



Law Society  
of Saskatchewan

**HONG GUO**  
**HEARING DATE: November 20, 2023**  
**DECISION DATE: February 28, 2024**

*Law Society of Saskatchewan v. Guo, 2024 SKLSS 2*

**IN THE MATTER OF *THE LEGAL PROFESSION ACT, 1990***  
**AND IN THE MATTER OF HONG GUO**  
**A LAWYER OF RICHMOND, BRITISH COLUMBIA**

**DECISION OF THE HEARING COMMITTEE FOR THE**  
**LAW SOCIETY OF SASKATCHEWAN**

Committee: Tiffany Paulsen, K.C. (chair), Harold MacKay, K.C. and Ben Grebinski

Parties: Tim Huber, K.C. for the Conduct Investigation Committee  
Hong Guo appearing for herself

**INTRODUCTION**

1. The Amended Formal Complaint, dated September 19, 2023, alleges that Hong Guo (the Member) is guilty of conduct unbecoming of a lawyer in that she:

a) did breach Rule 722 of the *Rules of the Law Society of Saskatchewan* (the 'Rules') in that she failed to immediately report to the Executive Director particulars of charges and disposition of charges laid under *The Criminal Code of Canada*;

b) did breach Rule 722 of the *Rules of the Law Society of Saskatchewan* in that she failed to immediately report to the Executive Director suspensions, investigations, supervisions, undertakings, conditions and similar processes undertaken and imposed by the Law Society of British Columbia; and

c) did fail to reply promptly and completely to communications from the Law Society of Saskatchewan, namely those communications from the Law Society of Saskatchewan Professional Responsibility Department.

2. On November 20, 2023, a Hearing Committee ('the Committee') appointed by the Law Society of Saskatchewan, comprised of Tiffany Paulsen, K.C., Harold MacKay, K.C. and Ben Grebinski, convened via a Teams videoconference call, to hear the matter. There were not any objections as to the jurisdiction, or to the composition, of the Committee. Tim Huber, K.C. appeared for the Conduct Investigation Committee ('the CIC') and the Member appeared on her own behalf.

3. The Notice of Hearing, proof of service and amended formal complaint were marked as L1.

4. Allegation #1 was stayed by the CIC.

5. The Member offered a plea of guilty to conduct unbecoming of a lawyer with respect to allegations #2 and #3.

6. The parties, by consent, tendered an Agreed Statement of Facts and Admissions (ASOF), dated August 30, 2023. The ASOF was marked as L2. It is appended to this decision.

7. The parties proposed a joint submission on penalty, which included the following sanctions:

1. a formal reprimand; and
2. costs payable to the Law Society of Saskatchewan in the amount of \$1,500.

8. As noted in the reasons, and order, set out below, the Committee accepts the joint submission.

## **FACTS**

9. The facts are relatively straightforward and are set out in the ASOF. In summary, they clearly demonstrate that:

a) The Member had not previously notified the Law Society of Saskatchewan ('the LSS') about any of the professional citations, proceedings, practice conditions, disciplinary matters and/or suspensions, that had been brought by the Law Society of British Columbia against the Member.

b) The Member failed to reply promptly, and completely, to communications from the LSS, namely those communications from the LSS Professional Responsibility Department.

## **ANALYSIS**

### **Relevant Regulatory Authorities**

10. The Member's failure to notify the LSS of her regulatory proceedings in British Columbia (allegation 2) is a breach of LSS *Rule 722(b)*. LSS *Rule 722(b)* creates a duty to report as follows:

*722 A Member, Student-at-law, applicant for admission or reinstatement, or a lawyer practicing in Saskatchewan pursuant to Rules 801 to 813 shall immediately report to the Executive Director:*

*(a) particulars of charges and any disposition of charges laid under the following:*

*(i) any law in force in Canada where the offence was prosecutable either as an indictable offence or as a summary conviction offence;*

*(ii) The Securities Act, 1988 or any similar legislation of any province or territory of Canada;*

*(iii) an offence committed outside of Canada and similar to any of the kinds of offences described in clauses (a) or (b);*

*(b) any suspension, investigation, supervision, undertaking, conditions or similar processes including, but not limited to, discipline, professional standards, accounting or audit proceedings, by a professional regulatory body in any jurisdiction.*

11. The Member's conduct in relation to allegation 3 represents a breach of the *Code of Professional Conduct*, specifically:

*7.1-1 A lawyer must reply promptly and completely to any communication from the Society.*

12. The authority of the Committee to impose a penalty, in the context of a hearing, and where a finding of conduct unbecoming has been made, is found in LSS *Rule 1131*. In this case, the Member has pled guilty to the charges of conduct unbecoming. Therefore, LSS *Rule 1131* is relied upon by the Committee.

### **Joint Submission**

13. In this matter, the sanction of a formal reprimand and costs was advanced as a joint submission. It is not the role of the Committee to simply "rubber stamp" a joint submission. The Committee is to thoughtfully consider the significance, and the appropriate weight, to be given to a joint submission. Specifically, the penalty proposed must be reasonable, fit, fall within the range of acceptable sentences and not contrary to the public interest. Further, in the context of a self-regulating profession such as lawyers, a joint submission must accord with objectives of protecting the public and maintaining confidence in the legal profession.

14. Having said that, in consideration of numerous cases related to joint submissions, an adjudicative body should not reject joint submissions made by parties unless those submissions are unreasonable, or inappropriate, in some way. (*Law Society of Upper Canada v Orzech*, [1996] L.S.D.D. No 56 at pg. 6, *R. v Dorsey* (1999), 123 O.A.C. 342)

15. If the objectives related to sanctioning, listed above, are met, the Committee will typically defer to a reasonable agreement made between the parties to encourage co-operation by Members with the disciplinary process. Joint submissions also represent an efficient use of resources by removing the need for an extensive hearing.

### **Discussion**

16. The penalty proposed in the joint submission is a formal reprimand and costs payable to the LSS in the amount of \$1,500.

17. The ASOF provided a full description of the facts relevant to the Member, as well as the allegations, in order to give the Committee, the proper basis to determine whether the joint submission should be accepted.

18. In his written and oral submissions, counsel for the CIC referred to the principles, and considerations, of sentencing when determining whether a proposed penalty is reasonable. Specific reference was made to sanctions imposed in the past for similar conduct, protection of the public, deterrence and the presence of aggravating and mitigating factors.

### **Prior Sanctions for Similar Conduct**

19. With respect to the allegation of a failure to promptly respond to the LSS, the Committee was referred to a number of cases that considered sanctions in respect of this issue. (for example, *Law Society of Saskatchewan v McCullough*, 2011 SKLSS 2, *Law Society of Saskatchewan v Stonechild*, 2013 SKLSS 8, *Law Society of Saskatchewan v Peet*, 2013 SKLSS 5).

20. In his submission, counsel for the CIC advised that a common outcome for a first offence, in cases addressing a failure to respond, is often a reprimand, costs and potentially a fine. A reprimand and costs should not be seen as inconsequential. Failure to respond one's own professional regulator, in a timely way, is a serious concern. The gravity is confirmed by the decision of the LSS, in this matter, to proceed by way of disciplinary proceedings to address the conduct as opposed to other, less formal, methods.

21. Accordingly, with respect to the issue of failure to respond, and in consideration of the facts in this specific case, the Committee finds that the joint submission of a reprimand and costs reasonably falls within the range of appropriate, and expected, outcomes.

22. The allegation of failure to report disciplinary proceedings, from other jurisdictions, is less common. Indeed, this specific topic has not been the subject of a reported case. There is some analogy to failure to notify a regulator of criminal charges and, as such,

those cases were reviewed. (*Law Society of Upper Canada v Igbinosun*, [2012] L.S.D.D. No. 239, *Law Society of Ontario v Matanov*, [2022] L.S.D.D. No. 89, *Law Society of Ontario v Burgess*, [2021] L.S.D.D. No. 30). The aforementioned cases cite a range of penalty that went from a formal caution to a one-month suspension.

23. The Committee finds that the Member's failure to report her proceedings with respect to the British Columbia Law Society, even after repeated requests and warnings from the LSS to do so, was a serious matter and warrants a penalty more serious than a formal caution. In consideration of the facts of this case, the joint submission of a reprimand and costs reasonably falls within the range of appropriate, and expected, outcomes when sanctioning for a failure to report disciplinary proceedings to a regulator.

#### Protection of the Public

24. Lawyers are a self regulated profession. Fundamentally, the purpose of regulation, through the LSS, is protection of the public. Protection of the public, as well as ensuring public confidence in the legal profession is also achieved, in large part, through oversight including professional disciplinary proceedings, when required. (*Law Society of Saskatchewan v Clements*, 2022 SKLSS 1, para 12).

25. The Committee is confident that the penalty proposed in the joint submission meets the LSS's mandate, as set out in its governing legislation, to "protect the public by assuring the integrity, knowledge, skill, proficiency and competence of the members". (*The Legal Profession Act, 1990*, section 3.1(c)). Imposing a penalty of a reprimand and costs for failure to communicate with the LSS, as well as a failure to report extra-provincial regulatory proceedings, ensures the LSS has the full information from which to effectively regulate its membership, which is essential to fulfil its mandate to protect to the public.

#### Deterrence

26. There are two types of deterrence, as they relate to sentencing in this matter. The first is specific deterrence; impressing upon the Member the need to ensure their future conduct is compliant with the *Rules*. The second type of deterrence is general deterrence; reminding other members of the profession of the possible consequences of failure to observe the requirements of the *Rules* and the *Code*. (*Law Society of Saskatchewan v de Whytell*, 2020 SKLSS 7).

27. In this case, not only does the Member need to accept the obligation to report regulatory proceedings in other jurisdictions to the LSS, but the membership as a whole needs to understand they are required to report extra provincial regulatory proceedings to the LSS. As noted by counsel for the CIC, a failure to report extra provincial regulatory proceedings by a member diminishes LSS's ability to effectively regulate and casts doubt on a member's ability to understand the underlying requirements of integrity and accountability inherent in being a member of a regulated profession.

28. Regarding the allegation of a failure to reply, and the objective of deterrence, the Member and the membership as a whole must remain aware that of the importance to respond promptly, and completely, to communications from the LSS.

### Aggravating/Mitigating Factors

29. In the matter before us, the Committee also considered the presence of mitigating and aggravating factors. The Saskatchewan Court of Appeal in *Abrametz v Law Society of Saskatchewan*, 2023 SKCA 114, provided a non-exhaustive list of factors:

*[74] . . . As Wilkinson J.A. observed in Merchant 2009, “the reasonable range of sentences in disciplinary matters is elastic...[and]...will be impacted by considerations of age, experience, discipline history, the unique circumstances of the Member, and the nature of the conduct complained of” (at para 95). In Gavin McKenzie, Lawyers and Ethics: Professional Responsibility and Discipline, loose-leaf (2023-2) (Toronto: Thomson Reuters, 2018) at 26:18 (WL) (McKenzie), the learned author notes that specific deterrence, general deterrence and, in appropriate cases, improved competence, rehabilitation, and restitution are relevant, and offers this overview of considerations that are often taken into account:*

*Factors frequently weighed in assessing the seriousness of a lawyer’s misconduct include the extent of the injury, the lawyer’s blameworthiness, and the penalties that have been imposed previously for similar misconduct. In a 2022 decision [Abrametz SC], the Supreme Court of Canada held that the presence of an abuse of process may be considered when determining the appropriate penalty. In assessing each of these factors, the discipline hearing panel focuses on the offence rather than on the offender and considers the desirability of parity and proportionality in sanctions and the need for deterrence. The panel also considers an array of aggravating and mitigating factors, many of which are relevant to the likelihood of recurrence. These aggravating and mitigating factors include the lawyer’s prior discipline record, the lawyer’s reaction to the discipline process, the restitution (if any) made by the lawyer, the length of time the lawyer has been in practice, the lawyer’s general character, and the lawyer’s mental state. Alcoholism, drug addiction, stress caused by financial and matrimonial difficulties, and mental illness are common factors in discipline cases and are material to the assessment of penalty in cases where a causal relationship exists between the lawyer’s condition and the misconduct being considered. (footnotes omitted)*

*[75] In James T. Casey, Regulation of Professions in Canada, loose-leaf (2023-6) (Toronto: Thomson Reuters, 1994) at 14:3 (WL) (Casey) the learned author identifies a slightly different non-exclusive list of factors that have been treated as mitigating:*

*- “attitude” since the offence was committed, as a less severe sanction may be imposed where the person genuinely recognizes that their conduct was wrong, with the caveat that there is authority that while remorse can be a mitigating factor, a lack of remorse cannot be an aggravating factor, in circumstances where the*

*offender honestly believes in their innocence (D'Mello v Law Society of Upper Canada, (2015), 2015 ONSC 5841);*

*- the age and experience of the offender,*

*- the offender's disciplinary record;*

*- entering a guilty plea where doing so shows an acceptance of responsibility; provided that there is authority that it is an error to treat an explanation offered in an attempt to mitigate the sanction as an aggravating factor (McLean);*

*- whether restitution has been made;*

*- the good character of the offender; and*

*- a long unblemished record of public service.*

30. The determination of weight for aggravating and mitigating factors needs to be addressed in this decision.

31. In this case, the mitigating factors, jointly presented, were that the Member had been co-operative with the LSS process, she entered into an Agreed Statement of Facts and pled guilty. Through her own oral submissions, supported by a letter from a medical professional, the Member also advised she was facing (and had faced) mental health struggles, which the Committee considers an important mitigating factor as well.

32. The Committee puts significant weight, and importance, on each of the mitigating factors presented; the Member was co-operative with the LSS process, she entered into an ASOF, pled guilty and was experiencing significant issues with her mental health. All of the aforementioned factors were of sufficient weight to influence the penalty. It was these mitigating factors that led the Committee to accept the joint submission that resulted in a reprimand and costs but did not include a fine against the Member.

33. The aggravating factors include that the Member was clearly, and repeatedly, informed of her reporting obligations when it first became clear to the LSS that the Member was not advising of her proceedings occurring with the Law Society of British Columbia. Despite the clear direction from the LSS, the Member still did not report her, very significant, on-going proceedings as they arose.

34. Similar to the mitigating factors, the Committee put significant weight, and importance, on each of the aggravating factors presented. All of the aggravating factors were of sufficient weight to influence the penalty. In the view of the Committee, the Member's actions were a wilful disregard of the Member's obligations, which moved this matter from beyond a formal caution or conduct review, and into the discipline process. It is because of these aggravating factors that the Committee accepted a joint submission that was more serious than a reprimand, or an assessment of costs, against the Member, and included both sanctions.

## **CONCLUSION**

35. The sanction of a formal reprimand and costs in the amount of \$1,500 advanced as a joint submission is accepted by the Committee. While the Member did not put

forward a proposal for payment, the Committee is of the view that it is reasonable for the costs should be paid within 60 days.

36. The Committee therefore orders that:

- a. Hong Guo shall receive a reprimand; and
- b. Hong Guo shall pay costs to the Law Society of Saskatchewan in the amount of \$1,500, payable on or before April 30, 2024.

Dated at Saskatoon, Saskatchewan, the 28<sup>th</sup> day of February, 2024.

“Tiffany M. Paulsen, K.C.” (chair)

“Harold MacKay, K.C.”

“Ben Grebinski”

### **AGREED STATEMENT OF FACTS AND ADMISSIONS**

**In relation to the Formal Complaint dated April 18, 2023, alleging the following:**

THAT HONG GUO, of the City of Richmond, in the Province of British Columbia, is guilty of conduct unbecoming a lawyer in that she:

- ~~1. did breach Rule 722 of the Rules of the Law Society of Saskatchewan in that she failed to immediately report to the Executive Director particulars of charges and disposition of charges laid under *The Criminal Code of Canada*; WITHDRAWN~~
2. did breach Rule 722 of the Rules of the Law Society of Saskatchewan in that she failed to immediately report to the Executive Director suspensions, investigations, supervisions, undertakings, conditions and similar processes undertaken and imposed by the Law Society of British Columbia; and
3. did fail to reply promptly and completely to communications from the Law Society of Saskatchewan, namely those communications from the Law Society of Saskatchewan Professional Responsibility Department.

#### Jurisdiction

37. Hong Guo (hereinafter “the Member”) is, and was at all times material to this proceeding, a Member of the Law Society of Saskatchewan (the “LSS”), 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”). During the times relevant to this proceeding, the Member was concurrently a member of the Law Society of British Columbia (the “LSBC”).

38. The Member is currently the subject of a Formal Complaint initiated by the LSS dated April 18, 2023. The Formal Complaint is attached at **Tab 1** along with proof of service. The Member intends to enter guilty pleas to allegations #2 and #3. The LSS intends to withdraw allegation #1.



### Particulars of Conduct

39. On June 1, 2019, the LSS received a notice from the LSBC that the Member had been placed under interim administrative suspension as of May 30, 2019. The Member had been an active member of the LSS continually since 2009, with the exception of a brief administrative disqualification in 2011 and a change to inactive status for 2015. The Member had not practiced law in Saskatchewan since she moved to British Columbia shortly after she signed the rolls. Her annual reports disclose that she does not have a trust account in Saskatchewan.

40. By letter dated June 6, 2019 [TAB 2], Valerie Payne, LSS Professional Responsibility Counsel, notified the Member that, pursuant to (then) Rule 399, she would be reciprocally suspended in Saskatchewan to coincide with the suspension in British Columbia. Further, the Member was advised that she was obliged to advise the LSS of proceedings in British Columbia pursuant to (then) Rule 169 which stated the following:

**169. (1) A member, Student-at-law, applicant for admission or re-admission, or a lawyer practicing in Saskatchewan pursuant to Rules 192-204 shall immediately report to the Executive Director:**

..

**(b) any suspension, investigation, supervision, undertaking, conditions or similar processes including, but not limited to, discipline, professional standards, competency, accounting, or audit proceedings, by a professional regulatory body in any jurisdiction.**

41. The Member had not previously notified the LSS about the proceedings in British Columbia that had given rise to the interim administrative suspension. She was asked in that letter to “provide us with notice when the Law Society of British Columbia suspension has been stayed/lifted, as well as the result of any disciplinary proceedings that occur as a result of the concerns giving rise to the suspension, so that we may update your status.”

42. Following the LSS being notified of the Member’s suspension in British Columbia a reciprocal suspension commenced in Saskatchewan effective May 30, 2019.

43. On the evening of June 6, 2019, the LSS received notice from the Member’s assistant that the interim suspension had been lifted. After confirming this with the LSBC, Ms. Payne wrote to the Member on June 10, 2019 [TAB 3], indicating that the reciprocal suspension had also been lifted in Saskatchewan. Ms. Payne also noted the following in that letter:

**However, as I noted in my first letter to you, under Rule 169(1)(b) of the Rules of the Law Society of Saskatchewan, you are required to notify us immediately of “any suspension, investigation, supervision, undertaking, conditions or similar processes including, but not limited to, discipline, professional standards, competency, accounting, or audit proceedings, by a professional regulatory body in any jurisdiction.”**

**I note from the LSBC website that you have two discipline matters pending against you at the moment, one for which a Citation was issued on December 12, 2018, and one for which a Hearing has been scheduled for February 2020. I also note from reading the Citations, that there have been several other discipline and/or practice restriction matters with the LSBC, including an interim Order dated August 17, 2016, and Undertakings given to the LSBC dated April 19, 2016. During all of these events,**

you were a member of the Law Society of Saskatchewan and subject to Rule 169(1)(b).

Please consider this letter to constitute formal notice that, should there be any future breaches of Rule 169(1)(b) on your part, we may proceed with disciplinary action against you.

In order to prevent this, we would suggest the following:

- 1) Provide us with a description of your current status with regard to the LSBC, including (but not limited to) any undertakings, practice conditions or practice restrictions to which you are currently subject. We obviously have access to the Citations you are currently facing, but if there is any other information relevant to issues of “any suspension, investigation, supervision, undertaking, conditions or similar processes including, but not limited to, discipline, professional standards, competency, accounting, or audit proceedings”, please provide those as well.
- 2) Keep the Law Society updated with regard to the status of the ongoing matters with LSBC, including (but not limited to) any further suspensions, new citations, scheduling or outcome of hearings.

44. Ms. Payne followed this up with a letter on October 10, 2019 [Tab 4], requesting an update with regard to the disciplinary matters and again reminding her of her obligations under Rule 169(1)(b). No further communications were forthcoming from the Member regarding her disciplinary matters in BC.

45. On January 3, 2023, the LSS received a letter from the LSBC [TAB 5]. That letter indicated that the Member was the subject of nine outstanding citations in British Columbia. The LSBC was seeking an up-to-date discipline history for the Member from the LSS.

46. A review of the citations (including several citations issued between 2019 and 2022) revealed extremely serious allegations made against the Member [TAB 6]. The Member had also been handed a 1-year suspension following a hearing, but the suspension had been stayed pending appeal by both the LSBC (seeking disbarment) and the Member. The 1-year suspension was upheld following the review.

47. No notice of any of those proceedings had been provided to the LSS by the Member. It is important to note that many of the LSBC proceedings are still ongoing and that determinations have not been made in those proceedings as of the date of this Agreed Statement of Facts. The ultimate outcome of any of those proceedings is not relevant to the Member’s failure to provide notice of these proceedings to the LSS in a timely fashion or at all.

48. Following receipt of the letter from the LSBC, Ms. Payne reviewed the LSS database and noted that the Member had not yet completed her renewal for 2023 in Saskatchewan. She was placed on administrative disqualification status. The Member immediately contacted the Law Society of Saskatchewan after receiving notification of her disqualification. She indicated that she had sent a cheque, but did not know why it had not been received.

49. At the time it was also discovered that the Member had been suspended for the month of May, 2022. She had not notified the LSS of that suspension at the time that it occurred.

50. The Member had been subject to several practice conditions in British Columbia that were also not reported to the LSS contrary to the rules.

51. On January 11, 2023, Ms. Payne wrote to the Member noting the previous communications and warnings to her. Ms. Payne notified her that the LSS would be applying a retroactive reciprocal suspension for the May, 2022 period during which she was suspended by the LSBC. Ms. Payne also provided her with updated version of the applicable Rule (the Rule number had since changed to 722) and confirmed the Member's obligations under section 7.1-1 of the Code (A lawyer must reply promptly and completely to any communication from the Society). The Member was also notified that an LSS complaint against her had been initiated regarding her apparent breaches of Rule 722 and Code Section 7.1-1. She was asked to provide a response or explanation regarding these apparent breaches, in writing, within 30 days. To date, no response has been received from Ms. Guo.

52. As a result of the various pending matters before the LSBC (the details of which were received directly from the LSBC on January 12, 2023), the Member was informed that she would have to provide a certificate of standing from the LSBC and proceed through a more robust reinstatement process. No certificate was provided from the Member and she remained on administrative suspension status.

53. On March 3, 2023, we received notice from the LSBC that a review into a suspension involving the Member had been concluded. Following that determination, the Member would be the subject of a 1-year suspension from March 8, 2023 to March 8, 2024 (inclusive). The Member is, currently suspended in Saskatchewan on a reciprocal basis for the same period of time.

54. The Member states that she was not aware of her personal obligation to inform the LSS about these matters and states that she thought that the LSBC was providing all of the information to the LSS, so that she did not have to. This was an incorrect assumption.

55. The Member has no prior discipline history in Saskatchewan. She continues to be the subject of 7 active proceedings before the LSBC at various stages of the prosecution process.