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**Court of Appeal for Saskatchewan**

**Docket: CACV2464**

**Citation: *Kumar v The Law Society  
of Saskatchewan, 2015 SKCA 132***

**Date: 2015-11-18**

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Between:

**Krishan Kumar**

*Appellant*

And

**The Law Society of Saskatchewan**

*Respondent*

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Before: Ottenbreit, Caldwell and Herauf JJ.A.

Disposition: Appeal dismissed (orally)

Written reasons by: The Honourable Mr. Justice Herauf  
In concurrence: The Honourable Mr. Justice Ottenbreit  
The Honourable Mr. Justice Caldwell

On Appeal From: Discipline Committee of The Law Society of Saskatchewan  
Heard: November 18, 2015

Counsel: Krishan Kumar on his own behalf  
Timothy F. Huber for the Respondent

## **Herauf J.A.**

[1] Krishan Kumar, the appellant, was disbarred from practicing law by a Law Society of Saskatchewan Discipline Committee. He was also prohibited from applying for reinstatement for five years. Finally, he was ordered to pay costs of \$5000 (see 2013 SKLSS 4).

[2] Mr. Kumar's appeal to this Court, pursuant to s. 56 of *The Legal Profession Act, 1990*, SS 1990-91, c L-10.1, was dismissed from the bench with a promise of written reasons follow. These are those reasons.

[3] Mr. Kumar entered guilty pleas to the following allegations of conduct unbecoming a lawyer:

1. did provide false or misleading information to the Law Society of Saskatchewan in his February 15, 2002 Application for Admission as follows:

- a. he failed to use his proper or legal name on the application;
- b. he failed to disclose his change of name to "Paul White"; and
- c. he failed to disclose prior disciplinary actions against him as Paul White in Washington State. Reference Code of Professional Conduct Chapter I.

2. did provide false or misleading information to the Law Society of Saskatchewan in his August 18, 2003 Commencement Report by failing to disclose his membership in the Washington State Bar;  
Reference Code of Professional Conduct Chapter I.

[4] The evidence relating to the allegations was fully contained in a Statement of Admissions admitted to by Mr. Kumar. The Statement of Admissions is appended to this decision for ease of reference as "Appendix A". The Statement of Admissions was the only evidence filed before the hearing committee of The Law Society of Saskatchewan. As a result of the agreed Statement of Admissions, the hearing committee determined that Mr. Kumar was guilty of conduct unbecoming a lawyer. The matter of sentencing was referred to the benchers as a whole, which constituted the Discipline Committee. As already noted, the decision of the Discipline Committee to disbar Mr. Kumar was the only issue on this appeal.

[5] Simply put, Mr. Kumar's sole ground of appeal was that the sentence was too harsh. He maintained that since his conduct did not affect members of the public at large, a reasonable sanction should have been a suspension for a short period of time. He also suggested, during his

oral submissions to this Court, that The Law Society of Saskatchewan is partly to blame for not finding out about his disciplinary sanctions in Washington State at an earlier date.

[6] We agree with The Law Society of Saskatchewan that the proper ground of appeal should be whether the sanction imposed by the Discipline Committee was reasonable. There was no dispute that the appropriate standard of review relating to a decision of this nature of reasonableness. As noted by this Court in *McLean v Law Society*, 2012 SKCA 7 at para 11:

[11] The Supreme Court of Canada fixed the standard of review with respect to the imposition of penalties by Law Societies on lawyers for conduct unbecoming the profession in *Law Society of New Brunswick v. Ryan*, 2003 SCC 20, [2003] 1 S.C.R. 247. According to *Ryan*, a reviewing court, such as this one, must look to the reasons of the Discipline Committee to determine whether its decision is reasonable (see para. 54). The review, however, must be a meaningful one, having regard for the existence of justification, transparency and the intelligibility of the decision under review, and whether the decision falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and law: *Dunsmuir v. New Brunswick*, 2008 SCC 9, [2008] 1 S.C.R. 190 at para. 47.

[7] We are satisfied that overall the Discipline Committee provided clear reasons and justification for its decision. At para. 12 of its decision, the Discipline Committee noted:

...

It goes without saying that in situations where the Member has provided false or misleading information to the Law Society, the Society's ability to regulate the profession and to govern its membership in accordance with its statutory mandate is obstructed. Furthermore, regulatory bodies cannot protect the public in any meaningful way if they are not privy to accurate information concerning their Members. *From the viewpoint of the Membership in a professional society, the issue is one of integrity. Members must be candid and honest in dealing with their professional society in order to enable the society to function.* The importance of integrity in the practice of law cannot be understated and as stated in the Law Society of Saskatchewan's Code of Professional Conduct commentary to Chapter I, "Integrity is the fundamental quality of any person who seeks to practise as a member of the legal profession." and "The principle of integrity is a key element of each rule of the Code." It should be noted that it is not necessarily every false or misleading admission or omission that will automatically lead to severe penalties *but serious breaches of integrity should result in serious penalties in order to maintain the integrity of the legal profession and the public's confidence in it.*

[Emphasis added]

[8] Paragraph 23 also bears repeating:

23. It is the opinion of this committee that the Member's integrity breaches are serious in that they were designed to conceal his identity to gain admission to a professional body. For reasons already canvassed in this decision, *such behaviour cannot be tolerated and must be generally deterred.*

[Emphasis added]

[9] In a nutshell, while the sanction is harsh it is justified on the standard of reasonableness and should be shown deference. For these reasons, the appeal was dismissed. The Law Society of Saskatchewan did not request costs and none were awarded.

CANADA )  
PROVINCE OF SASKATCHEWAN )  
TO WIT )

**IN THE MATTER OF THE LEGAL PROFESSION ACT, 1990  
AND IN THE MATTER OF KRISHAN KUMAR,  
A LAWYER OF NEPEAN, ONTARIO**

**STATEMENT OF ADMISSIONS  
OF KRISHAN KUMAR**

**In relation to the Formal Complaint dated December 14, 2009 [Tab 1] alleging that he:**

1. did provide false or misleading information to the Law Society of Saskatchewan in his February 15, 2002 Application for Admission as follows:
  - a. he failed to use his proper or legal name on the application;
  - b. he failed to disclose his change of name to "Paul White"; and
  - c. he failed to disclose prior disciplinary actions against him as Paul White in Washington State.

*Reference Code of Professional Conduct Chapter I.*

2. did provide false or misleading information to the Law Society of Saskatchewan in his August 18, 2003 Commencement Report by failing to disclose his membership in the Washington State Bar;

*Reference Code of Professional Conduct Chapter I.*

3. did fail to disclose his 2004 disbarment in Washington State to the Law Society of Saskatchewan.

*Reference Law Society of Saskatchewan Rule 149A(3).*

**Jurisdiction**

1. Krishan Kumar (hereinafter "the Member") is, and was at all times material to this proceeding, a practicing member of the Law Society of Saskatchewan (hereinafter the "Law Society"), and accordingly is subject to the provisions of *The Legal Profession Act, 1990* (herein after the "Act") as well as the *Rules of the Law Society of Saskatchewan* (the "Rules"). Attached at Tab 2 is a Certificate of the Executive Director of the Law Society of Saskatchewan pursuant to section 83 of the Act confirming the Member's status.

2. The Member is currently the subject of a Formal Complaint initiated by the Law Society dated December 14, 2009. The Formal Complaint is comprised of the three counts noted above. The Formal Complaint was served upon the Member through his legal counsel on December 15, 2009. Proof of service in the form of an Acknowledgement of Service is included with the Formal Complaint attached at Tab 1.
3. The Member enters a guilty plea to allegations #1 and #2.

#### Background of the Complaint

4. The Member has been a Canadian resident since March 1996 and has resided in Nepean Ontario since August 2003. While he is a member of the Law Society of Saskatchewan and is insured in Saskatchewan he has never practiced here.
5. The Member was admitted to the practice of law in India in 1992.
6. The Member was admitted to practice in the State of Washington in 1996.
7. The Member was admitted to the Law Society of Saskatchewan in 2003.
8. He has never been a Member of the Law Society of Upper Canada nor has he ever held a permit to practice in that jurisdiction. While residing in Ontario, the Member has been engaged only in the practice of Federal Immigration law and primarily on a pro bono basis.
9. On July 7, 2009 the Law Society began an investigation into the Member after being advised by officials with the Law Society of Upper Canada that the Member had been disbarred in Washington State on November 30, 2004 "in absentia". The Notice of Disbarment from Washington State is attached at Tab 3. Mr. Kumar was not aware of the investigation by the Washington State Bar Association and did not have an opportunity to retain/request professional legal representation nor did he represent himself. In reviewing Tab 3, Mr. Kumar specifically does not agree to the charge of failure to cooperate in the disciplinary investigations because he was not aware of the investigations. He also specifically does not agree with the charge of violating ELC 5.3 (e), requiring a lawyer to promptly respond to any inquiry or discovery request made in connection with a disciplinary investigation, because he did not know of any such

investigation. Mr. Kumar does not have full knowledge of the particulars of the other charges but agrees with the facts in paragraphs two through six of the Notice of Disbarment and the first sentence of paragraph seven and, moreover, that he was disbarred in absentia from the Washington State Bar effective November 30, 2004.

10. In April 2001 the Member legally changed his name in the King County District Court from Krishan Kumar to Paul White. The Member then officially changed his membership record with the Washington State Bar Association to reflect his new name.
11. Shortly thereafter, in June 2001, the Member was disciplined and suspended for 30 days by the Washington State Bar Association, as Paul White, for violations of the Rules of Professional Conduct. The discipline decision relating to the 30 day suspension is attached at Tab 4.
12. Approximately 6 months later, the Member submitted an application for enrolment in the Law Society of British Columbia using his former name Krishan Kumar. On this application he did not disclose his use of the name Paul White (his then legal name in the United States) or his membership and discipline history with the Washington State Bar Association. The application required that the Member declare under oath that the information provided by him was true, accurate and complete. The Member ultimately withdrew his application to the Law Society of British Columbia.
13. In July 2002 the Member submitted an application to the Hawaii State Bar Association, again using the name Krishan Kumar. The application required that the Member answer all questions candidly, fully, frankly and truthfully, and completely. The Member did not disclose the fact that his legal name was Paul White, his membership in Washington State or his discipline history there under the name Paul White. Ultimately the Member withdrew his application in January 2003.
14. In March 2003, the Member changed his name in the United States back to Krishan Kumar.

**Saskatchewan Allegations**

15. The Member submitted an Application for Admission as a Student at Law to the Law Society of Saskatchewan dated February 15, 2002. The Application for Admission as a Student at Law is attached at Tab 5. As part of the application the Member declared that all of the information therein was complete and true in every respect.

16. On his February 15, 2002 application, the Member:

- a. did not disclose that his true legal name in the United States at the time of the application was Paul White;
- b. did not disclose his change of name in the United States; and
- c. did not disclose prior disciplinary actions against him as Paul White in Washington State which resulted in a 30 day suspension.

17. On August 18, 2003 the Member was admitted as a member of the Law Society of Saskatchewan as Krishan Kumar. On that same date he failed to disclose his Membership in the Washington State Bar Association to the Law Society in his Commencement Report. Attached at Tab 6 is a copy of the Member's Commencement Report dated August 18, 2003.

**Prior Record**

18. The Member has no other discipline history in this jurisdiction.

DATED at the City of Regina, in the Province of Saskatchewan, this 19<sup>th</sup> day of November, 2012.

MACPHERSON LESLIE & TYERMAN LLP

Per:   
Jason Mohrbutter, Counsel for KRISHAN KUMAR