**THE LAW SOCIETY OF MANITOBA**

**IN THE MATTER OF:**

**PAUL SYDNEY VYAMUCHARO-SHAWA**
**(the "Member")**

**- and -**

**IN THE MATTER OF:**

**THE LEGAL PROFESSION ACT**

| | |
|---|---|
| **Hearing Dates:** | October 7, 8, 9, 10, 11, 21, 22, 28, & 29, November 18, December 10 & 11, 2024, & March 3 & 4, & May 26, 2025 (Conduct Hearing)<br><br>August 19 & 21, 2025 (Sanction Hearing) |
| **Panel:** | Dean Scaletta (Chair)<br>Maureen Terra (Practising Member)<br>David Rondeau (Public Representative) |
| **Counsel:** | Rocky Kravetsky & Ayli Klein for the Law Society of Manitoba ("the Society")<br>Jean-Rene Dominique Kwilu for the Member |

## REASONS FOR DECISION

### Introduction

1. A hearing with respect to the alleged misconduct of the Member was concluded on June 20, 2025, with the release of the Reasons for Decision of the panel on the 20 charges set out in three Citations which had been issued by the Society ("the Conduct Decision"). The panel convicted the Member on 17 of the charges, and acquitted him on the remaining three.

2. Convictions were entered with respect to: (i) Charges 2(a), 2(b), and 2(c) in Citation 1; (ii) Charges 1(a), 1(b), 1(c), 1(d), 2(a), 2(b), 3(a), 3 (b), 3(c), 3(d), 3(e), 4(a), and 4(b) in Citation 2; and, (iii) the one Charge in Citation 3.

3. Acquittals were entered with respect to Charges 1(a), 1(b), and 1(c) in Citation 1.

4. Submissions on sanction were heard on August 19, 2025. The decisions and reasons of the panel on sanction are set out below.

## Relevant Statutory Provisions

5. *The Legal Profession Act*
Sections 3(1), 3(2)(b), 72(1)(a), 72(1)(e), 72(1)(g), & 72(1)(k)

6. *Code of Professional Conduct*
Rules 2.1-1 and Commentary [1] & [2], 5.1-1, 7.2-1, 7.2-3, 7.2-4, & 7.2-11

7. *Law Society Rules*
Rules 5-96(7) & 5-96(8)

8. The full text of these provisions are reproduced in Appendix "A" to these Reasons.

## Relevant Authorities and Principles

### Purposes of Professional Discipline

9. The panel is indebted to prior Discipline Panels which have articulated the guiding principles applicable to cases such as this one. These principles (in no particular order of importance) include the following:

(a) The purposes of law society discipline proceedings are not to punish offenders and exact retribution, but rather to protect the public, maintain high professional standards, and preserve public confidence in the legal profession.

*The Law Society of Manitoba v Nadeau, 2013 MBLS 4*, citing *Lawyers & Ethics: Professional Responsibility and Discipline*, Gavin McKenzie, Carswell 2012

(b) The most fundamental purpose of professional discipline is to maintain the reputation of the legal profession as one in which every member, of whatever standing, may be trusted to the ends of the earth.

*The Law Society of Manitoba v Nadeau, 2013 MBLS 4*, citing *Bolton v. The Law Society* [1993] EWCA CIV 32

(c) The discipline hearing panel focuses on the offence rather than the offender, and considers the desirability of parity and proportionality in sanctions, and the need for deterrence. ... The panel also considers ... aggravating and mitigating factors [which] include the lawyer's prior discipline record, the lawyer's reaction to the discipline process, ..., the

length of time the lawyer has been in practice, the lawyer's general character and the lawyer's mental state.

Other relevant considerations (derived from the list of so-called "*Ogilvie*" factors) include: "(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 victims; ... (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."

*The Law Society of Manitoba v Sullivan, 2018 MBLS 9*, citing *Nadeau* and *Lawyers & Ethics: Professional Responsibility and Discipline*, Gavin McKenzie, Carswell 2012

(d) The factors to be considered in determining a penalty include: (i) the existence or absence of a prior disciplinary record; (ii) the existence or absence of remorse, acceptance of responsibility, or an understanding of the effect of the misconduct on others; (iii) whether the member has since complied with his/her obligations by responding to or otherwise cooperating with the Society; (iv) the extent and duration of the misconduct; (v) the potential impact of the misconduct of the member upon others; (vi) whether the member has admitted misconduct and obviated the necessity of proof; (vii) whether there are extenuating circumstances (medical, family-related, or others) that might explain, in whole or in part, the misconduct; and (viii) whether the misconduct is out-of-character or conversely is likely to recur.

*The Law Society of Manitoba v Nadeau, 2013 MBLS 4*, citing *Law Society of Upper Canada v Ernest Guiste*, 2011 ONLS HP 0129

(e) A panel should not be fettered in its discretion but should be free to choose the factors which suit the circumstances under consideration, including the determination of the weight to be ascribed to any particular factor.

*The Law Society of Manitoba v Nadeau,* 2013 MBLS 4

(f) After a guilty plea or following conviction, a panel may consider whether the offending member has admitted guilt and expressed remorse, not for the purpose of imposing a higher penalty but for the purpose of considering whether leniency should be given.

*The Law Society of Manitoba v Nadeau,* 2013 MBLS 4

(g) Integrity is the foundation of the legal profession. It is first rule in the Code of Professional Conduct and every other rule is based upon it. ... Without this level of trust, the profession cannot function.

*The Law Society of Manitoba v McKinnon*, 2010 MBLS 5

**Progressive Discipline / Prior Disciplinary History / Ungovernability**

10. (a) The principle of progressive discipline stipulates that a lawyer who has had prior discipline, whether for the same or different conduct and whether that conduct has been joined in one proceeding or dealt with by way of successive proceedings, will be subject to a more significant disciplinary sanction than someone who has had no prior discipline.

The principle is in accordance with the Law Society's obligation to protect the public and the reputation of the legal profession. It sends a clear message to the public and the legal profession that the Law Society will not tolerate lawyers who repeatedly ignore their professional responsibilities.

*The Law Society of British Columbia v Batchelor*, 2013 LSBC 9

(b) Progressive discipline is an appropriate consideration, even where the infractions of the member are not of the most serious nature. Progressive discipline reflects the necessity for the member to learn and improve on past behaviour. It reflects the role of the Law Society in upholding [professional] standards and it supports the Law Society's duty to govern its members in the public interest. It represents and supports the necessary balance of consequences providing both specific and general deterrence to the member and the profession as repeated offences, regardless of the nature of them, may be subject to increasingly severe consequences.

*The Law Society of Manitoba v Stem*, 2022 MBLS 6

(c) Ungovernability is closely tied to the principle of progressive discipline. It recognizes that where less serious misconduct repeats itself, sanctions must increase for subsequent offences. At a certain point, progressive sanctions will reach the point where it is found that the

licensee will not accept the authority of the Law Society and they cannot continue as a lawyer ... In circumstances where the previous misconduct was more serious, a further finding of misconduct may be sufficient.

Relatively minor misconduct will lead to revocation or permission to surrender in circumstances where the licensee has shown, through his or her repeated actions despite disciplinary penalties, an inability or unwillingness to be governed by the Law Society. While there is no fixed definition, ungovernability is aimed at addressing circumstances in which the licensee "did not get the message from his [or her] previous discipline history".

The determination of ungovernability is not based solely on a judgment of the panel about whether the licensee will be respectful of the Law Society's authority in the future. The present misconduct, considered in light of past misconduct and sanctions, must objectively be sufficiently serious that revocation or permission to surrender is an appropriate remedy.

*The Law Society of Upper Canada v Shifman*, 2014 ONLSTA 21

(d) The assessment of ungovernability involves a two-step analysis:

(i) Is the nature, duration, and repetitive character of the present and past misconduct sufficiently serious that it suggests an unwillingness or inability to be governed by the Law Society, notwithstanding progressively increased penalties for repeated instances of misconduct?

(ii) If so, in light of all of the circumstances, is revocation appropriate? This involves balancing the nature of the misconduct and disciplinary history against mitigating factors such as character evidence, remorse and recognition of the seriousness of the misconduct, evidence of a willingness to be governed, and the likelihood of future misconduct.

*The Law Society of Upper Canada v Shifman*, 2014 ONLSTA 21

(e) Breaches of undertakings are inherently serious. They are one of the Society's most important tools in governing the profession. Lawyers *must* be expected to keep their promises and the breach of a written undertaking to the Society goes directly to issues of governability.

*The Law Society of Manitoba v Matas*, 2024 MBLS 5

**Disbarment / Permission to Resign**

11. The Panel is indebted to prior Discipline Panels both here and in Ontario which have articulated the guiding principles applicable to this issue. These principles (in no particular order of importance) include the following:

(a) It would be a mistake ... to assume that disbarment is a penalty reserved for cases that combine the worst imaginable offence with the worst imaginable offender.

*The Law Society of Manitoba v. Anhang*, 2002 MBLS 7
*The Law Society of Manitoba v MacIver*, 2003 MBLS 4
*The Law Society of Manitoba v. McDowell*, 2007 MBLS 9
all citing *Lawyers & Ethics: Professional Responsibility and Discipline*, Gavin McKenzie, Carswell 2012

(b) Cases in which lawyers have been permitted to resign are usually those in which the misconduct is sufficiently serious to justify disbarment but in which mitigating circumstances persuade the [panel] that the stigma of disbarment in addition to the withdrawal of the lawyer's right to practise law would be unfair. The practical result of the penalty is the same, except to the extent that [an Admissions and Education Panel] may give more favourable consideration to an application for readmission brought by a former lawyer who has been given permission to resign.

*The Law Society of Manitoba v MacIver*, 2003 MBLS 4
*The Law Society of Manitoba v. McDowell*, 2007 MBLS 9
*The Law Society of Manitoba v. Gembey*, 2021 MBLS 6
all citing *Lawyers & Ethics: Professional Responsibility and Discipline*, Gavin McKenzie, Carswell 2012

(c) It would seem ... that a Discipline [panel] having to decide between permission to resign and disbarment should be guided by three general considerations. ... Firstly, if the offence is of sufficient severity and there are no significant mitigating factors, then protection of the public through general deterrence demands the heaviest penalty and there is little choice but to disbar. Secondly, in all other cases, the [panel] should examine the seriousness of the misconduct and possible mitigating circumstances to see if there is a reasonable basis for exercising the compassion mandated by [ss. 72(1 )(g) of T*he Legal Profession Act (Manitoba)*]. Thirdly, the question of whether the lawyer might ever be trusted to again practice law, while potentially a factor in the choice for disbarment, may also be dealt with by the conditions of resignation and left to the authority of the Admissions Committee.

*The Law Society of Manitoba v MacIver*, 2003 MBLS 4
citing *Lawyers & Ethics: Professional Responsibility and Discipline*, Gavin McKenzie, Carswell 2012

(d) While it is never appropriate to impose a penalty with the desire to publicly humiliate a member, stigma resulting from the imposition of a proper penalty is an unfortunate but unavoidable potential consequence of a member's misconduct.

*The Law Society of Manitoba v MacIver*, 2003 MBLS 4

(e) ...[A]n assessment of allowing resignation rather than ordering disbarment should take into account the following:
first, the range of fit and appropriate sentences must be determined given the facts supporting the finding of guilt;
second, the nature of the mitigating factors;
third, if the facts underlying the offence indicate a strong prima facie case for disbarment as the only disposition within the range of an appropriate sentence, then a plea for resignation may arise as an appropriate alternative disposition only in the limited situation where the nature of the mitigating circumstances addresses why the member committed the offence (in effect, the mitigating factors must temper the culpability of the members commission of the offence and thereby tilt the sentencing objectives away from general deterrence and public confidence); and
fourth, if the facts underlying the offence fall short of a strong *prima facie* case for disbarment such that disbarment is one of a variety of appropriate sentences, and the nature of the mitigating circumstances relate to either why the offence was committed or there are significant mitigating circumstances that are consequential or incidental to the offence, then a panel may consider allowing resignation.

*The Law Society of Manitoba v MacIver*, 2003 MBLS 4
citing *Lawyers & Ethics: Professional Responsibility and Discipline*, Gavin McKenzie, Carswell 2012

(f) ...[T]he general policy rationale [is] to allow reasonable compassion in the right cases. ... [The panel] must assess whether a right thinking member of the public, on a proper understanding of the case, would believe a penalty of disbarment to be harsh and excessive.

*The Law Society of Manitoba v. McDowell*, 2007 MBLS 9
citing *Nova Scotia Barristers Society v. Steele*, 1995 NSBS 8

(g) ...[W]here a member urges upon a Panel not to disbar him or her because of the public humiliation that he or she would suffer, or the costs he or she has already suffered the mitigating factor is less relevant than where, it impacts upon the determination of the cause of the conduct in the first place.

*The Law Society of Manitoba v. McDowell*, 2007 MBLS 9

(h) There is no value in seeking to try to define the concept of "exceptional circumstances" in any more particularity. The phrase is intentionally broad so as to allow for a common sense interpretation of the facts of individual cases to be brought to bear by the panel members chosen to adjudicate the outcome.

*The Law Society of Manitoba v Gorlick*, 2015 MBLS 5

(i) The penalty of disbarment recognizes that the sentence imposed at a disciplinary hearing does more than address the conduct of the individual lawyer. Of paramount consideration is the preservation of the public's trust in the integrity of the legal profession and its faith in its ability to govern its own members.

*The Law Society of Manitoba v Gorlick*, 2015 MBLS 5

(j) Permission to surrender is generally treated as the second most serious penalty, imposed when a panel finds that a licensee should not continue to practise law but the circumstances are less serious than those that warrant revocation [disbarment], can also be imposed in different circumstances. Sometimes ... a licensee facing discipline may not want to continue practising law or providing legal services. ... This approach allows licensees to make decisions that are best for them and also protects the public interest. ... [I]t should not be done where it improperly allows the licensee to avoid other investigations or hearings or the penalty of revocation. (Willoughby)

*The Law Society of Upper Canada v. Willoughby*, 2015 ONLSTH 129

(k) Revocation of a lawyer's license to practise is the most severe penalty that can be imposed as professional discipline. It stops the lawyer's practise of law and removes the risk of harm to the public and to the client.

Orders allowing lawyer's to surrender their licenses also are a severe penalty. The lawyer's privilege to practise law comes to an end. Similarly, the risk to the public and clients comes to an end.

> Both penalties send a message to the public at large and to the legal community that the relevant professional conduct is condemned by the Law Society and by the legal profession.
>
> *The Law Society of Upper Canada v. Ronen*, 2017 ONLSTH 89

**Submissions on Behalf of the Society**

12. The Member has been suspended three times in the past, twice for six months and once for a year. While the second suspension was still in effect, he voluntarily withdrew from practice for five years when another investigation (which, for other reasons, did not generate further charges). Four years after his return to active practice, the Member was suspended a third time.

13. The progressive discipline imposed in the past has not worked; more is needed. The protection of the public dictates disbarment as the only proper sanction.

14. Referring to the various *Ogilvie* factors (not all of which apply to every case), the Society submitted:

    (a) With respect to the convictions under Citation 1 (breach of an Undertaking), the Member was cavalier regarding his obligations under that Undertaking, and made no real effort to comply. This goes to governability.

    The charges under Citation 2 (surreptitious recording of a court proceeding and scurrilous letters to, and about, a sitting judge) describe serious misconduct which raised serious issues of integrity. The Member was convicted on all counts.

    The conviction under Citation 3 also involved a breach of integrity.

    (c) The discipline record reflects multiple instances of dishonesty, and multiple breaches of the duty of integrity. It is indicative of his ungovernability. The Member is unwilling to comply with the *Code* and the *Rules*, and he continues to re-offend time after time.

    (d) The convictions under Citation 2 in particular stem from offences against the administration of justice. The allegations of bias and a racist attitude against the judge negatively impact public confidence in our courts and our judges.

    (g) There are no "mitigating circumstances" in this case. The Member has demonstrated no remorse at any point in the proceedings, and done nothing since his convictions two months earlier to redress, or even acknowledge, the harms resulting from his misconduct.

(h) His lengthy discipline history shows the Member is incapable of rehabilitation. The Society has no faith that he will practise with integrity, and there is a significant risk that he will re-offend.

(j) The sanction of disbarment is the most serious one available to the Society under *The Legal Profession Act*.

(k) If the panel is considering a suspension, the need for specific deterrence dictates that it be a lengthy one. Whether the sanction is disbarment or a lengthy suspension, the need for general deterrence will be met; it will send a strong message to the profession that Undertakings must be complied with, and that conduct (such as the surreptitious recording of court proceedings) will not be tolerated.

(l) Public confidence in the profession, and in the ability of the Society to effectively govern its members, is of paramount importance. Any sanction short of disbarment will adversely impact that confidence.

(m) A review of the various decisions, from Manitoba and other Canadian jurisdictions, confirms the importance of both parity and progressive discipline in cases of this nature. Suspensions and significant costs awards have not worked with this Member in the past; his behaviour has not changed; disbarment is the only appropriate sanction.

15. In Reply, with respect to the defence submission that if the panel is considering disbarment, then the Member ought to be permitted to resign instead, counsel cited *The Law Society of Manitoba v Rabb*, 2023 MBLS 1 and noted that the panel must find a compelling *reason* to grant that alternate disposition.

## Submissions on Behalf of the Member

16. In demanding disbarment, the Society is being unnecessarily harsh. None of the conduct for which the Member has been convicted in this proceeding merits such an extreme sanction. In particular, when the panel indicates that two of the convictions merit at the "low end" of the severity scale, this cannot mean disbarment. The convictions under Citation 2 do not, on their own, merit disbarment.

17. The panel must consider factors other than the past discipline record of the Member, keeping in mind the paramount importance of protection of the public and maintaining its confidence in the profession.

18. For many years, the Member has been required to disclose to his clients and to counsel opposite that he is practising under supervision. This has been, and continues to be, difficult and shaming, particular for a professional in a solo practice.

19. With respect to the convictions under Citation 1, counsel recommended a reprimand, noting that none of the prior convictions are relevant to the issue of inadequate note-taking. While a fine might be justified, neither suspension nor disbarment is appropriate for these convictions. These comments apply equally to the conviction under Citation 3.

20. Disbarment is not warranted by the convictions under Citation 2 either; it is not proportional to the misconduct under review. The panel heard evidence of his motivation for recording the Case Management Conference, and for sending the letters he did. The lawyer in *Doré v Barreau du Québec*, 2012 SCC 12 received a 21-day suspension for a similarly vituperative letter to a judge, and the lawyer in *Histed v Law Society of Manitoba*, 2021 MBCA 70 was not disbarred, even though he had a prior discipline record for similar conduct. [Note: The sanction imposed - a six-month suspension and costs of $34,000 - was pursuant to a joint recommendation.]

21. In recent years, the Supreme Court of Canada has acknowledged the reality of systemic racial discrimination in our legal system such that specific evidence on the point need not be adduced. The subjective perceptions of racialized persons (and, in this case, racialized lawyers) is based on their individual lived experiences, and ought not to be summarily dismissed by adjudicators. In the context of professional discipline, these experiences may explain the misconduct while not necessarily excusing it.

22. In this case, the panel should assign a proper consequence to each Citation; the "global" assessment proposed by the Society is not appropriate and, even if it were, does not make a clear case for disbarment.

23. If, notwithstanding, the panel is considering disbarment, the Member ought to be permitted to resign his membership in the Society and allowed 36 weeks (about nine months) to wind up his practice. Resignation provides the same public protection as disbarment.

## Analysis

24. The accepted template for determining an appropriate sanction involves a careful consideration of the relevant "*Ogilvie*" factors:

    (a) the nature and gravity of the conduct proven

    The conduct in question was undoubtedly serious. Breaches of the *Code*, and baseless attacks on the integrity of a sitting judge, warrant a significant sanction.

(b) the age and experience of the member

The Member was in his early 60s at the time of the conduct now under consideration and had been a member of the Society for more than 30 years. Youth and inexperience do not come into play with respect to this conduct.

(c) the previous character of the member, including details of prior disciplines

The Member has a significant prior discipline record with the Society; it includes instances of attempting to mislead the Society, failure to act with integrity, failure to act with courtesy and fairness, failure to honour trust conditions in a timely fashion, and failure to comply with trust accounting rules.

In 1999, he accepted a formal caution for breach of a trust condition.

In 2000, he pled guilty to nine counts of professional misconduct, including "misappropriation (x3)", "attempt to mislead the Law Society", "failure to serve client in a conscientious, diligent and efficient manner", and "failure to show courtesy and fairness to a fellow lawyer". Pursuant to a joint recommendation, the disposition included a one-year suspension, followed by a two-year period of supervision, and costs of $10,000.

In 2008, the Member pled guilty to four counts of professional misconduct, including "failing to act with integrity by taking steps that could be construed as an attempt to defraud [a provincial government social service agency]" and "failing to act with integrity and failing to be honest and candid when advising clients". Pursuant to a joint recommendation, the disposition included a six-month suspension, a fine of $5,000, and costs of $5,000.

In both of these cases, the Panels demonstrated empathy for the situations in which the Member found himself; they were satisfied that he acted without malice, was motivated by a sincere desire to assist others less fortunate, acknowledged his wrongdoing, and took positive steps to ameliorate the harms caused by his misconduct.

Also in 2008, while the above suspension was still in effect, the Member was investigated for other alleged misconduct related to alleged assistance to a client involved in a fraudulent conveyance, and a separate incident of using his trust account to hide client funds. The Member provided an Undertaking to the Society to not practise

law for at least five years following the expiry of the then extant suspension.

In 2019, four years after his 2015 return to active practice, the Member pled guilty to three counts of professional misconduct, all involving failures to honour trust conditions. Pursuant to a joint recommendation, reluctantly accepted by the Panel, the disposition included a further six-month suspension and costs of $10,000.

(g) whether the member has acknowledged the misconduct and taken steps to disclose and redress the wrong and the presence or absence of other mitigating circumstances

In the Conduct Decision, the panel made several observations relevant to this factor.

At Page 54, Paragraph 99:

To this day, Mr. Vyamucharo-Shawa is unrepentant, still firmly believing the judge deserved the dressing-down he had administered in his letter [dated September 8, 2023] because he believed then, and continues to believe, that Justice Rempel had mistreated him by engaging in conduct that was "humiliating, embarrassing and discriminatory".

At Page 68, Paragraph 150:

The panel is particularly concerned with what it perceives to be a refusal, or perhaps an inability, on the part of Mr. Vyamucharo-Shawa to accept responsibility and accountability for conduct which was clearly and demonstrably unacceptable.

At Page 61, Paragraph 116:

The panel cannot escape the very distinct impression that Mr. Vyamucharo-Shawa, to this day, lacks insight into the impact his behaviours and his words – spoken and written – have on others in the profession with whom he deals on a daily basis. [Note: For example, his email dealings with Ms. Brown (in particular his patently unreasonable demand for a personal undertaking to remit sale proceeds), his aggressive email to one of the new counsel on the matter being conducted by Justice Rempel (Exhibit 54), his equally aggressive, to say nothing of misguided, emails to Veritext, and his unauthorized and unexplained failure to attend a day of hearing in this matter scheduled for December 11, 2024, are but four examples of this lack of self-awareness.]

(h) the possibility of remediating or rehabilitating the member

With respect to all of the charges and, in particular, those on which he was convicted, the Member continues to maintain that he did nothing wrong.

Absent such an acknowledgment, the possibility of "remediating" or "rehabilitating" him appears remote. That there will be any changes in his behaviour – regardless of the sanctions imposed by this panel short of disbarment – seems unlikely.

(i) the impact on the member of criminal or other sanctions or penalties

The panel was not advised of any collateral proceedings, sanctions, or penalties arising from the conduct under review.

(j) the impact of the proposed penalty on the member

As noted above, the Society seeks disbarment, a sanction which ends the legal career of the Member.

The Member seeks reprimands for the convictions under Citations 1 and 3, and a fine, in an amount to be determined by the panel, for the convictions under Citation 2, sanctions which would permit the Member to continue practising.

(k) the need for specific and general deterrence

In terms of specific deterrence, the numerous past instances of misconduct, coupled with convictions on 17 of the 20 charges, set out in three, very different Citations, undoubtedly calls for sanctions which specifically impact the Member personally.

In terms of general deterrence, one would *hope* that lawyers do not need to be reminded that sending inflammatory and abusive letters to (or about) a judge who has conduct of a matter on which they are counsel for one of the parties is conduct which is both unacceptable and deserving of sanction. This case shows that such a reminder may, at times, be necessary, and that the sanctions imposed on a member in similar circumstances are likely to be elevated.

(l) the need to ensure the confidence of the public in the integrity of the profession

This, together with the need to protect the public, are factors of paramount importance.

The purpose of the Society is succinctly described in Section 3(1) of *The Legal Profession Act*. It reads: "The purpose of the Society is to uphold and protect the public interest in the delivery of legal services with competence, integrity and independence."

Lawyers are expected to follow and uphold the law, and the public needs to know, that when they do not, their professional regulator will ensure that they are held to account.

(m) the range of penalties imposed in similar cases

It is rare that a prior decision is factually identical to the case under consideration; establishing parity while recognizing the importance of the concepts of effective progressive discipline and ungovernability involves choosing relevant principles from a number of disparate sources.

The parties here cited several relevant authorities. In no particular order of importance:

*The Law Society of British Columbia v Palmer*, 2023 LSBC 24
*The Law Society of Manitoba v Walsh*, 2006 MBLS 5
*The Law Society of British Columbia v* Batchelor, 2013 LSBC 9
*The Law Society of Upper Canada v Shifman*, 2014 ONLSTA 21
*The Law Society of Ontario v Rapoport*, 2021 ONLSTH 116
*The Law Society of Ontario v Taylor*, 2023 ONLSTH 154
*The Law Society of Manitoba v Nadeau*, 2013 MBLS 4
*The Law Society of Manitoba v Rabb*, 2023 MBLS 1
*The Law Society of Manitoba v MacIver*, 2003 MBLS 4
*Histed v Law Society of Manitoba*, 2021 MBCA 70
*Doré v Barreau du Québec*, 2012 SCC 12
*The Law Society of Manitoba v. Petryshyn*, 2017 MBLS 15

25. Mr. Vyamucharo-Shawa must be removed from the practice of law. The protection of the public, and the critical need to preserve public confidence in the integrity of the profession, demands his removal. There are two ways to achieve this result - disbarment under Section 72(1)(a) of *The Legal Profession Act*, or permission to resign under Section 72(1)(g).

26. The Member is a recidivist. He continues to exhibit the same conduct and continues to make the same types of errors in judgment for which he has been sanctioned in the past. He has not learned from his past mistakes nor from his past sanctions, several of which have been significant, and to that extent may well be perceived as ungovernable. If he is permitted to continue, or resume, practice, there is a strong likelihood he will re-offend.

27. Where, as here, disbarment is an appropriate sanction, it is incumbent on the sanctioning panel to also consider permission to resign. The Society asserts that the latter requires a *reason* to extend this measure of leniency, and this assertion is not wrong. The panel agrees with the submission of the Society there are none of the usual "mitigating circumstances" in this case to justify permission to resign.

**Costs**

28. Section 72(1)(e) of *The Legal Profession Act* and Section 5-96(8) of the *Law Society Rules* grant the Panel a broad discretion to fix appropriate costs. These provisions reflect the principle that lawyers who cause problems for the regulator ought to bear the burden of the costs associated with investigating and prosecuting the conduct.

29. The decision of the Saskatchewan Court of Appeal in *Abrametz* v. *The Law Society of Saskatchewan*, 2018 CarswellSask 253, is instructive in terms of the principles applicable to the assessment of costs in cases where a member of a self-regulating profession has been found guilty of conduct constituting "professional misconduct". The principles articulated by the Court (at paras. 43 to 45) include:

(a) costs are at the discretion of the discipline panel, with discretion to be exercised judicially;

(b) the purpose of costs in a professional disciplinary setting is not to indemnify the regulator but for the sanctioned member to bear the costs of disciplinary proceedings as an aspect of the burden of being a member, and to avoid visiting those expenses on the collective membership; and,

(c) costs awards in disciplinary proceedings are not intended to be punitive; they are, rather, intended to be "a balancing measure that reflects the privilege of membership in a professional organization". [Citing *Trends in Costs Awards before Administrative Tribunals* (2014), 27 Can J Admin L & Prac 259 (WL), by Robert A. Centa and Denise Cooney]

[Note: The decision was overturned in *Law Society of Saskatchewan v Abrametz*, 2022 SCC 29, with no adverse comment on these principles.]

30. This was, by any objective measure, a lengthy hearing involving a great deal of documentation and oral evidence. The length of the hearing was exacerbated by the refusal of the Member to: (a) waive the formal reading of the Citations into the record; (b) admit documents into evidence where consent would have been the norm; (c) admit notorious facts which were ultimately proven by the Society; and, (d) confine his own testimony (on both direct examination and cross-examination) to matters which were *actually* at issue in the proceedings.

31. In *Law Society of Ontario v Rapoport*, 2021 ONLSTH 116, at para. 67, the panel noted: "The Lawyer was certainly entitled to defend himself aggressively to the best of his ability. However, the Lawyer's approach at times went beyond what was necessary or appropriate. These choices unnecessarily lengthened the proceedings." The panel adopts those comments in this case.

32. The authority to recover "counsel fees for time spent by lawyers in investigating and preparing for proceeding to the hearing" is found in Rule 5-96(8)(c); the amount for hearing costs is stipulated by Rule 5-96(8)(c); and the authority to recover honoraria paid to members of the panel (the amounts being set by the Benchers from time to time) is found in Rule 5-96(8)(e).

33. The Society tabled a bill of costs totalling $79,187.30, including an aggregate of $65,087.50 for the three items noted above, plus disbursements for Court Reporter attendances, hearing transcripts, service of subpoenae, and attendance money for three witnesses. The panel is satisfied that the hours docketed for counsel fees and the hourly rates cited are reasonable in the circumstances of this lengthy hearing.

34. Nevertheless, the prosecution has not asked for, and no doubt does not expect, recovery of the entire cost of the investigation and the prosecution. Based on the *Abrametz* factors listed above, the panel is satisfied that the costs incurred by the Society in connection with the investigation and prosecution are significant.

35. The Member requested an "off-set" of the costs awarded against him based on his acquittal on three of the 20 charges he faced, and on the principle that "costs follow the result". The panel received materials and heard oral argument on the point, and declines the invitation to award (or reduce) costs on this basis.

36. The panel notes that with respect to two of the three acquittals, the Society was found to have proved the facts pleaded to the requisite "balance of probabilities" standard. It acquitted, however, because the conduct proved was found not "sufficiently egregious to support the serious finding of professional misconduct".

37. The panel is acutely aware of the principle that costs are not to be, and cannot be seen to be, punitive. In this case, the sanction being imposed effectively ends his ability to earn income as a lawyer, raising the issue of ability to pay. Taking into account this and other factors mentioned by counsel in their respective submissions, the panel fixes the costs payable by the Member to the Society at $60,000.

**Disposition**

38. The panel orders that:

(a) Mr. Vyamucharo-Shawa be disbarred and struck from the Rolls of the Society, effective immediately upon service of these Reasons for Decision on counsel for the Member;

(b) the Society forthwith seek a Custodial Order pursuant to Division 6 (Custodianship) of *The Legal Profession Act*, for the express purpose of winding up the practice of Mr. Vyamucharo-Shawa in an efficient and expeditious manner; and,

(c) that the Member pay costs of $60,000 to the Society, the terms of payment to be set by the Chief Executive Officer in her discretion.

DATED this 25th day of August, 2025.

Dean Scaletta

Maureen Terra

David Rondeau

Appendix "A"

## Relevant Statutory Provisions

### *The Legal Profession Act*

**Purpose**

**3(1)** The purpose of the society is to uphold and protect the public interest in the delivery of legal services with competence, integrity and independence.

**Duties**

**3(2)** In pursuing its purpose, the society must

(a) establish standards for the education, professional responsibility and competence of persons practising or seeking the right to practise law in Manitoba; and

(b) regulate the practice of law in Manitoba.

**Consequences of professional misconduct or conduct unbecoming**

**72(1)** If a panel finds a member guilty of professional misconduct or conduct unbecoming a lawyer or student, it may do one or more of the following:

(a) if the member is a lawyer, disbar the member and order his or her name to be struck off the rolls;

(e) 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;

(g) permit the member to resign his or her membership and order his or her name to be struck from the rolls;

(k) make any other order or take any other action the panel thinks is appropriate in the circumstances.

### *Code of Professional Conduct*

**Chapter 2 – Standards of the Legal Profession**

**2.1 Integrity**

2.1-1 A lawyer has a duty to carry on the practice of law and discharge all responsibilities to clients, tribunals, the public and other members of the profession honourably and with integrity.

**Commentary**

[1] Integrity is the fundamental quality of any person who seeks to practise as a member of the legal profession. If a client has any doubt about his or her lawyer's trustworthiness, the essential element in the true lawyer-client relationship will be missing. If integrity is lacking, the lawyer's usefulness to the client and reputation within the profession will be destroyed regardless of how competent the lawyer may be.

[2] Public confidence in the administration of justice and in the legal profession may be eroded by a lawyer's irresponsible conduct. Accordingly, a lawyer's conduct should reflect favourably on the legal profession, inspire the confidence, respect and trust of clients and of the community, and avoid even the appearance of impropriety.

**Chapter 5 – Relationship to the Administration of Justice**
**5.1 The Lawyer as Advocate**
5.1-1 When acting as an advocate, a lawyer must represent the client resolutely and honourably within the limits of the law, while treating the tribunal with candour, fairness, courtesy, and respect.

**Chapter 7 – Relationship to the Society and Other Lawyers**
**7.2 Responsibility to Lawyer and Others**
7.2-1 A lawyer must be courteous and civil and act in good faith with all persons with whom the lawyer has dealings in the course of his or her practice.

7.2-3 A lawyer must not use any device to record a conversation between the lawyer and a client or another lawyer, even if lawful, without first informing the other person of the intention to do so.

7.2-4 A lawyer must not, in the course of a professional practice, send correspondence or otherwise communicate to a client, another lawyer or any other person in a manner that is abusive, offensive or otherwise inconsistent with the proper tone of a professional communication from a lawyer.

7.2-11 A lawyer must not give an undertaking that cannot be fulfilled and must fulfill every undertaking given and honour every trust condition once accepted.

## *Law Society Rules*
### Part 5 – Protection of the Public
### Division 8 – Discipline Proceedings

**Consequences**
**5-96(7)** When a discipline panel finds that a member is guilty of professional misconduct or of conduct unbecoming a lawyer or student or incompetence, it may impose one or more of the penalties set out under sections 72 and 73 of the Act.

**Costs**
5-96(8) When a discipline panel finds that a member is guilty of professional misconduct or of conduct unbecoming a lawyer or student, or incompetence, it may, pursuant to section 72 of the Act, 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 including, but not limited to, the following items:
(a) all reasonable disbursements incurred by the society in investigating and proceeding to the hearing;
(b) audit fees for time spent by auditors/investigators employed by the society in investigating and proceeding to the hearing, at rates set from time to time by the chief executive officer. These rates must reflect the actual costs connected with the investigation and hearing;
(c) counsel fees for time spent by lawyers in investigating and preparing for proceeding to the hearing, but excluding the time spent at the hearing of the matter, at rates set from time to time by the chief executive officer. These rates must reflect the actual costs connected with the investigation and hearing;
(d) $500 for each one-half day of hearing, including the hearing of motions, arguments and other proceedings; and

(e) honoraria paid to members of the discipline panel who sit on a hearing, including the hearing of motions, arguments, and other proceedings.