

THE LAW SOCIETY OF BRITISH COLUMBIA
IN THE MATTER OF THE *LEGAL PROFESSION ACT*, SBC 1998, c. 9
AND
A HEARING CONCERNING
BALDEV S. GHAG
RESPONDENT

**RULE 4-29 ADMISSION OF MISCONDUCT
AND UNDERTAKING TO DISCIPLINE COMMITTEE**

TAKE NOTICE THAT on November 4, 2019, the Discipline Committee considered and accepted a proposal submitted by the Respondent under Rule 4-29 of the Law Society Rules.

Under the proposal, the Respondent admitted professional misconduct as alleged in the citation issued March 14, 2019 (the “Citation”), agreed to resign his membership in the Law Society as of November 8, 2019, and gave his undertaking, for a period of ten (10) years, commencing on November 8, 2019:

- (a) not to engage in the practice of law in British Columbia with or without the expectation of a fee, gain or reward, whether direct or indirect;
- (b) not to apply for re-admission to the Law Society or elsewhere within Canada;
- (c) not to apply for membership in any other law society (or like governing body regulating the practice of law) without first advising in writing the Law Society;
and
- (d) not to permit his name to appear on the letterhead of, or work in any capacity whatsoever, for any lawyer or law firm in British Columbia, without obtaining the prior written consent of the Discipline Committee of the Law Society.

As a result, the Citation is now resolved under Rule 4-29 of the Law Society Rules and the Respondent's admission of professional misconduct and his undertaking will be recorded on his professional conduct record.

In making its decision, the Discipline Committee considered a letter to the Chair of the Discipline Committee dated October 24, 2019 in which the Respondent admitted the disciplinary violation and gave his undertaking not to practice law, a Notice to Admit dated June 14, 2019 and Response dated June 25, 2019 and the Respondent's prior professional conduct record.

The Respondent has acknowledged that pursuant to Rule 4-29(5), his undertaking not to practice means that he is a person who ceased to be a member of the Law Society as a result of disciplinary proceedings and that section 15(3) of the *Legal Profession Act* applies to him.

The admitted facts underlying the misconduct are set out in the attached Notice to Admit all of which were admitted by the Respondent.

THE LAW SOCIETY OF BRITISH COLUMBIA
IN THE MATTER OF THE *LEGAL PROFESSION ACT*, SBC 1998, c. 9
AND
A HEARING CONCERNING
BALDEV SINGH GHAG
RESPONDENT

NOTICE TO ADMIT
(Rule 4-28 of the Law Society Rules)

TO: **Baldev Singh Ghag**
Ghag and Company
Suite 202, 8334 - 128 Street
Surrey, BC V3W 4G2

AND TO: **Michael P. Klein, QC**
Michael Klein Law Corporation
Suite 1050 - 777 Hornby Street
Vancouver, BC V6Z 1S4

YOU ARE REQUESTED TO ADMIT, for the purposes of this hearing only, the truth of the facts and the authenticity of the documents listed below.

YOU MUST RESPOND TO THIS REQUEST in accordance with Rule 4-28 of the Law Society Rules by serving a response within 21 days that must contain one of the following in respect of each fact described in this request and each document attached to the request: an admission of the truth of the fact or the authenticity of the document attached to the request; or a statement that you do not admit the truth of the fact or the authenticity of the document, along with the reasons for not doing so.

IF YOU FAIL TO RESPOND TO THIS REQUEST in accordance with Rule 4-28 within 21 days as described above, you will be deemed to admit, for the purposes of

this hearing only, the truth of the facts and the authenticity of the documents set out below. If you serve a response within these time limits but do not provide a response to each fact and document listed below, you will be deemed to admit, for the purposes of this hearing only, the truth of the facts and the authenticity of the documents for which you have not provided a response.

YOU ARE REQUESTED TO ADMIT THE AUTHENTICITY OF THE FOLLOWING ATTACHED DOCUMENTS AND BY DOING SO, YOU ACKNOWLEDGE:

“Authenticity” of each attached document means, unless otherwise stated:

- a. the document is a true copy of the original document,
- b. the document was written or created on the date on the face of the document,
- c. where by the content or nature of the document it was intended to be sent or delivered, that it was sent or delivered on the date it bears on its face and was subsequently received by the intended recipient,
- d. where on its face the document purports to have been written or created under the instructions of the person who signed it or where on its face the document’s creation was authorized by the person who signed it, that it was so written, created or authorized,
- e. where the document purports on its face to have been received on a particular date or time, that it was so received, and
- f. the document is admitted into evidence to prove that the statements were made and not for proof of the truth of the matters recorded in it, unless otherwise indicated/set out below.

Tab	Document Description
1.	Citation issued March 14, 2019 (DD #39)
2.	Letter dated March 14, 2019 from G. Bains (Law Society) to G. DelBigio, QC, with endorsement of G. Delbigio, QC, dated March 18, 2018 [sic] (DD #40)
3.	Information #1 against Baldev Singh GHAG, dated January 26, 2018 (received by email dated January 26, 2018 from G. Sair to A. Driessen (Law Society)) (DD #15)
4.	Proceedings at Sentencing, <i>R. v. Baldev Singh Ghag</i> , dated January 10, 2019 (received by email dated January 18, 2019 from S. Zantolas (J.C. WordAssist Ltd.)) (DD #28)

Tab	Document Description
5.	Reasons for Sentence of The Honourable Judge Meyers, <i>R. v. Baldev Singh Ghag</i> , (received by email dated March 22, 2019 from A. Pratt-Johnson (J.C. WordAssist Ltd)) (DD #41)
6.	Conditional Sentence Order and Fine Order and Notice of Victim Surcharge (received by email dated January 11, 2019 from G. Sair to A. Driessen) (DD #25)
7.	Agreed Statement of Facts and Joint Submission on Sentence dated January 10, 2019 (received by email dated January 10, 2019, from G. Sair to A. Driessen) (DD #24)
8.	Transcript of Interview of the Respondent by A. Driessen dated May 18, 2018, without attachments (DD #18, pages 8-10)
9.	Media articles referring to the Respondent (miscellaneous dates) (DD #26 & #34)

YOU ARE REQUESTED TO ADMIT THE TRUTH OF THE FOLLOWING FACTS:

1. Baldev Singh Ghag (the “Respondent”) was called and admitted as a member of the Law Society of British Columbia on August 1, 1985.
2. The Respondent practises almost exclusively in the area of real estate law and, at the time of the alleged misconduct, practised at Baldev S. Ghag Law Corporation, in Surrey, B.C.

Citation and Service

3. The citation in this matter was authorized by the Discipline Committee on February 28, 2019 and was issued on March 14, 2019 (the “Citation”). A copy of the Citation is at **Tab 1**.
4. On March 18, 2019, the Respondent was served with the Citation.
5. On March 18, 2019 (erroneously typed as “2018”), the Respondent’s counsel acknowledged receipt and service of the Citation on the Respondent’s behalf, in accordance with Rule 4-19 and Rule 10-1 of the Law Society Rules. A copy of a letter dated March 14, 2019, from Gurprit Bains to Gregory P. DelBigio, QC, and endorsed by Mr. DelBigio on March 18, 2018 [sic], is at **Tab 2**.

Criminal Conviction

6. On January 26, 2018, the Respondent was charged as follows contrary to section 239(1)(d) of the *Income Tax Act*, RSC 1985, c. 1 (5th Supp.) (the “ITA”):

Baldev Singh Ghag, of the City of Surrey, Province of British Columbia, between December 31, 2004 and May 1, 2010, did willfully evade or attempt to evade the payment of taxes imposed by the Income Tax Act by failing to report taxable income in the amount of \$1,284,254.81 for the 2005, 2006, 2007 and 2008 taxation years, thereby evading the payment of federal income taxes in the amount of \$418,865.66, and did thereby commit an offence contrary to section 239(1)(d) of the said Act (the “Charge”).

A copy of the Charge dated January 26, 2018 is at **Tab 3**.

7. The income tax system governed by the ITA is a self-reporting system and relies on the honesty of taxpayers to accurately report their income to government.
8. Tax evasion is a crime of specific intent.
9. The fault or *mens rea* component of the offence is found in the word “wilfully”.
10. An accused must know that the tax is owing under the ITA and he must intend to avoid payment of that tax.
11. On January 10, 2019, the Provincial Court of British Columbia accepted the Respondent’s guilty plea and found him guilty beyond a reasonable doubt of tax evasion, as per the Charge. A copy of the Proceedings at Sentencing is at **Tab 4** and is admitted for the proof of the truth of its contents.
12. The Respondent’s conviction means that, in respect of tax years 2005, 2006, 2007 and 2008, he filed false tax returns, deliberately underreported his income and intentionally misrepresented the state of his business affairs to the Canada Revenue Agency (the “CRA”).
13. Section 239 of the ITA is a hybrid offence. In the Respondent’s case, the Crown elected to proceed by indictment.

14. Upon prosecution by indictment, section 239(2) of the ITA provides for a minimum fine of 100% of the amount of tax sought to be evaded and a maximum fine of 200%, or both a fine and a term of imprisonment not exceeding five years.
15. On January 10, 2019, the Honourable Judge Meyers sentenced the Respondent to a term of imprisonment consisting of: a) a fine of \$418,865.66 (representing 100% of the amount of federal income tax the Respondent was convicted of evading), payable by January 17, 2019; and b) a conditional sentence order of 22 months (the "CSO").

A copy of the Reasons for Sentence is at **Tab 5** and is admitted for the proof of the truth of its contents.

16. A conditional sentence order is a custodial sentence that is served in the community under strictly controlled conditions.
17. The terms of the Respondent's CSO include:
 - a. the Respondent must remain in British Columbia unless he has prior written permission from the Court or his Conditional Sentence Supervisor to leave BC;
 - b. the Respondent must report in person to his Conditional Sentence Supervisor as directed;
 - c. for the first eight months of the CSO, the Respondent must remain inside his residence, under house arrest, between the hours of 10:00 PM to 7:00 AM Mondays through Fridays and 5:00 PM to 7:00 AM on Saturdays and Sundays unless he obtains the written permission of his Conditional Sentence Supervisor;
 - d. for the next seven months of the CSO, the Respondent must remain inside his residence, under curfew, between the hours of 11:00 PM to 6:00 AM Monday through Friday and 10:00 PM to 6:00 AM Saturday and Sunday;
 - e. the Respondent must provide his Conditional Sentence Supervisor with the particulars of his employment and advise of any change in same within two days;

- f. the Respondent must carry a copy of the CSO and any written permission from his Conditional Sentence Supervisor with him at all times when outside his residence; and
- g. the Respondent must complete 50 hours of community work under the direction and to the satisfaction of his Conditional Sentence Supervisor.

A copy of the terms of the Respondent's sentence are at **Tab 6** and are admitted for the proof of the truth of its contents.

Background Facts

- 18. At the time of his guilty plea, the Respondent and the Crown filed an Agreed Statement of Facts and proposed that the Court accept written Joint Submissions on Sentence. A copy of the Agreed Statement of Facts and Joint Submissions on Sentence are at **Tab 7**, and are admitted for the proof of the truth of their contents.
- 19. The Respondent is the sole shareholder, president, secretary and director of Baldev S. Ghag Law Corporation ("Law Corp"), Ferengi Trading Corporation ("Ferengi") and 608255 BC Ltd. [**Tab 7, para. 4**]
- 20. Since 1992, the Respondent has conducted his law practice through Law Corp. The majority of Law Corp's business activities are the provision of legal services pertaining to real estate transactions. [**Tab 7, para. 6**]
- 21. Ferengi was incorporated in May 1995. The majority of Ferengi's business activities includes lending money to individuals and corporations concerning real estate transactions. [**Tab 7, para. 7**]
- 22. Since the incorporations of Law Corp and Ferengi, the Respondent has:
 - a. been in charge of the business operations by providing Law Corp's legal services and the money lending activities for Ferengi; and

- b. maintained and controlled the books and records for Law Corp and Ferengi. **[Tab 7, para. 9]**
23. As a result of the foregoing, the Respondent knows how much income was earned from these companies and how much income was reported on his tax returns.
24. Law Corp earned business income that was not reported on its T2 Returns (or on any other returns) for 2005 to 2009. The unreported business income was for legal services pertaining to real estate transactions. **[Tab 7, para. 14]**
25. Ferengi earned interest income that was not reported on its T2 Returns (or on any other returns) for 2005 to 2009. The unreported business income was for lending money to individuals and corporations pertaining to real estate transactions. **[Tab 7, para. 15]**
26. The CRA selected Ferengi for an audit of its T2 Return for the 2006 taxation year as interest payments received by Ferengi were not reported. The scope of the audit was widened to include additional years and also to encompass Law Corp and the Respondent personally. **[Tab 7, para. 16]**
27. The Respondent attempted to enter into an agreement with the CRA to file a Voluntary Disclosure of his unreported income for 2005 through 2008 taxation years and a T1 Adjustment Request for the 2009 taxation year to have the unreported income applied to his personal T1 Returns. **[Tab 7, para. 17]**
28. The CRA rejected the Respondent's Voluntary Disclosure Application and instead elected to prosecute the Respondent for tax evasion.
29. If the Respondent's application had been accepted, he would have been eligible for relief from prosecution. **[Tab 7, para. 22]**
30. On March 25, 2015, the CRA executed three warrants to search the Respondent's residence, business and accountant's office and seized relevant records. **[Tab 7, para. 24]**
31. In the Respondent's T1 Adjustment Request concerning his 2009 personal T1 Return, the Respondent disclosed total unreported income amounts as follows: **[Tab 7, para. 29]**

	2005	2006	2007	2008	2009	Total
Additional Business Income	\$396,483.55	\$234,053.20	\$257,262.58	\$115,663.99	\$58,948.32	\$1,062,411.64
Additional Interest Income	\$117,057.27	\$109,503.58	\$35,674.86	\$18,555.78	\$14,000.00	\$294,791.49
Total Additional Unreported Income	\$513,540.82	\$343,556.78	\$292,937.44	\$134,219.77	\$72,948.32	\$1,357,203.13

32. When the year 2009 is excluded, the Respondent failed to report taxable income for the years 2005 – 2008, inclusive, in the amount of \$1,284,254.70.¹
33. As a result of the additional income that the Respondent did not report, the Respondent did not pay taxes in the following amounts which were owing and payable by the Respondent: [Tab 7, para. 30]

	2005	2006	2007	2008	2009	Total
Additional Federal Taxes	\$159,274.67	\$118,353.69	\$95,944.74	\$45,292.56	\$26,178.09	\$445,043.75
Additional Provincial Taxes	\$80,212.63	\$59,431.38	\$47,987.10	\$21,737.90	\$11,839.10	\$221,208.20
Total Combined Unpaid Taxes	\$239,487.30	\$177,785.07	\$143,931.84	\$67,030.55	\$38,017.19	\$666,251.95

¹ This is a difference of 11 cents as compared to the figure reported in the Charge, which is \$1,284,254.81.

34. The Respondent therefore evaded a combined total of federal and provincial income taxes for the years 2005 - 2009, inclusive, in the amount of \$666,251.95.
35. The amount of federal income taxes evaded for the years 2005 to 2008, inclusive, was \$418,865.66. It is this amount that formed the basis of the Respondent's conviction.
36. In their joint submissions on sentence, the Respondent and the Crown set out what they considered to be the aggravating and mitigating factors in this case.
37. The aggravating factors were that:

There was no separation of banking between the Respondent's corporate and personal bank accounts. There was an intentional intermingling of deposit and withdrawal transactions across the various corporate and personal banking. This intermingling of transactions occurred even within Law Corp's various trust accounts. Funds were transferred among Law Corp's general and trust accounts and other accounts held or controlled by the Respondent, with significant funds ultimately ending up in personal accounts held or controlled by him. [Tab 7, para. 31]

38. In his Reasons for Sentence, the Honourable Judge Meyers determined:

The factors that I am considering against you are the number of years that this went on, and that is certainly an aggravating factor. It was a repetitive and ongoing crime, every year the crime was repeated for years. The aggravating side, you are a lawyer yourself. You should know better. [Tab 5]

39. In his interview with the Law Society, the Respondent admitted that the intermingling of funds was intentional in order to reduce the amount of his business income.

AD: Would you please explain to me the role of Law Corp's trust and general accounts in this tax evasion scheme?

BSG: The um [pause] the, the main thing [pause] was in terms of getting the, the money out of [pause] outta, out of my particular files, is that um everything that is, that the Law Corp makes as income or disbursements and taxes is supposed to come from the trust accounts and then into our general

account and then paid from there. Now, as, what I did was both, so a num...uh some of the money that was supposed to have, have come out from there was put into general account and, and dealt with. However, I diverted some of that money that was supposed to go into general either to myself personally or to Ferengi.

.....

BSG: Yeah. So what I did was I transferred some of those funds, as they're supposed to be, from trust into general, but some of those funds, which were funds belonging to me or the Law Corp, I did not put into trust. I...

AD: Sorry, into general you mean?

BSG: ...Sorry, into general, I just, I wrote them out separately as rather than writing a cheque to my general account once the billing was done, I either wrote it directly to myself or to Ferengi Trading Corp.

AD: And that was in order to bypass the general account?

BSG: Yes.

AD: And that was in order to make it appear that there was less...

BSG: Yes.

AD: ...Income than there actually was?

BSG: Yes.

A copy of an excerpt of the Respondent's interview with the Law Society is at **Tab 8**, and is admitted for the proof of the truth of its contents [**Tab 8, p. 8-10**]

40. The fact of the Respondent's conviction was reported in the media. [**Tab 9**]

Law Society Investigation

41. In April 2015, the Law Society learned about the execution of the CRA's search warrants concerning the Lawyer and the Lawyer's practice.

42. On May 20, 2015, the Law Society brought an application pursuant to section 487.3(4) of the *Criminal Code* to obtain a copy of the Information to Obtain the Search Warrants (the “ITO”).
43. On June 2, 2015, the Law Society obtained a copy of the ITO.
44. On or about June 10, 2015, the Law Society opened Law Society investigation file CO20150220.
45. Between approximately October 2015 and May 2017, the Law Society unsuccessfully attempted to obtain the records that were seized by the Canada Revenue Agency.
46. The Law Society’s investigation into the Respondent’s conduct was twice put into abeyance by the Discipline Committee. The first abeyance occurred from August 24, 2017 until February 15, 2018 and the second from September 20, 2018 until January 17, 2019, at which time the Respondent’s guilty plea and sentence became known.

Admission of Misconduct

47. The Respondent admits that he wilfully evaded the payment of taxes imposed by the ITA by failing to report taxable income of \$1,284,254.81 for the 2005, 2006, 2007 and 2008 taxation years, thereby evading the payment of federal income taxes in the amount of \$418,865.66 for which he was criminally convicted of an indictable offence on January 10, 2019.

The Respondent admits that this conduct constitutes conduct unbecoming the profession or professional misconduct pursuant to section 38(4) of the *Legal Profession Act*.

DATED at Vancouver, British Columbia, this 14th day of June, 2019.


Tara McPhail
Counsel for the Law Society of British Columbia