

**THE LAW SOCIETY OF MANITOBA**

IN THE MATTER OF:

**VIBHU RAJ JHANJI**

- and -

IN THE MATTER OF:

**THE LEGAL PROFESSION ACT**

Hearing Date: November 14, 2019

Appearances: Vibhu Raj Jhanji, Self-Represented  
Rocky Kravetsky, Counsel for the Law Society of Manitoba

**REASONS FOR DECISION**

[1] On October 31, 2018 the Complaints Investigation Committee (“CIC”) of the Law Society of Manitoba (“Law Society”) authorized charges of general incompetence against Mr. Jhanji. Mr. Jhanji was subsequently suspended by the CIC on December 12, 2018 and remains so to this day.

[2] In order to understand the various issues that have recently come before me for resolution in my capacity as the Chairperson of the Discipline Committee of the Law Society, conducting a pre-hearing conference (see *Law Society Rule 5-93(2.2)(c)*), I provide a bit of history.

[3] Mr. Jhanji promptly appealed his interim suspension by the CIC to the Court of Queen’s Bench as authorized by s. 75 of *The Legal Profession Act*. In Reasons dated June 20,

2019 (of which more later), his application was dismissed by Toews J. of the Court of Queen's Bench. This Decision has now been appealed by Mr. Jhanji to the Court of Appeal and is not yet set for hearing, but Mr. Jhanji has asked that it be heard on February 3, 2020 together with a second appeal (see below).

[4] In the meantime, a Panel of the Discipline Committee was appointed and a hearing took place on July 16, 2019; the principle purpose of this hearing was to consider a preliminary motion by Mr. Jhanji that Rocky Kravetsky, counsel for the Law Society, be disqualified from prosecuting the charges in the Citation on the basis of an alleged lack of even-handedness and demonstrated bias. The Panel rejected this assertion in Reasons dated July 19, 2019, concluding:

"He [Mr. Kravetsky] is not in a conflict of interest; he has not demonstrated any bias; there is no legal reason on the facts before us to disqualify him. Not only does the evidence not support Mr. Jhanji's assertion, but it reveals that throughout these proceedings Mr. Kravetsky has cooperated with Mr. Jhanji, and treated Mr. Jhanji with patience and civility."

Hearing dates for consideration of the charges were subsequently set for November 26 – 29, 2019 and December 9 - 11, 2019.

[5] Other proceedings have since taken place. On September 17, 2019, I conducted the first of three pre-hearing conferences to consider several procedural and substantive matters arising from the Discipline Panel's Decision of July 19, 2019. An application by Mr. Jhanji for reconsideration by the Panel of its July 19, 2019 Decision was put over for argument before me on October 11, 2019. This hearing took place and the application for reconsideration was rejected on the basis that "There is simply no legal foundation that

permits him to challenge before the Panel its earlier rejection of his insistence that Mr. Kravetsky be precluded from appearing as counsel for the Law Society.”

[6] As we have seen, pursuant to s. 75(3) of *The Legal Profession Act*, Mr. Jhanji has appealed the June 20, 2019 Decision of Toews J. to the Court of Appeal. Mr. Jhanji also brought a motion in chambers seeking to disqualify Mr. Kravetsky from appearing alleging, once again, a conflict of interest on his part. This application was dismissed by Justice Michel A. Monnin in written Reasons dated November 6, 2019, on the basis that there was “a complete lack of evidence and legal rationale to justify the granting of the relief being sought.” An appeal to a Panel of the Court of Appeal has now been filed with respect to the order of Justice M.A. Monnin and the hearing of that appeal is scheduled for February 3, 2020. Mr. Jhanji has asked that the appeal from the order of Toews J. be heard at the same time. It is not certain whether both appeals can be dealt with concurrently.

[7] Finally, counsel came back before me in my capacity as Case Manager on November 14, 2019 with three issues to be decided:

- Firstly, should the hearing set before the Panel on November 26 – 29, 2019 and December 9 - 11, 2019 be adjourned pending the outcome of the appeals now lodged with the Court of Appeal.
- Secondly, is there a lack of particularity in the charges as approved by the CIC, and were charges added without proper authorization.

- ☉ Thirdly, was improper use made of a confidential Practice Review Report prepared for the CIC.

[8] My Decisions now follow.

### ***Adjournment***

[9] I understand Mr. Jhanji's fundamental submission to be that it is in the interest of justice that the hearing before the Panel be postponed – the hearing may not be necessary – he argues – depending on the decision of the Court of Appeal in the two matters now before it. Mr. Jhanji also took the position that I should look at the potential merits of his argument. Here he says, we are dealing with “victimless charges,” an unjust suspension, a lack of respect for his fundamental rights by the CIC and, above all, the lack of opportunity to practise with some form of instruction or assistance from the profession; it should be a matter of last resort, he argued, to suspend a professional such as himself. The flaw in this submission is that no evidence or argument has yet been presented directed specifically to the validity of the charges.

[10] Mr. Kravetsky's first point in response was that there is nothing presently pending in the Court of Appeal that affects the hearing on the merits of the Citation – this follows from the fact that at the present time, the only matter currently set to be heard by the Court of Appeal (on February 3, 2020) deals with the Decision of M.A. Monnin JA concerning the dismissal of the motion to disqualify counsel in the interim suspension appeal: at the present

time as we have seen, it is not at all clear when the appeal from the interim suspension itself will be heard. It may be some time yet.

[11] Mr. Kravetsky also observed that the Panel itself, rejected a request to postpone its hearing until after the interim suspension appeal was heard.

[12] Mr. Kravetsky also argued – correctly in my view, that there is an obligation on the part of Mr. Jhanji to show real prejudice to him that exceeds the public interest in the timely resolution of proceedings such as the ones we are concerned with here. Delay harms everyone including, whether he realizes it or not, Mr. Jhanji himself.

[13] Ample authority exists to support the Law Society’s position.

[14] There is a strong presumption against a stay of proceedings in circumstances such as those here (see *Director of Criminal Property v. Lieu*, 2017 MBQB 24). A stay should only be granted in exceptional circumstances. Clearly, there is a public interest in the prompt and beneficial exercise of the Law Society’s disciplinary powers. In *Howe v. Institute of Chartered Accountants of Ontario*, [1994] O.J. No. 2907 (Div.Ct), the Ontario Court of Appeal noted that, “It is well established that the court’s power to intervene in an administrative tribunal’s determination of a matter of this nature will be exercised sparingly.” Or to put it another way, the question might be asked – is there a risk of serious prejudice that could lead to an injustice that far outweighs the public interest. The standard to be applied is not the balance of convenience.

[15] In my opinion, there is neither factual nor legal support for the submission made by Mr. Jhanji that the hearing set before the Panel to commence on November 26, 2019 should be postponed to an indefinite date in the future while appellate matters are concluded. I cannot help but wonder if Mr. Jhanji himself realizes, that he too has an interest in moving the charges against him through to conclusion.

***Sufficiency of Charge (Charges Added)***

[16] It is trite to say that these are not criminal proceedings and the technicalities that surround criminal indictments should not be applied rigorously, if at all, to disciplinary proceedings before an administrative tribunal such as we have here. So long as the lawyer whose conduct is under view has “reasonable notice of the allegations made against him so that he can fully and adequately defend himself,” the details in the charges will be sufficient (see *Law Society of Upper Canada v. Groia*, 2010 ONLSHP 0078). Here there has been extensive documentary disclosure and explanation provided by the Law Society’s counsel throughout these proceedings. So far as I am aware, there has been no suggestion, at least up until very recently, that adequate disclosure has not been provided.

[17] As for the allegation that charges were added without authorization, this too, is without merit. Simply stated, there is one broad charge that of general incompetence, with particulars provided from the CIC investigation itself, the Practice Review Report (of which more shortly), and follow up investigations.

[18] One other matter needs to be dealt with under this heading. Mr. Jhanji has asserted on several occasions that the charge is invalid because there is no formal complaint, an argument incidentally rejected by Toews J. (see para. 25 of his Reasons for Decision). In Mr. Jhanji's view, unless there is a formal signed specific complaint by an identifiable complainant, the charge is invalid. The complete answer to this is to be found in s. 66 of *The Legal Profession Act* which encompasses not only complaints but "other information concerning the conduct or competence of members." This is further clarified by *Law Society Rule 5-61*.

[19] There is no merit to these allegations.

### ***Practice Review Report***

[20] Section 69(1) of *The Legal Profession Act* very straight forwardly mandates confidentiality with respect to "all complaints received or under investigation and all proceedings of the Complaints Investigation Committee." Mr. Jhanji says this provision should end the matter: not so. Subsection 69(2) of *The Legal Profession Act* under the heading "Permitted Disclosure" states in ss. (a), "Despite subsection (1), (a) details of the complaint, information obtained through the investigation of the complaint and records of the proceedings and decisions of the committee [CIC] may be disclosed for the purpose of a hearing on a charge related to the complaint and any appeal from the decision made at that hearing."

[21] Furthermore, *Law Society Rule 5-82(1)* authorizes the CIC when there are “reasonable grounds to believe that a member is practising law in an incompetent manner,” to order a practice review.

[22] Lastly, almost as an aside, Mr. Jhanji argued that there had been a breach of *The Privacy Act*. This is not correct (see *The Privacy Act*, s. 2(1) and s. 5(d)).

[23] In the result, Mr. Jhanji’s application for an adjournment of the hearing scheduled to commence on November 26, 2019 is dismissed. There is no merit to the other issues raised before me as detailed in these Reasons.

DATED this 19<sup>th</sup> day of November, 2019.



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Mr. Richard J. Scott  
Chairperson of the Discipline Committee