach in all of the circumstances of this matter.
23. We note the evidence of Mr. Khandelwal regarding his completion of the remedial education relating to conflicts of interest, the nature of his law practice, his respect for and compliance with the restrictions on his practice and the positive review by his supervisor, Mr. Chahal.

24. The request of Mr. Khandelwal for a variation of the restrictions on his practice is supported by the Society at this time and is in this regard essentially a joint submission on sentence. Unless this Panel determines that the proposed variation would bring the administration of justice into disrepute or would otherwise be contrary to the public interest, the joint position of counsel for the Member and counsel for the Society is to be respected.

ORDER

25. Pursuant to the provisions of Section 72 (1)(j) of the Act, we find that it is appropriate and reasonable to order the variation of certain restrictions on Mr. Khandelwal's practice and therefore make the following orders:
- (a) It is hereby confirmed that Mr. Khandelwal has successfully completed a remedial course of education on conflicts of interest;
 - (b) The condition that Mr. Khandelwal not act for opposing parties to a transaction, including but not limited to acting for both the purchaser and vendor on real estate or business transactions is hereby deleted;
 - (c) The remaining conditions and restrictions set out in the Orders and the Undertakings remain in effect in accordance with their respective terms; and
 - (d) There is no order as to costs in accordance with the submissions of counsel for the parties.


Dated this 25th day of June, 2024.



Grant A. Stefanson, K.C.



Maureen Terra



Maureen Morrison