



The Law Society of Saskatchewan

AMBIKA CHAUKLA
HEARING DATE: December 21, 2016
DECISION DATE: February 6, 2017

Law Society of Saskatchewan v. Chaukla, 2017 SKLSS 3

IN THE MATTER OF THE LEGAL PROFESSION ACT, 1990
AND IN THE MATTER OF AMBIKA CHAUKLA,
A STUDENT-AT-LAW, OF SASKATOON, SASKATCHEWAN

DECISION OF THE HEARING COMMITTEE FOR THE
LAW SOCIETY OF SASKATCHEWAN

1. The Hearing in this matter proceeded on December 21, 2016, at Regina, Saskatchewan, with Hearing Committee members Della Stumborg, Martin Phillipson, and Perry Erhardt, Q.C. (Chair) present. At the Hearing, Alan McIntyre, Q.C. represented Ms. Chaukla, and Timothy Huber represented the Law Society of Saskatchewan (LSS).
2. The Hearing was convened to consider a Formal Complaint set out by the Conduct Investigation Committee of the LSS against Ms. Chaukla, which comprised three counts. The three counts were subsequently consolidated and reduced to a single count (or charge) for the purposes of the Hearing.
3. The amended Formal Complaint alleged that Ms. Chaukla is guilty of conduct unbecoming a Student-at-Law in that she did, in the context of her application to be admitted as a member of the Law Society of Saskatchewan, intentionally mislead the Law Society of Saskatchewan by submitting an electronic document pertaining to her National Committee on Accreditation exam results that she had falsified by changing a failing grade to a passing grade.
4. At the outset of the Hearing, both Mr. McIntyre, Q.C. and Mr. Huber indicated that there were neither any objections to the composition of the Hearing Committee nor preliminary motions to be presented. The Hearing proceeded and Mr. Huber filed two documents, which were accepted by the Hearing Committee: namely, Notice of Hearing with Proof of Service - Exhibit P-1; and, Agreed Statement of Facts and Admissions – Exhibit P-2.
5. The Hearing Committee noted that at all material times to the charge before it, Ms. Chaukla was a Student-at-Law registered with the LSS and thereby subject to the provisions of

The Legal Profession Act, 1990 (the “Act”), and *Rules of the LSS* (the “Rules”), which pertain to lawyer discipline.¹

6. This matter proceeded on the basis of the Agreed Statement of Facts and Admissions, and Ms. Chaukla entered a plea of guilty to the single (amended) count. The salient facts from the Agreed Statement of Facts and Admissions are the following:

- a) On or about July 17, 2015, Ms. Chaukla provided an email to the Law Society that included digital “screen shots” detailing her NCA results. One of the screen shots that Ms. Chaukla provided indicated that she had received a grade of “Pass” in relation to her May 6, 2015 Evidence exam. This was advanced by Ms. Chaukla as an accurate digital screen shot image of her grades taken by her directly from the NCA Website.
- b) Upon review of the NCA grade screen shots, it became apparent to the Director of the Admission and Education Department, Andrea Johnston that Ms. Chaukla’s most recent Evidence grade for the May 6, 2015 session indicating a “Pass” was in a different font than the other grades she had submitted from the NCA website. Ms. Johnston placed a call to the administrators of the NCA program to verify Ms. Chaukla’s grades. On July 20, 2015, NCA Examinations Manager, Christine Mayer, provided confirmation of Ms. Chaukla’s grades to Ms. Johnston. The report indicated that Ms. Chaukla had received a grade of “fail” on her Evidence exam from the May 6, 2015 session. On July 20, 2015, Ms. Mayer also logged into Chaukla’s Candidate Portal as Ms. Chaukla to confirm what Ms. Chaukla would have seen when she logged in and provided a screen shot to Ms. Johnston clearly illustrating a failing grade.
- c) On July 20, 2015, Ms. Johnston and Jody Martin, Director of CPLED, telephoned Ms. Chaukla to discuss the situation. The call was transcribed. During the call the discrepancy was raised with Ms. Chaukla. She was adamant that she took the screen shot from the NCA website using her Apple MacBook via the ‘command+shift+3’ key combination and that the screen showed a grade of “Pass”. Ms. Chaukla suggested that she would be contacting the NCA administrators to figure out how this could have happened. Ms. Chaukla repeatedly denied that she had altered her grade before submitting it to the Law Society.
- d) On July 21, 2015, Ms. Chaukla’s student-at-law status was suspended and the matter was referred to the Law Society complaints department for further investigation.
- e) In light of Ms. Chaukla’s denial that the grade had been altered, the Law Society determined that a forensic analysis of the screen shot Ms. Chaukla provided

¹ s.59 of *The Legal Profession Act, 1990* provides that provisions of the *Act* pertaining to the competency and discipline of lawyers apply equally to students-at-law.

would be necessary to learn more about the authenticity of the document and how it was created.

- f) On July 30, 2015, the screen shot images submitted to the Law Society by Ms. Chaukla with her July 17, 2015 email were provided to Computer Forensic Analysts at C.S.I. Services Corp (C.S.I.) generated a report dated August 3, 2015, confirming that the screen shot pertaining to Ms. Chaukla's "Pass" grade on her Evidence exam was:
- i. **"not an original screen shot taken on an Apple MacBook laptop with the 'command+shift+3' key combination";**
 - ii. **"at one point saved or exported using Apple's 'Photos 1.0' image software"; and**
 - iii. **And the "forensic image analysis performed on [the screen shot] produced indicators consistent with image modification".**
- g) As a result of the outcome of the report regarding the screen shot, and the indicators consistent with the image modification, the Law Society made the decision to further its investigation by having the computer used to generate the screen shot analysed. Ms. Chaukla was asked in writing to produce the computer she used to take and send the screen shot in question. Ms. Chaukla's counsel responded a short time later on August 10, 2015 and provided the computer given to him by Ms. Chaukla. The computer was forward to C.S.I. with a request that they undertake a forensic analysis to determine the origin of the screen shot submitted by Ms. Chaukla.
- h) C.S.I. generated a report dated August 30, 2015. The following conclusion was reached:
- i. **"Based on a thorough analysis of the MacBook Pro submitted to the Law Society of Saskatchewan by Ambika Chaukla, there is no evidence to substantiate the claim that the laptop was used to record the screen shots from the NCA Portal on 07/17/2015. Furthermore, there is evidence that there were concerted efforts to make changes to the laptop, in an apparent effort to make it appear that it is owned by Ambika Chaukla. This laptop was in "sleep mode" when the screen shots were purportedly taken, and these images, along with other related materials were added to the computer at a later date, most of which originated from the Hotmail account of [Ambika Chaukla]. The images which were sent to the Law Society of Saskatchewan did not exist of the analysed MacBook Pro until between 07/22/2015 and 07/26/2015.**

ii. **Efforts were made to validate the claims, including an exhaustive search of the computer for any reference to the activities claimed by Ambika Chaukla; however, I am not satisfied that the computer used to download the images from the NCA Portal on 07/17/2015 has been produced for examination.”**

- i) The MacBook Pro that Ms. Chaukla provided to her counsel to be forwarded to the Law Society for analysis was not the computer that had been used to create the original screen shots that the Law Society had requested. No further forensic analysis was conducted.
- j) The Law Society has never received an explanation from Ms. Chaukla in response to the conclusions contained in the forensic reports.
- k) Ms. Chaukla did modify or cause someone else to modify her NCA Evidence grade from “Fail” to “Pass”. She then knowingly submitted the modified screen shots to the Law Society with the intent that it be relied upon as genuine as proof of satisfaction of the NCA accreditation process and to form the basis for her admission to the Law Society.

7. Ms. Chaukla’s conduct is extremely concerning to the Hearing Committee given the premeditated and dishonest nature of the initial offending conduct frustrated further by her continued misleading of the LSS.

8. The Hearing Committee entertained submissions from each of Mr. Huber and Mr. McIntyre, Q.C. in support of a joint submission on sentencing.

9. A number of discipline cases involving attempts to mislead the law society officials were cited and discussed by counsel before the Hearing Committee.

10. The Hearing Committee concurs in the following statement of the hearing panel in *Law Society of British Columbia v. Power*, [2009] L.S.D.D. No. 82, at paragraph 36:

Dishonesty in connection with an application for admission as a member of the Law Society is a serious matter. Admission to the profession is a privilege and requires the applicant to show that he or she is of good character. Integrity is a fundamental quality of a member of the profession. This requires a person to act in the utmost good faith with respect to the governing body of the legal profession.

11. In *Power*, the member of the law society was disbarred for having lied to the Law Society of British Columbia on three separate occasions about a false application he submitted to the law society.

12. In *Law Society of Saskatchewan v. Kumar*, 2013 SKLSS 4, a member provided a name other than his proper legal name to the LSS in an effort to prevent the LSS from learning of a disciplinary action against him in another jurisdiction. By the time the truth was revealed, the member had been admitted as a member for a period of time, and practised in Ontario contrary to national mobility provisions. The member was disbarred, and barred from applying for reinstatement for a period of five years. Mr. Kumar appealed the decision of the Discipline Committee to the Saskatchewan Court of Appeal, which upheld the committee's decision.

13. Ms. Chaukla's initial conduct coupled with her continued attempts to mislead place it in a category similar to the conduct in both *Power* and *Kumar*. As Ms. Chaukla was not successful in her attempt to gain membership in the LSS and practise as a lawyer, there was no direct harm to the public. Nevertheless, her actions, as earlier noted, were premeditated and dishonest and thus attract serious sanction.

14. In his submissions, Mr. McIntyre, Q.C. provided information of Ms. Chaukla's personal circumstances and the shame and remorse she now feels. Ms. Chaukla is 29 years old. She was raised by her mother with whom she has a special relationship. She attended Kent University in England for her legal studies thus requiring her to successfully complete the NCA requirements. Her counsel advised that while she did not cooperate with the LSS investigation initially, she came to better understand her folly and is working at rehabilitation in order to restore and prove her good character in the future. As mitigating factors, he indicated that she now takes responsibility for her actions, which have been difficult for her to admit and were precipitated by immense pressure that she felt upon herself particularly given certain cultural and social expectations of her. He advised that the integrity breach is an isolated offence. He also advised of specific mitigating measures that have been voluntarily undertaken by Ms. Chaukla since the commission of the offence including numerous sessions with a psychologist and subsequent counselling.

15. The Hearing Committee agrees that it has a duty to consider and accept a jointly recommended submission on sentencing unless it falls outside of the range of available sentencing options. The Hearing Committee notes *Law Society of Saskatchewan v. Wilson*, 2011 SKLSS 8, which cites and follows *Rault v. Law Society of Saskatchewan*, 2009 SKCA 81, in this regard. In this instance, the Hearing Committee confirms that the sentence set out in the joint submission falls within the range of reasonable sentencing options.

16. The Hearing Committee accepts Ms. Chaukla's plea and finds her guilty of the charge. It finds that her conduct was improper in the circumstances and an appropriate penalty must be assessed.

17. The Hearing Committee hereby orders that the following penalty, consistent with the joint submission of counsel on sentencing, be imposed:

- a) Ms. Chaukla is barred from applying to become a member of the Law Society of Saskatchewan until December 21, 2018; and

b) Ms. Chaukla is ordered to pay costs in the fixed amount of \$5,000.00 to the Law Society of Saskatchewan, which costs must be paid within one year of Ms. Chaukla attaining membership as a lawyer in any provincial or territorial jurisdiction within Canada.

18. The Hearing Committee thanks and commends counsel for both the LSS and Ms. Chaukla on achieving and presenting common ground through the joint submission that balances the need for serious sanction and protection of the public interest while retaining a healthy prospect for rehabilitation. The Hearing Committee observes that there will be checks and balances in place to protect the public interest upon expiry of Ms. Chaukla's sentence, and, as counsel observed, she must avail herself of the resources necessary in the interim in order to be able to satisfy admissions requirements in the future.

Agreed upon by the Hearing Committee this 6th day of February, 2017.

"Perry D. Erhardt, Q.C., Chair"

Della Stumborg

Martin Phillipson

AGREED STATEMENT OF FACTS AND ADMISSIONS

In relation to the Formal Complaint dated September 7, 2016 (as amended herein) alleging the following:

THAT AMBIKA CHAUKLA, of the City of Saskatoon, in the Province of Saskatchewan is guilty of conduct unbecoming a Student-at-Law in that she:

1. Did, in the context of her application to be admitted as a member of the Law Society of Saskatchewan, intentionally mislead the Law Society of Saskatchewan by submitting an electronic document pertaining to her National Committee on Accreditation exam results that she had falsified by changing a failing grade to a passing grade.

JURISDICTION

19. Ambika Chaukla is, and was at all times material to this proceeding, a Student-at-Law registered with the Law Society of Saskatchewan (hereinafter the "Law Society"), and accordingly is subject to the provisions of *The Legal Profession Act*, 1990 (hereinafter the "Act") as well as the *Rules of the Law Society of Saskatchewan* (the "Rules"). By virtue of Section 59 of the Act, the provisions of the Act dealing with lawyer discipline (sections 34-58) apply with equal force to Students-at-Law.

20. While Ms. Chaukla's Student-at-Law status ended on July 21, 2015, in accordance with Section 34.2 of the Act, proceedings may be commenced against a former member within two years of the date they become a former member. The investigation into this matter was commenced on August 5, 2015.

21. Attached at **Tab 1** is a Certificate of the Executive Director of the Law Society of Saskatchewan pursuant to section 83 of the Act confirming Ms. Chaukla's status as a Student-at-Law.

22. Ms. Chaukla is currently the subject of a Formal Complaint dated September 7, 2016. The Formal Complaint was comprised of three allegations that have been consolidated by agreement into the single amended allegation noted herein. The original Formal Complaint was served upon Ms. Chaukla through her counsel on September 8, 2016. Attached at **Tab 2** is a copy of the original Formal Complaint along with proof of service.

23. Ms. Chaukla intends to plead guilty to the amended allegation referenced above. By agreement between the parties, the amended allegation entirely replaces the allegations set out in the original Formal Complaint.

BACKGROUND OF COMPLAINT

24. Ms. Chaukla obtained her law degree in 2012 in the United Kingdom. Pursuant to her application through the National Committee on Accreditation, Ms. Chaukla was required to take and pass a number of examinations in certain broad areas of legal competence at a Canadian law school. Ms. Chaukla began articling with the Meadow Lake Legal Aid Office in June of 2014, while she continued to complete her NCA requirements.

25. Ms. Chaukla had successfully completed a number of required examinations. She had also failed two Evidence exams [**Tab 3**]. According to NCA policies, Applicants may retake a failed NCA examination twice. In the event of a third failure, applicants are required to take the failed subject at a Canadian law school. A fourth and final attempt may be granted at the discretion of the NCA Managing Director in limited circumstances if certain criteria are met.

26. Ms. Chaukla made her third attempt to pass the evidence exam in May 2015. Ms. Chaukla was aware that if she failed her third attempt, she would be forced to enroll in an Evidence course at a Canadian law school. This would have meant that she would be unable to satisfy the conditions of an earlier Law Society "rule waiver" decision dated May 7, 2014 [**Tab 4**] which facilitated her articling year in Saskatchewan with Legal Aid without having to first complete the NCA process. Much depended on Ms. Chaukla's success on her third attempt to pass the NCA Evidence exam.

PARTICULARS OF CONDUCT

27. On or about July 17, 2015, Ms. Chaukla provided an email [**Tab 5**] to the Law Society that included digital "screen shots" detailing her NCA results. One of the screen shots that Ms. Chaukla provided indicated that she had received a grade of "Pass" in relation to her May 6, 2015 Evidence exam [**Tab 6**]. This was advanced by Ms. Chaukla as an accurate digital screen shot image of her grades taken by her directly from the NCA website.

28. Upon review of the NCA grade screen shots, it became apparent to the Director of the Admissions and Education Department, Andrea Johnston that Ms. Chaukla's most recent Evidence grade for the May 6, 2015 session indicating a "Pass" was in a different font than the other grades she had submitted from the NCA website. Ms. Johnston placed a call to the administrators of the NCA program to verify Ms. Chaukla's grades. On July 20, 2015, NCA Examinations Manager, Christine Mayer, provided confirmation of Ms. Chaukla's grades to Ms. Johnston [Tab 7]. The report indicated that Ms. Chaukla had received a grade of "fail" on her evidence exam from the May 6, 2015 session. On July 20, 2015, Ms. Mayer also logged into Ms. Chaukla's Candidate Portal as Ms. Chaukla to confirm what Ms. Chaukla would have seen when she logged in and provided a screen shot to Ms. Johnston [Tab 8] clearly illustrating a failing grade.

29. On July 20, 2015, Ms. Johnston and Jody Martin, Director of CPLED, telephoned Ms. Chaukla to discuss the situation. The call was transcribed [Tab 9]. During the call the discrepancy was raised with Ms. Chaukla. She was adamant that she took the screen shot from the NCA website using her Apple MacBook via the 'command+shift+3' key combination and that the screen showed a grade of "Pass". Ms. Chaukla suggested that she would be contacting the NCA administrators to figure out how this could have happened. Ms. Chaukla repeatedly denied that she had altered her grade before submitting it to the Law Society.

30. On July 21, 2015, Ms. Chaukla's Student-at-Law status was suspended and the matter was referred to the Law Society complaints department for further investigation.

31. In light of Ms. Chaukla's denial that the grade had been altered, the Law Society determined that a forensic analysis of the screen shot Ms. Chaukla provided would be necessary to learn more about the authenticity of the document and how it was created.

32. On July 30, 2015, the screen shot images submitted to the Law Society by Ms. Chaukla with her July 17, 2015 email were provide to Computer Forensic Analysts at C.S.I. Services Corp ("C.S.I."). C.S.I. generated a report dated August 3, 2015 [Tab 10], confirming that the screen shot pertaining to Ms. Chaukla's "Pass" grade on her Evidence exam was:

- i. **"not an original screen shot taken on an Apple MacBook laptop with the 'command+shift+3' key combination";**
- ii. **"at one point saved or exported using Apple's 'Photos 1.0' image software; and**
- iii. **And that "forensic image analysis performed on [the screen shot] produced indicators consistent with image modification".**

33. As a result of the outcome of the report regarding the screen shot, and the indicators consistent with image modification, the Law Society made the decision further its investigation by having the computer used to generate the screen shot analysed. Ms. Chaukla was asked in writing to produce the computer she used to take and send the screen shot in question [Tab 11].

Ms. Chaukla's counsel responded a short time later on August 10, 2015 and provided the computer given to him by Ms. Chaukla. The computer was forwarded to C.S.I. with a request that they undertake a forensic analysis to determine the origin of the screen shot submitted by Ms. Chaukla.

34. C.S.I. generated a report dated August 30, 2015 [Tab 12]. The following conclusion was reached:

“Based on a thorough analysis of the MacBook Pro submitted to the Law Society of Saskatchewan by Ambika Chaukla, there is no evidence to substantiate the claim that the laptop was used to record the screen shots from the NCA Portal on 07/17/2015. Furthermore, there is evidence that there were concerted efforts to make changes to the laptop, in an apparent effort to make it appear that it is owned by Ambika Chaukla. This laptop was in “sleep mode” when the screen shots were purportedly taken, and these images, along with other related materials were added to the computer at a later date, most of which originated from the Hotmail account of [Ambika Chaukla]. The images which were sent to the Law Society of Saskatchewan did not exist of the analysed MacBook Pro until between 07/22/2015 and 07/26/2015.

Efforts were made to validate the claims, including an exhaustive search of the computer for any reference to the activities claimed by Ambika Chaukla; however, I am not satisfied that the computer used to download the images from the NCA Portal on 07/17/2015 has been produced for examination.”

35. The MacBook Pro that Ms. Chaukla provided to her counsel to be forwarded to the Law Society for analysis was not the computer that had been used to create the original screen shots that the Law Society had requested. No further forensic analysis was conducted.

36. The Law Society has never received an explanation from Ms. Chaukla in response to the conclusions contained in the forensic reports.

37. Ms. Chaukla did modify or cause someone else to modify her NCA Evidence grade from “Fail” to “Pass”. She then knowingly submitted the modified screen shot to the Law Society with the intent that it be relied upon as genuine as proof of satisfaction of the NCA accreditation process and to form the basis for her admission to the Law Society.