

**THE LAW SOCIETY OF MANITOBA**

IN THE MATTER OF:

**SUBHASH CHAND KHANDELWAL**

- and -

IN THE MATTER OF:

**THE LEGAL PROFESSION ACT**

---

**REASONS FOR DECISION**

---

**THE LAW SOCIETY OF MANITOBA**

IN THE MATTER OF:

**SUBHASH CHAND KHANDELWAL**

- and -

IN THE MATTER OF:

**THE LEGAL PROFESSION ACT**

**Hearing Date:** December 10, 2021

**Hearing Format:** Virtual (via Zoom)

**Decision Date:** December 10, 2021

**Panel:** James McLandress, QC (Chair)  
Patricia Kloepfer (Public representative)  
Jacob Janzen

**Counsel:** Rocky Kravetsky, for the Law Society of Manitoba  
Charles Huband, for the Member

**REASONS FOR DECISION**

**OVERVIEW & CONCLUSION**

1. Subhash "Sam" Khandelwal has plead guilty to four counts of professional misconduct. The parties agree as to the facts underlying the case and have made a joint submission as to disposition. More specifically, the parties have proposed a fine in the amount of \$7,500, costs in the amount of \$5,000 and the imposition of certain additional conditions on the Member's practicing certificate. This panel must decide whether the proposed disposition is appropriate in the circumstances.

2. As indicated at the conclusion of the hearing, we agree the proposed disposition is appropriate and for the reasons set out below, accepted the joint recommendation.
3. 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 September 19, 2011.
4. Mr. Khandelwal plead guilty to four charges of professional misconduct related to:
  - a. Violating an order of a panel of the Society's Discipline Committee pronounced on October 28, 2019, contrary to Rule 2.1-1 of the *Code of Professional Conduct* (the "**Code**").
  - b. Failing to fulfill an undertaking to the Society dated May 28, 2020, contrary to Rule 7.2-11 of the *Code*.
  - c. Acting while in a conflict of interest by acting for both the lender and the borrower in a mortgage transaction contrary to Rules 3.4-1 and 3.4-12 of the *Code*.
  - d. Acting while in a conflict of interest by acting against a former client in the same or related matter contrary to Rules 3.4-1 and 3.4-10 of the *Code*.
5. The matter proceeded by way of a Statement of Agreed Facts (the "**Agreed Facts**") and a joint recommendation as to disposition (the "**Joint Recommendation**"). The Agreed Facts were entered as **Exhibit 2** in the proceeding. (The Citation was marked as **Exhibit 1**.)

## **JURISDICTIONAL MATTERS**

6. The panel's jurisdiction to hear this matter is admitted. Specifically, Mr. Khandelwal is a member of the Society, not a member of any other Canadian Law Society, and the citation dated April 26, 2021 (the "**Citation**"), was properly served.
7. Mr. Khandelwal had no objection to any of the panel members based on bias, or conflict, or otherwise.

## **PRELIMINARY MATTERS**

8. In light of certain comments made in a written submission provided by Mr.

Huband on December 9, 2021, and, we understand, a discussion between Mr. Huband and Mr. Kravetsky later that evening, Mr. Kravetsky became concerned Mr. Khandelwal, or his counsel might be resiling from the Agreed Facts and or the guilty plea.

9. Following submissions from the parties the panel agreed to a formal reading of the Citation. This was done and Mr. Khandelwal acknowledged he understood each of the charges and the particulars of each charge, that he accepted the conduct described in each case amounted to professional misconduct, and that he entered a plea of guilty to each charge. The only exception was with respect to the particulars set out in sub-paragraph (b) of Charge No. 2 (relating to a failure to comply with a particular provision of the Undertaking). The Society withdrew that element of the Citation and so it formed no part of these proceedings.
10. Mr. Khandelwal also confirmed he accepted and stood behind everything contained in the Agreed Facts. This confirmation was in addition to that set out at paragraph 4.1 of the Agreed Facts:

Mr. Khandelwal has reviewed the Citation (Tab 1), this Statement of Agreed Facts and the attached documents. He admits the facts contained in this Statement of Agreed Facts and the authenticity of the attached documents. These are formal admissions.

11. Mr. Huband similarly confirmed the guilty pleas and the Agreed Facts.

## ISSUE

12. Consistent with the test adopted by the Discipline Committee in *Law Society of Manitoba v. Sullivan* ("**Sullivan**")<sup>1</sup>, would this panel's acceptance of the Joint Recommendation bring the Society's regulation of the legal profession into disrepute or otherwise be contrary to the public interest?

## THE MEMBER

13. Mr. Khandelwal graduated from Maharshi Dayanand University in Rohtak, Haryana, India in 1996. He practised law in India for almost eight years before coming to Canada in 2004. In India he practiced for three years as a junior associate in a law firm and then had an independent practice.
14. He received his Certificate of Qualification from the National Committee on Accreditation in 2008 and articulated at McRoberts Law Office for the year prior to his Call in 2011.

---

<sup>1</sup> *Law Society of Manitoba v Sullivan* 2018 MBLS 9 (CanLII), <<https://canlii.ca/t/j0cvj>>

15. Mr. Khandelwal has practiced as a sole practitioner since his Call. His practice is substantially (approximately 80%) in the area real estate conveyancing.
16. Mr. Khandelwal has prior discipline history with the Society. On October 28, 2019, Mr. Khandelwal entered a plea of guilty to 16 charges of professional misconduct arising from five complaints:
  - a. five instances of failing to act with integrity;
  - b. nine instances of acting while in a conflict of interest;
  - c. one instance of breach of an undertaking; and
  - d. one instance of failure to provide the required quality of service.
17. The panel in that case accepted a joint recommendation that he pay a fine of \$7,500, costs of \$16,000 and that his practicing certificate be made subject to certain conditions. The panel's conclusions were the subject of an order dated October 28, 2019 (the "**Order**").
18. Although not a matter of formal discipline, on May 28, 2019, Mr. Khandelwal gave a written undertaking to the Society agreeing to certain other additional restrictions and conditions regarding his practise (the "**Undertaking**").
19. The complete list of conditions to which Mr. Khandelwal was subject at the time of the incidents giving rise to these charges is set out in the Agreed Facts. For our purposes the most important of those are that he:
  - a. Complete a course of study in ethics and conflicts.
  - b. Not act for opposing parties to a transaction.
  - c. Work under the supervision of a lawyer approved by the Society.
  - d. Advise his clients in writing that he was acting under supervision.
  - e. Meet with the supervising lawyer at least once every two weeks to, among other things, review all active real estate files.
  - f. Would practice or act on a matter pertaining to real estate transactions, conveyancing, or financing only under the direct supervision of the supervising lawyer.
20. Mr. Khandelwal appears to have established significant roots in the Winnipeg community. His wife now works at his law firm. His son is in high school in

Winnipeg, his daughter is applying to law school and Mr. Khandelwal hopes that someday she will practice with him.

## THE EVIDENCE

21. Despite some uncertainties resolved at the outset of the hearing (referred to above), the facts are not in dispute. They are set out in the Agreed Facts. What follows is merely a summary of the most salient points.

### The T■■■■/P■■■ Transaction

22. Pursuant to the Order Mr. Khandelwal was obliged to practice under the supervision of a lawyer approved by the Society. Mr. Gurdeep Chahal (“**Mr. Chahal**”) became Mr. Khandelwal’s supervisor on January 10, 2020. Mr. Khandelwal has been practicing under his supervision ever since.
23. Also pursuant to the Order, Mr. Khandelwal was obliged to advise each client in writing that he was practising under Mr. Chahal’s supervision, and that Mr. Chahal would have access to their confidential information on the same basis as Mr. Khandelwal.
24. Pursuant to the Undertaking Mr. Khandelwal had promised the Society he would only “practice or act on a matter pertaining to real estate transactions, conveyancing or financing” under Mr. Chahal’s direct supervision.
25. In December 2012, P■■■■ P■■■ and his son R■■■■ P■■■ (collectively “**the P■■■s**”), executed a one-year mortgage of their family residence in Winnipeg, (the “**P■■■ Property**”) in favour of Mr. H■■■■ T■■■■ (“**Mr. T■■■■**”) securing a loan of \$40,000 at an interest rate of 12% per year (the “**2012 Mortgage**”). Although the 2012 Mortgage was not repaid within the year as contemplated, the parties agreed orally to extend the mortgage on the basis that the P■■■s would continue to make monthly interest payments in accordance with its terms.
26. In 2017 the P■■■s fell behind in their monthly payments.
27. In July 2017, Mr. T■■■■ consulted Mr. Khandelwal concerning the arrears on the 2012 Mortgage and in January 2018, retained Mr. Khandelwal to demand payment and, if necessary, take foreclosure proceedings against the P■■■ Property.
28. In February Mr. Khandelwal served a demand letter on the P■■■s demanding either payment of the outstanding interest through March 2018 or paying out the mortgage in full. Not receiving payment of either amount, on February 22<sup>nd</sup> Mr. Khandelwal submitted a Notice of Exercising Power of Sale (“**NEPS**”) under the 2012 Mortgage to the Land Titles Office (“**LTO**”) for registration.

29. The LTO rejected the NEPS because of certain deficiencies including that the 2012 Mortgage had expired and so the particulars of any amendment or extension were required.
30. Mr. Khandelwal submitted the revised NEPS, which was registered on March 29, 2018. The NEPS was served on the P■■■■s and following additional communications with the P■■■■s they paid the outstanding interest and brought the 2012 Mortgage into good standing. The threatened mortgage sale did not proceed.
31. At that point the 2012 Mortgage remained registered as a second financial charge on the P■■■■ Property.
32. Mr. Khandelwal then advised Mr. T■■■■ and the P■■■■s a new loan agreement was necessary. Mr. Khandelwal took instructions from both the lender and the borrowers as to the terms of the new loan agreement and prepared documents in connection with the new loan and mortgage security. He acted for both lender and borrowers in the transaction.
33. The loan agreement was executed as of January 24, 2019 (the **"2019 Agreement"**).
34. Mr. Khandelwal advised, and the parties agreed he would prepare a new mortgage in respect of the 2019 Agreement and a discharge of the 2012 Mortgage. The documents would be registered at the LTO in series, meaning one immediately after the other, to ensure a mortgage was in place the whole time.
35. Mr. Khandelwal drew up the necessary documents, namely, a new mortgage (the **"2019 Mortgage"**) and a discharge of the 2012 Mortgage (the **"Discharge"**).
36. The Discharge was registered at the LTO and on April 25, 2019, the 2012 Mortgage was discharged from the P■■■■ Property. However, the 2019 Mortgage was not registered at the same time as the parties had agreed.
37. From Mr. Khandelwal's submission at the hearing we understand the failure to register the 2019 Mortgage was due to an error by one of his employees. Regardless, responsibility for the error rests with Mr. Khandelwal and he has clearly accepted that responsibility.
38. In May 2020 Mr. T■■■■ discovered the 2012 Mortgage had been discharged but with the failure to register the 2019 Mortgage, his loan was not secured by any mortgage. He confronted Mr. Khandelwal with that information.
39. Once again acting both for the borrowers and the lender, Mr. Khandelwal saw to registering the 2019 Mortgage. It was registered at the LTO on June 8, 2020.

40. Between the discharge of the 2012 Mortgage in April 2019 and the registration of the 2019 Mortgage in June 2020 two Certificates of Judgment were registered against the P■■ Property in the total amount of just over \$50,000.
41. Because of these additional registrations Mr. T■■'s mortgage was no longer a *second* charge on the property but instead had been bumped down to a *fourth* charge.
42. On June 11, 2020, Mr. T■■ contacted Mr. Khandelwal expressing concern about the situation and asking how it would be rectified.
43. A meeting and further communications followed. Despite requests from Mr. T■■, Mr. Khandelwal did not respond directly to Mr. T■■ but rather sought to involve a community member (a retired lawyer). On Friday, August 21, 2020, Mr. T■■ again wrote to Mr. Khandelwal requiring a formal response by the following Monday, August 24, 2020. On the 24<sup>th</sup>, Mr. Huband contacted Mr. T■■ as Mr. Khandelwal's lawyer, seeking an extension of two weeks to respond.
44. The parties eventually resolved the matter in September 2020. Mr. T■■ accepted \$35,000 in exchange for discharging the P■■s from their obligations under the 2019 Agreement and the 2019 Mortgage. The P■■s financed that payment by a loan from a different private lender. Mr. Khandelwal did not represent either party in that transaction.
45. In the meantime, on August 17, 2020, Mr. T■■ had contacted Mr. Chahal seeking a consultation "on a real estate matter (mortgage)/complaint to the Law Society..." in relation to the situation with the P■■ loan and security.
46. Mr. Chahal declined to give advice because of his position as Mr. Khandelwal's supervisor. However, he did then review Mr. Khandelwal's file and the next day reported the matter to the Society.
47. Mr. Khandelwal reported the matter to the Society's Professional Liability Claims Fund office on August 19, 2020.

#### Failure to Advise Mr. Chahal

48. Consistent with the Order, Mr. Khandelwal met with Mr. Chahal every two weeks beginning on January 10, 2020. The T■■/P■■ loan and mortgage matter was active in and after May 2020. During that time Mr. Khandelwal met with Mr. Chahal on at least ten occasions. They met on: May 12 and 25, June 5, 17, and 29, July 6, 13, 20, and 28 and August 11, 2020.
49. However, Mr. Khandelwal did not provide Mr. Chahal with the file concerning the T■■/P■■ transaction or otherwise disclose to Mr. Chahal that it was then an



active real estate or commercial transaction file. As a result, Mr. Chahal had no opportunity to review the file with Mr. Khandelwal or to supervise its conduct until after August 17, 2020.

#### Failure to Advise Mr. T [REDACTED] or the P [REDACTED]s

50. Mr. Chahal became Mr. Khandelwal's supervisor on January 10, 2020. At no point thereafter did Mr. Khandelwal advise either Mr. T [REDACTED] or the P [REDACTED]s that he was practising under supervision of Mr. Chahal and that Mr. Chahal would have access to their confidential information.
51. After the matter came to the attention of the Society, Mr. Khandelwal provided legal services toward the goal of solving the problem identified by Mr. T [REDACTED] of the 2019 Mortgage now being the fourth rather than second registered financial charge on the P [REDACTED] Property.
52. The Society became aware of the T [REDACTED]/P [REDACTED] matter only because of Mr. Chahal's report. Neither Mr. T [REDACTED] nor the P [REDACTED]s made a complaint.

#### D [REDACTED]/S [REDACTED] Issue

53. Through a corporation, Mr. S [REDACTED] S [REDACTED] ("Mr. S [REDACTED]") was an owner-operator who supplied a transport truck and driver as a contractor to Bison Transport.
54. For a short time in 2018 Mr. S [REDACTED] employed Mr. R [REDACTED] S [REDACTED] D [REDACTED] ("Mr. D [REDACTED]") as a driver. The relationship ended badly, with each accusing the other of wrongdoing.
55. Mr. D [REDACTED] published his grievances in social media posts and Mr. S [REDACTED] took offence. By letter dated May 6, 2019, Mr. S [REDACTED] demanded Mr. D [REDACTED] withdraw those posts and return certain cash and equipment he claimed Mr. D [REDACTED] had taken from the truck.
56. Mr. D [REDACTED] then consulted Mr. Khandelwal. He and Mr. Khandelwal met at Mr. Khandelwal's office on May 23, 2019. Mr. Khandelwal reviewed the letter from Mr. S [REDACTED] and gave advice to Mr. D [REDACTED]. Mr. D [REDACTED] was told that he was within his rights to maintain the social media posts. Mr. Khandelwal issued a bill to Mr. D [REDACTED] for the advice and Mr. D [REDACTED] paid the bill.
57. Mr. Khandelwal did not keep any record of his meeting with Mr. D [REDACTED].
58. On November 27, 2020, Mr. Khandelwal accepted a retainer from Mr. S [REDACTED] for the purpose of a "Cease and Desist Notice" and on November 30, 2020, he wrote a letter to Mr. D [REDACTED] demanding he cease and desist from statements said to be

defamatory of Mr. S [REDACTED] and delete his social media posts. Legal action was threatened.

### **Mr. Chahal's Ongoing Involvement**

59. The panel was advised Mr. Chahal has continued to supervise Mr. Khandelwal's practice to this day and is willing to continue in that role.

### **PARTIES' POSITIONS**

60. The parties are agreed on the central issue, namely that the Joint Recommendation is within the range of appropriate outcomes for these circumstances, would not bring the Society's regulation of the legal profession into disrepute nor is otherwise contrary to the public interest, and accordingly meets the test in *Sullivan*.
61. The parties disagree on the seriousness of certain of the underlying facts.
62. Briefly stated, Mr. Huband argued on Mr. Khandelwal's behalf that while Mr. Khandelwal's actions were wrong and he is guilty of professional misconduct as alleged, the circumstances were not as serious as alleged by the Society and indeed that the Society was "overdramatizing" the situation. He pointed out that when made aware of the failure to register the 2019 Mortgage, Mr. Khandelwal acted honourably and sensibly to resolve the situation.
63. On behalf of the Society, Mr. Kravetsky argued the circumstances are indeed serious. He noted the numerous occasions on which Mr. Khandelwal could have but did not bring the T [REDACTED]/P [REDACTED] matter to Mr. Chahal's attention. He also noted that Mr. Khandelwal clearly had a conflicted interest with respect to the resolution of that matter as he was (at least likely) guilty of negligence in his handling of the 2019 Mortgage but failed to advise either party they should seek independent legal advice.
64. The parties are agreed, however, that Mr. Khandelwal has the potential to serve the public well, he appears to be focused on being a good lawyer and has learned some hard lessons but can continue to grow as a lawyer who can practice effectively and ethically.

### **ANALYSIS**

65. As noted above, the legal issue for us to address regarding the Joint Recommendation is whether the test in *Sullivan* has been met.

66. In considering that question we note the language used to describe the test in *Anthony-Cook*,<sup>2</sup> the Supreme Court decision accepted in *Sullivan* as the proper approach to considering a joint recommendation:

“[These cases] emphasize that a joint submission should not be rejected lightly, a conclusion with which I agree. Rejection denotes a submission so unhinged from the circumstances of the offence and the offender that its acceptance would lead reasonable and informed persons, aware of all the relevant circumstances, including the importance of promoting certainty in resolution discussions, to believe that the proper functioning of the justice system had broken down. This is an undeniably high threshold — and for good reason...”

67. For this panel to reject the Joint Submission we would have to be satisfied it is so out of line with the expectations of reasonable persons aware of the circumstances of the case that they would view it as a breakdown in the proper functioning of the Society’s system of regulating the legal profession.
68. In support of the Joint Recommendation Mr. Kravetsky provided us with the *Nadeau* case<sup>3</sup>, which in turn had adopted the reasoning of the Law Society of BC’s decision in *Ogilvie* regarding factors to consider in disciplinary dispositions.<sup>4</sup>
69. The following passage (from *Nadeau*) referring to the *Ogilvie* case is often cited in decisions from the Discipline Committee as a reliable guide in discipline sentencing matters:

In the *Law Society of British Columbia v. Ogilvy* [1999] L.S.D.D. No. 45, [1999] LSBC 17, Discipline Case Digest 99/25, a discipline panel of the Law Society of British Columbia laid down some of the appropriate factors which might be taken into account in disciplinary dispositions, at page 10: "(a) The nature and gravity of the conduct proven; (b) the age and experience of the respondent; (c) the previous character of the respondent, including details of prior disciplines; (d) the impact upon the victim; (e) the advantage gained or to be gained, by the respondent; (f) the number of times the offending conduct occurred; (g) whether the respondent had acknowledged the misconduct and taken steps to disclose and redress the wrong and the presence or absence of other mitigating circumstances; (h) the possibility of remediating or rehabilitating the respondent; (i) the impact on the respondent of criminal or other sanctions or penalties; (j) the impact of the proposed penalty on the respondent; (k) the need for specific and general deterrence; (l) the need to ensure the public's confidence in the integrity of the profession; and (m) the range of penalties imposed in similar cases."

---

<sup>2</sup> *R. v. Anthony-Cook*, 2016 SCC 43 (CanLII), [2016] 2 SCR 204, <<https://canlii.ca/t/qv7bk>>

<sup>3</sup> *Law Society of Manitoba v Nadeau*, 2013 MBL 4 (CanLII), <<https://canlii.ca/t/g2dtd>>

<sup>4</sup> *Law Society of British Columbia v. Ogilvie* [1999] L.S.D.D. No. 45, [1999] LSBC 17

70. Mr. Kravetsky also provided several prior decisions of the Discipline Committee to give us an understanding of the “range” of dispositions ordered in similar cases. We do not propose to review them in detail but, for the record, they are:
- a. *Ferriss*<sup>5</sup>
  - b. *Frohlinger*<sup>6</sup>
  - c. *Walker*<sup>7</sup>
  - d. *Walia*<sup>8</sup>
  - e. *Sullivan*<sup>9</sup>
  - f. *Bomek*<sup>10</sup>
  - g. *Oakes*<sup>11</sup>
71. Considering the *Ogilvie* factors relevant to Mr. Khandelwal's situation:
- a. Gravity of the Conduct – His conduct in the T■■■■/P■■■ matter was unquestionably serious, though not as serious as some cases that come before the Discipline Committee. He had at least ten opportunities in which he could, and more importantly *should*, have raised the file with Mr. Chahal but failed to do so. His conduct in the D■■■■/S■■■ matter was clearly less serious and was in the nature of a systemic failure (related to record keeping) which Mr. Khandelwal has since taken steps to resolve.
  - b. Member's Age & Experience – This is a neutral factor. Mr. Khandelwal is certainly not new to the practice of law. That said he has been a sole practitioner for most of his career both in Canada and India. While we have no information as to the nature of the practice of law in India, it's reasonable to assume the norms and standards of practice there would not be the same as they are in Manitoba. He moved with his family to a new country and had only one year of experience working in a law firm (McRoberts in 2010-2011) before striking out on his own. We can't simply assume he has had the same opportunity for mentorship as other, Canadian-trained lawyers.

---

<sup>5</sup> *Law Society of Manitoba v Ferriss*, 2016 MBLS 10 (CanLII), <<https://canlii.ca/t/h3kcc>>

<sup>6</sup> *Law Society of Manitoba v Frohlinger* Case No.96-09 [https://lawsociety.mb.ca/wp-content/uploads/2020/02/case\\_digest\\_96\\_09.pdf](https://lawsociety.mb.ca/wp-content/uploads/2020/02/case_digest_96_09.pdf) affirmed by the Manitoba Court of Appeal in *Law Society of Manitoba v. Frohlinger*, 1997 CanLII 11524 (MB CA), <<https://canlii.ca/t/1pfl1>>

<sup>7</sup> *Law Society of Manitoba v Walker*, 2020 MBLS 2 (CanLII), <<https://canlii.ca/t/jcr8k>>

<sup>8</sup> *Law Society of Manitoba v Walia*, 2012 MBLS 4 (CanLII), <<https://canlii.ca/t/fx7jm>>

<sup>9</sup> *Law Society of Manitoba v Sullivan* 2018 MBLS 9 (CanLII), <<https://canlii.ca/t/j0cvj>>

<sup>10</sup> *Law Society of Manitoba v Bomek*, 1994 MBLS 6 (CanLII), <<https://canlii.ca/t/fsbdg>>

<sup>11</sup> *Law Society of Manitoba v Oakes*, 1999 MBLS 8 (CanLII), <<https://canlii.ca/t/fsbd3>>

- c. Previous Discipline – He has a discipline record and a background with the Society. (See above)
- d. Impact on Victim – In the T [REDACTED]/P [REDACTED] matter, to settle the dispute Mr. T [REDACTED] gave up some \$5,000 of the debt due to him from the P [REDACTED]s along with the interest he would have earned on the debt going forward. While it's correct to say Mr. T [REDACTED]'s loss resulted from Mr. Khandelwal's negligence, he may well not have suffered the loss at all but for Mr. Khandelwal's misconduct. We have no information as to any impact on either Mr. D [REDACTED] or Mr. S [REDACTED] in the other matter.
- e. Advantage/Potential Advantage Gained – Mr. Khandelwal had a clear personal interest in his actions to rectify the T [REDACTED]/P [REDACTED] situation in that he had committed an act of negligence in failing to register the 2019 Mortgage, yet he did not advise the parties to obtain independent advice. There was no possible advantage to be gained in the D [REDACTED]/S [REDACTED] matter.
- f. Number of Times Misconduct Occurred – There is legitimate concern with the T [REDACTED]/P [REDACTED] matter in the number of times Mr. Khandelwal met with Mr. Chahal without bringing it up. Mr. T [REDACTED] contacted him in May 2020. Mr. Khandelwal arranged to have the 2019 Mortgage registered starting May 26<sup>th</sup>, but it took three corrections before LTO finally accepted it effective June 8<sup>th</sup>. He met with the T [REDACTED]s on June 11<sup>th</sup> and 12<sup>th</sup> and in apparent response to an email from Mr. T [REDACTED] went so far as to contact a friend of the T [REDACTED]'s who had accompanied them to the June 12<sup>th</sup> meeting and sought to involve another community member. The file *must* have been on his mind during at least some of those ten meetings with Mr. Chahal yet Mr. Khandelwal never raised the matter with him. We have no explanation as to why he never did so.
- g. Acknowledgement of Actions & Steps to Redress – To his credit, Mr. Khandelwal has proceeded by way of guilty plea and accepted responsibility for his misconduct.
- h. Prospects for Remediation/Rehabilitation – This has been mentioned above and further note is made below. In short, we accept the prospects for rehabilitation are good.
- i. Impact of Other Sanctions – There are no associated criminal or other sanctions as is sometimes the case. However, we understand Mr. Khandelwal is still paying off the fine and costs associated with the October 28, 2019, order.

- j. Impact of Proposed Penalty – Aside from the financial implications of the fine and costs in this case, we understand Mr. Khandelwal will continue to bear the cost of Mr. Chahal's involvement.
  - k. Specific & General Deterrence – The Joint Recommendation meets both goals. We believe the continued imposition of restrictions on his practice for a full year together with the fine and costs will ensure Mr. Khandelwal won't want to find himself before the Discipline Committee again. Similarly, the mere fact that Mr. Khandelwal has been sanctioned for breaching an undertaking and an order and for violating the conflict rules serves to reinforce the certainty that serious misconduct will not go unpunished.
  - l. Public Confidence in Integrity of the Profession – This issue is at the heart of the *Sullivan* case and at the heart of what this panel must decide. It's what this decision is all about. Were we not satisfied the Joint Recommendation is in the public interest, we would not have accepted it.
  - m. Range of Penalties in Similar Cases – As one would expect, none of the cases cited are perfectly analogous to Mr. Khandelwal's situation; some involve more serious misconduct, some less so. However, they provide a reasonable indication of the range of possible outcomes from fines and costs awards of varying amounts to a four-month suspension as in the *Oakes* case. In *Walia* the panel also imposed certain remedial measures. The Joint Recommendation falls within that range.
72. The threshold to reject a joint recommendation is unquestionably very high. We do not believe that threshold has been met in this case and so have accepted the Joint Recommendation.

## A FINAL WORD

73. In reaching its conclusion the panel, like the Society, takes comfort in Mr. Chahal's continued involvement as Mr. Khandelwal's supervisor. As Mr. Kravetsky said, that isn't merely because of his supervisory role but because he can be a valuable resource for Mr. Khandelwal, a true mentor.
74. Mr. Chahal is a respected member of the bar who has sat on the Society's Complaints Investigation Committee for a number of years. He has accepted and continues to accept the significant responsibility of serving as a supervisor for another lawyer.
75. In this case he has already shown his qualities in that role in reporting the T■■■■/P■■■ matter to the Society at the first opportunity. While easy to say, "that's part of the job", it can be one of the most difficult parts to do, particularly when working with someone who, as we understand from Mr. Huband, has

become a friend. Mr. Chahal is to be commended for his actions and thanked for his willingness to continue helping Mr. Khandelwal.

76. Mr. Khandelwal, this decision gives you an opportunity to live up to the promise the Society believes you hold to become an upstanding member of the legal profession in Manitoba. This panel trusts you will do so. But, if things go the other way, we doubt a future discipline panel will be as lenient.

## **ORDER**

77. We find the conduct of Mr. Khandelwal as set out in the Agreed Facts constitutes professional misconduct as alleged in the Citation, other than in Particular (b) of Charge 2, which Particular was withdrawn by the Society.
78. The panel understands the conditions and requirements set out in the Order of October 28, 2019, and the Undertaking of May 28, 2020, remain in effect in accordance with their respective terms.
79. As set out in the Joint Recommendation, the panel therefore further orders:
- a. Mr. Khandelwal pay to the Society a fine of \$7500.
  - b. He pay to the Society \$5000, as a contribution to the costs of the investigation and prosecution of this matter.
  - c. His practise of law be subject to the following additional conditions:
    - i. in every case where he takes confidential information or gives advice in the course of a "drop-in", casual or any inquiry he shall open a file on his regular file system, recording the name and contact information of the person, the nature of the inquiry, a summary of the information taken, the names of opposite parties, if any, and the advice given, and he shall do a conflict search before taking any such information or giving advice to any person, whether by a "drop-in", electronic or other inquiry or first appointment and whether an existing client or not;
    - ii. he shall complete a course of education in conflicts as directed by the Complaints Investigation Committee on April 28, 2021; and

- iii. Notwithstanding the October 28, 2019, Order, there shall be no change in his Supervision requirements for a minimum period of one year, which is to say that the Supervision condition of the October 28, 2019, is varied so that the CEO may not exercise her discretion to permit any change for a minimum of one year from the date of this order.

These written reasons signed the 31<sup>st</sup> day of December 2021.

  
\_\_\_\_\_  
James McLandress, QC, Chair

  
\_\_\_\_\_  
Patricia Kloepfer, Panel Member

  
\_\_\_\_\_  
Jacob Janzen, Panel Member