SCC Court File No.: 39340

IN THE SUPREME COURT OF CANADA
(ON APPEAL FROM THE COURT OF APPEAL FOR SASKATCHEWAN)

B E T W E E N:

LAW SOCIETY OF SASKATCHEWAN

APPELLANT
(Respondent)

- and -

PETER V. ABRAMETZ

RESPONDENT
(Appellant)

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PART I – OVERVIEW AND STATEMENT OF FACTS

A. Overview

1. When sophisticated administrative adjudicators make a fact-laden discretionary determination in respect of which it heard extensive evidence firsthand, reviewing courts should exercise substantial restraint. The Court of Appeal for Saskatchewan failed to do this in reweighing and re-determining the Respondent's request for the extraordinary remedy of a stay. That decision cannot stand.

2. The Respondent, Peter V. Abrametz, was found to have committed serious acts of professional misconduct by the Law Society of Saskatchewan ["**Law Society**" or "**LSS**"]. After a fair process and a lengthy hearing of documentary and *viva voce* evidence, the Hearing Committee of the Law Society ["**Hearing Committee**"] appointed to adjudicate on the allegations against Mr. Abrametz concluded, among other things, that:

i. Mr. Abrametz had engaged in transactions with vulnerable clients which were tainted by undue influence and constituted a breach of his fiduciary duty; and

ii. Mr. Abrametz had made withdrawals of trust funds in a manner other than the manner prescribed by the *Law Society of Saskatchewan Rules*, by issuing cheques from his trust account to his clients which they subsequently endorsed to him for cashing and via cheques that he made payable to a fictitious person.[1]

3. Most notably, the Hearing Committee found that Mr. Abrametz had enlisted his clients to participate in a "dishonest scheme".[2] Given the gravity of the conduct unbecoming a lawyer, the Hearing Committee imposed a penalty of disbarment with no right to apply for readmission before two (2) years.[3]

4. On appeal, despite upholding all the Hearing Committee's findings of misconduct, the Court of Appeal held that there had been inordinate delay in investigating and prosecuting Mr.

[1] Decision of the Hearing Committee dated January 10, 2018 [Conduct Decision], Appellant's Record [AR], Vol. I, Tab 12, p. 171.
[2] *Law Society of Saskatchewan v. Abrametz*, 2018 SKLSS 8 at paras. 159, 352, 398 [HC Decision].
[3] Decision of the Hearing Committee dated January 18, 2019 [Penalty Decision], AR, Vol. I, Tab 14, p. 242.

Abrametz, set aside the Hearing Committee's determination that there was no inordinate delay and granted the extraordinary remedy of a stay of the disciplinary proceedings. The effect was to return Mr. Abrametz unsupervised to the practice of law, notwithstanding the findings of serious professional misconduct.

5. Inspired by this Court's recent jurisprudence on criminal and civil procedure, the Court of Appeal significantly lowered the high bar for stays obtained on the basis of inordinate delay set by this Court in *Blencoe*.[4] In its haste to supercharge the *Blencoe* principles, the Court of Appeal ignored this Court's warnings about the inappropriateness of transplanting constitutional law concepts into the administrative process. The Court of Appeal also overlooked this Court's injunction to assess administrative delay carefully and, above all, to protect the public interest.

6. There was no inordinate delay in this case and, in any event, no basis for the Court of Appeal to grant a stay of proceedings. There was, indeed, no basis for the Court of Appeal to interfere with the analysis of the members of the Hearing Committee, who applied *Blencoe* to the facts as they had found them after a lengthy and fair hearing. Moreover, the weak evidential foundation provided by Mr. Abrametz cannot support the radical changes the Court of Appeal wrought in Canadian public law.

B. Relevant Facts

7. **Annex "A"** to this Factum is a chronology of this case. Below is a summary of key facts.

i. Pre-Charge Investigation

8. In December 2012, the Law Society commenced an audit investigation of Mr. Abrametz. On the eve of a visit by investigators to his office, Mr. Abrametz self-reported to the Law Society.[5]

9. The conduct related to eight (8) problematic transactions regarding cheques by Mr. Abrametz. In seven (7) cases, Mr. Abrametz had issued cheques to clients that were then endorsed by them and cashed by Mr. Abrametz. In the other case, he had issued three (3) cheques to a

[4] *Blencoe v. British Columbia (Human Rights Commission)*, 2000 SCC 44 [*Blencoe*].
[5] Affidavit of J. Allen sworn August 24, 218 [Allen Affidavit] at para. 7, AR, Vol. II, Tab 19, p. 11.

fictitious person ("Paul Spakowsky"),[6] endorsed that false name on the cheques and cashed them.

10. In addition, Mr. Abrametz had on eleven (11) occasions advanced money to clients, charging them a flat 30 percent fee of the amount advanced (as well as his 30 percent contingency fee). The equivalent rate of interest charged by Mr. Abrametz, ranged between 51.6 and 10,950 percent per annum, depending upon the length of time the money remained due and owing.[7]

11. In February 2013, Mr. Abrametz was served with a Notice to Interim Suspend. However, by agreement with the Law Society in March 2013, Mr. Abrametz was allowed to continue to practice, albeit under some practice conditions, including:

i. Mr. Abrametz had to retain another lawyer to supervise and monitor his practice and trust account activities;

ii. Mr. Abrametz had to seek prior approval of the supervisor for any withdrawals/cheques from any trust account; and

iii. Mr. Abrametz could not accept the return of trust cheques from clients and not accept endorsed cheques to be cashed or negotiated.[8]

12. Meanwhile, the Law Society continued its investigation of Mr. Abrametz's accounts. A 1,300-page final trust report was submitted in October 2014 to the Law Society. A second Notice to Interim suspend was issued in November 2014, but the LSS and Mr. Abrametz agreed that he could continue to practice under supervision.[9] After further questioning of Mr. Abrametz in the Spring of 2015, a Hearing Committee was appointed, and a formal charging document (the formal complaint) was issued in October 2015.[10]

13. The total time elapsed from the beginning of the investigation to the charge is 34.8 months.

ii. Post-Charge Prosecution

14. In April 2015, an investigation into Mr. Abrametz's tax affairs was split off from this case.

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[6] According to Mr. Abrametz's counsel, "he is mythical person who is blamed for everything": Exhibit "R-2", Tab 3, AR, Vol VII, Tab 32, p. 161.
[7] HC Decision at para. 126.
[8] Affidavit of P. V. Abrametz sworn July 13, 2018 [Abrametz Affidavit], Exhibit "G", AR, Vol I, Tab 17, p. 374.
[9] Abrametz Affidavit at para. 6, AR, Vol. I, Tab 17, p. 348.
[10] Affidavit of T. Huber sworn August 23, 2018 [Huber Affidavit] at paras. 8-14, AR, Vol. I, Tab 18, p. 381-82.

The tax investigation led to litigation before the Court of Queen's Bench between the Law Society and Mr. Abrametz about the scope of the LSS's investigatory powers.[11]

15. In March 2016, Mr. Abrametz sought to have these disciplinary proceedings adjourned indefinitely pending the resolution of the tax investigation. The Hearing Committee refused the request in August 2016. The Hearing Committee heard the disciplinary matter in May, August and September 2017, and issued its Conduct Decision on January 10, 2018.[12]

16. The total time elapsed from charge to hearing is 19.4 months.

iii. Hearing Committee of the LSS, 2018 SKLSS 8

17. The Hearing Committee found Mr. Abrametz guilty of four (4) counts of conduct unbecoming a lawyer. In its Penalty Decision, the Committee ordered Mr. Abrametz disbarred without a right to apply for readmission before 2021. In justifying the penalty imposed, the Committee noted that Mr. Abrametz had "shown a complete lack understanding and remorse for his behaviour".[13] It commented that Mr. Abrametz's "behaviour strikes a blow against the fundamental principles of the legal profession's code, namely; honesty, trustworthiness and protection of the public".[14]

18. After being found guilty of this misconduct, Mr. Abrametz applied for a stay of the Conduct Decision on the basis that the time taken to bring the proceedings to a conclusion amounted to an abuse of process. His application was in part based on sections 7 and 11(b) of the *Charter*.[15] The application was refused by the Hearing Committee in November 2018 following a hearing earlier in September.[16]

19. The Conduct, Stay and Penalty decisions were published as one.[17]

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[11] See *Law Society of Saskatchewan v. Abrametz*, 2016 SKQB 134; *Law Society of Saskatchewan v. Abrametz*, 2016 SKQB 320 [QB *Abrametz #2*].
[12] Conduct Decision, AR, Vol. I, Tab 12, p. 171.
[13] HC Decision at para. 389.
[14] HC Decision at para. 399.
[15] *Canadian Charter of Rights and Freedoms*, Part I of *The Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (U.K.), 1982, c. 11.
[16] Decision of the Hearing Committee dated November 9, 2018 [Stay Decision], AR, Vol. I, Tab 13, p. 220.
[17] HC Decision.

20. On the question of inordinate delay, the Hearing Committee found that the approximately 66 months that elapsed between the commencement of the investigation and the decision having been rendered was neither inordinate nor unacceptable given the complexity of the case, the size of the investigation and the delay that could be attributed directly to Mr. Abrametz's conduct. The Hearing Committee also held that any prejudice that Mr. Abrametz may have experienced as a result of the delay was not so significant that continuation of the process would taint the proceedings or be so unfair to him that the public's sense of fairness would be harmed, notably in light of the importance of the LSS's primary mandate of public protection.[18] As discussed at paragraphs 35 to 94 of this Factum, the Hearing Committee made many key findings of fact on which it based its Stay Decision.

iv. Court of Appeal for Saskatchewan, 2020 SKCA 81

21. Mr. Abrametz appealed the Conduct, Penalty and Stay Decisions to the Court of Appeal. The Court rejected Mr. Abrametz's many grounds of appeal, save for the contention that the Hearing Committee had erred by dismissing his application to stay the proceedings for delay.[19]

22. Barrington-Foote J.A., writing for the Court (Ottenbreit and Leurer JJ.A. concurring), held that, in the wake of this Court's teachings in *Hryniak*,[20] about the need for timely justice in civil cases, and in *Jordan*,[21] regarding the culture of complacency in the criminal justice system, it was time for the Court to address the issue of inordinate delay in the realm of administrative decision-makers.[22] Endeavouring to apply the same standard to them as those applicable to courts of law,[23] the Court of Appeal determined that the 32 ½-month delay it attributed to the LSS (out of a total of 53 considered) amounted to an abuse of process warranting a stay of proceedings.[24] Of note, out of the 53 months considered by the Court of Appeal, 34.5 were pre-charge. In the Court's opinion, this finding was consistent with the principles established in *Blencoe* or otherwise represented an incremental change in the law consistent with *stare decisis*.[25]

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[18] HC Decision at para. 364.
[19] See *Abrametz v. Law Society of Saskatchewan*, 2020 SKCA 81 [CA Decision] at paras. 69-70. .
[20] *Hryniak v. Mauldin*, 2014 SCC 7 [*Hryniak*].
[21] *R. v. Jordan*, 2016 SCC 27 [*Jordan*].
[22] CA Decision at para. 8.
[23] CA Decision at para. 9.
[24] CA Decision at para. 197.
[25] CA Decision at para. 10

PART II – STATEMENT OF THE QUESTIONS IN ISSUE

i. What is the applicable standard of review?

ii. What are the principles applicable to administrative delay?

iii. Did the Court of Appeal err in its *Blencoe* analysis?

iv. Should this Court change the law in respect of administrative delay in light of *Jordan* and *Hryniak*?

PART III – STATEMENT OF ARGUMENT

A. The Standard of Review Requires Deference to Underlying Findings of Fact

23. This Court's task is to determine whether the Court of Appeal identified the appropriate standard of review and applied that standard correctly.

24. Generally speaking, the *Blencoe* analysis has been treated as part of the law of procedural fairness.[26] Courts have nevertheless consistently afforded deference to administrative decision-makers on their application of the *Blencoe* principles.[27] There is also consistent jurisprudence to the effect that original findings of fact by administrative decision-makers or adjudicators are subject to significant deference,[28] including within the context of the procedural fairness analysis.[29]

25. This is particularly so here, as this Court has been clear that Law Society disciplinary panels have specialized experience "generated by repeated application of the objectives of professional

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[26] *Blencoe* at paras. 105-07. See also *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65 at para. 23. The *Vavilov* framework for selecting the standard of review – reasonableness as the presumptive starting point – applies only to the merits of a decision and not the process by which a decision was taken.

[27] *Sazant v. College of Physicians and Surgeons of Ontario*, 2012 ONCA 727 at para. 237, application for leave to appeal to S.C.C. dismissed, 2013 CanLII 22324 [*Sazant*]; *Nova Scotia Construction Safety Association v. Nova Scotia Human Rights Commission*, 2006 NSCA 63 at para. 62; *A.D.M. v. Canadian Institute of Actuaries*, 2008 ABQB 522 at para. 27 [*ADM*]; see also *Hennig v. Institute of Chartered Accountants of Alberta (Complaints Inquiry Committee)*, 2008 ABCA 241 at para. 12 [*Hennig*].

[28] *Vavilov* at para 125.

[29] This has been described as a "margin of deference" (*Mission Institution v. Khela*, 2014 SCC 24 at para. 89) or a "margin of appreciation" (*Forest Ethics Advocacy Association v. Canada (National Energy Board)*, 2014 FCA 245 at paras. 72-74); see also the references to a "degree of deference" in this Court's duty to consult jurisprudence: *Haida Nation v. British Columbia (Minister of Forests)*, 2004 SCC 73 at para. 61. It does no violence to language to describe this as a standard of palpable and overriding error. However, in *Vavilov*, this Court was clear that the palpable and overriding error standard applies only when (1) the "merits" of a decision are in issue and (2) there is a statutory right of appeal. In the interests of conceptual clarity and simplicity which animated *Vavilov*, it would be preferable to keep the *Vavilov* framework as to merits distinct from the procedural fairness framework.

regulation", which garners in turn "a relatively superior capacity to draw inferences from facts related to professional practice and also to assess the frequency and level of threat to the public and to the legal profession posed by certain forms of behaviour".[30] Here, the Hearing Committee was composed of expert, experienced benchers. It was seized of the matter from early 2016 to early 2018. It heard live evidence over five (5) days, including from Mr. Abrametz. It reached detailed, reasoned conclusions on each of the *Blencoe* principles. The Hearing Committee conducted a detailed analysis of Mr. Abrametz's *Blencoe* argument, explaining why there had been no undue delay on the part of the Law Society.[31]

26. In this case, the Court of Appeal failed to afford deference to the findings of the Hearing Committee. Instead, the Court of Appeal set aside those findings and substituted its own *Blencoe* analysis, which was deeply flawed. Having unjustifiably intervened, the Court of Appeal should be afforded no deference by this Court on its *Blencoe* analysis.[32]

B. The Principles of Inordinate Delay Have Already Been Established by this Court

27. This Court set out the principles relating to inordinate delay in administrative law in *Blencoe*. For the reasons set out later in this Factum at paragraphs 95-128, there is no reason for this Court to depart from *Blencoe* or to supercharge its standard to reflect developments elsewhere in the jurisprudence. For all certainty, however, there was no inordinate delay in this case under any standard.

28. There are two (2) branches to *Blencoe*. One branch is hearing unfairness. Administrative delay may impugn the validity of the proceedings where it impairs a party's ability to answer the complaint against them, for example where memories have faded, essential witnesses are unavailable or evidence has been lost.[33] In this case, it was not pleaded that Mr. Abrametz's ability to mount a full answer and defence to the charges against him was compromised in any way.

29. This case is about the second branch of *Blencoe*. The serious personal prejudice branch

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[30] *Law Society of New Brunswick v. Ryan*, 2003 SCC 20 at para. 33.
[31] HC Decision at paras. 344-64.
[32] *Salomon v. Matte-Thompson*, 2019 SCC 14 at para. 34; *St-Jean v. Mercier*, 2002 SCC 15 at paras. 43-44; *Schwartz v. Canada*, [1996] 1 S.C.R. 254 at para. 37; see also *Agraira v. Canada (Public Safety and Emergency Preparedness)*, 2013 SCC 36 at para. 45.
[33] *Blencoe* at para. 102.

extends to cases where the delay is unacceptable to the point of being so oppressive as to taint the proceedings.[34] This Court set out several requirements under this branch in *Blencoe*.

a. Inordinate Delay

30. First, the delay must be inordinate having regard to the nature of the case and its complexity, the facts and issues, the purpose and nature of the proceedings, whether the applicant contributed to the delay or waived the delay and other circumstances.[35] In this regard, a comparison can be made between the length of delay in the case at bar with the length of time normally taken for processing in the same jurisdiction and in other jurisdictions in Canada.[36]

b. Serious Personal Prejudice

31. Second, the applicant must demonstrate serious personal prejudice: the delay must have caused significant psychological harm to a person or attached a stigma to a person's reputation, such that the administrative system would be brought into disrepute.[37] In addition, the applicant must demonstrate a causal link between the serious personal prejudice and the delay. To be clear, the delay must have caused the serious personal prejudice; where the serious personal prejudice is attributable to the mere existence of proceedings against the applicant, there is no causal link.[38]

c. Stay Not Automatic

32. Third, even in cases where the delay was unwarranted and caused serious personal prejudice, the remedy of a stay of proceedings should not automatically be granted. Rather, the requisite criteria is that "the damage to the public interest in the fairness of the administrative process should the proceeding go ahead would exceed the harm to the public interest in the enforcement of the legislation if the proceedings were halted".[39] In fact, as held by this Court, there is "no support for the notion that a stay is the only remedy available in administrative law proceedings".[40] Remedies short of a stay could include a generous costs award,[41] an order

[34] *Blencoe* at para. 121.
[35] *Blencoe* at para. 122.
[36] *Blencoe* at para. 129.
[37] *Blencoe* at para. 115.
[38] *Blencoe* at para. 133.
[39] *Blencoe* at para. 120.
[40] *Blencoe* at para. 117.
[41] See *e.g.*, *Wachtler v. College of Physicians and Surgeons of the Province of Alberta*, 2009 ABCA 130 at para. 50.

compelling speedy resolution[42] or a reduction of penalty.[43]

33. As shown below, the Hearing Committee rightly determined, applying the *Blencoe* principles to the facts of Mr. Abrametz's case, that the second branch of *Blencoe* was not engaged. Put simply, the time taken was in proportion to the inherent nature of the proceedings against Mr. Abrametz, and Mr. Abrametz's request for a permanent stay of proceedings was out of proportion to the prejudice he actually established, given the gravity of the underlying misconduct.

C. The Court of Appeal Erred in Its *Blencoe* Analysis

34. The Court of Appeal failed to afford any deference to the Hearing Committee as first-instance adjudicator and factfinder. As such, the Court unjustifiably intervened by substituting its own analysis. Its analysis supercharged the principles espoused in *Blencoe* and lowered the bar in respect of findings of inordinate delay, finding that there had been inordinate delay in this case despite: the proceeding's complexity; the delay attributable to Mr. Abrametz; and the delay he acquiesced in and waived. The Court also found that Mr. Abrametz had suffered significant personal prejudice, even though the evidence proffered to support a claim of prejudice was weak, at best. In doing so, the Court significantly lowered the threshold for findings of prejudice to a point where its existence is almost presumptive. Finally, the Court of Appeal erred in awarding a stay of proceedings while neglecting any consideration of the public interest and the seriousness of Mr. Abrametz's misconduct.

i. Delay Not Inordinate

35. The following review of the Hearing Committee's analysis proceeds first by considering the lapse of time attributable to the LSS. *Blencoe* then requires the consideration of several contextual factors, including "the nature of the case and its complexity, the facts and issues, the purpose and nature of the proceedings, and whether the respondent contributed to the delay or waived the delay, and other circumstances of the case".[44]

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[42] See *e.g.*, *ADM* at para. 46.
[43] See *e.g.*, *Law Society of Upper Canada v. Abbott*, 2017 ONCA 525 at para. 90, leave to appeal to S.C.C. dismissed, 2018 CanLII 49698 (rejecting that the penalty should be reduced in this case from revocation to suspension, given the egregious misconduct at issue).
[44] *Blencoe* at para. 122.

36. The Court of Appeal's errors in identifying and applying the appropriate standard of review are also addressed as part of this analysis. At paragraph 100 of its reasons, the Court of Appeal acknowledged that it was required to defer to the Hearing Committee on the underlying findings of fact.[45] That said, it failed to do so in its application, at times failing to classify findings as indeed factual in nature and therefore attracting deference.

37. Determining whether there has been inordinate delay in any given case is a highly fact-specific and contextual exercise.[46] As such, what matters for the purposes of *Blencoe* is whether delay was inordinate on the facts of this case. The mere lapse of time does not constitute inordinate delay as a matter of administrative law.[47] Rather, the time must be out of proportion to the nature of the underlying matter.

38. There was no inordinate delay in this case. Untangling Mr. Abrametz's accounting system took a significant amount of time. The misconduct thereby revealed spanned a wide range of disciplinary offences, prompting further investigation and litigation about the scope of the Law Society's investigatory powers. Moreover, where Mr. Abrametz was not actively seeking delay, he acquiesced to the pace of the proceedings and waived the delay.

a. Calculation and Attribution of Delay

39. There are well-established appellate standards for reviewing findings in relation to delay. As recently explained by the British Columbia Court of Appeal, findings of underlying facts – who did what, when and the context surrounding those events – are reviewed on a deferential standard.[48] Similarly, attribution of responsibility – who or what caused the delay, including discretionary decisions such as whether conduct was legitimate – is also reviewed on a deferential standard.[49]

40. In this case, the Court of Appeal erred in failing to defer to the Hearing Committee on findings relating to both the calculation and attribution of delay.

[45] CA Decision at para. 100.
[46] *Blencoe* at para. 158, *per* LeBel J. (dissenting in part, but not on this point).
[47] *Hennig* at para. 27; *Sazant* at para. 244.
[48] *R. v. Virk*, 2021 BCCA 58 at paras. 23-24 [*Virk*].
[49] *Virk* at paras. 23-24.

1) Errors in calculating delay

41. In calculating delay, Mr. Abrametz submitted[50] to the Hearing Committee that the relevant period was the 66 months that elapsed between the commencement of the investigation in December 2012 and the decision rendered in January 2018.[51] As noted by the Court of Appeal, as a matter of simple arithmetic, the elapsed time is 61 months as opposed to the 66 stated by the Hearing Committee. This led the Court of Appeal to wrongly conclude that the finding constituted a palpable error.[52]

42. The Court of Appeal ignored or failed to understand that Mr. Abrametz was the source of the 66-month number regarding the total delay. It was not a palpable error. In any event, the apparent error resulted in a longer delay period that would ultimately benefit Mr. Abrametz in the delay analysis. It could not, therefore, have been an overriding error either. The Court of Appeal nevertheless used this so-called palpable error as an excuse to intervene and substitute its own analysis of the delay period.

43. In actuality, the timespan for the investigation ran from December 2012 to October 2015 or 35 months. The investigation of John Allen, the Law Society's chartered accountant, took from December 2012 to October 2014 (22 months). The explanation for the time taken was clearly set out in his affidavit and accepted by the Hearing Committee as reasonable given the complexity of the investigation, which the Hearing Committee was ideally placed to assess.[53] The Investigation Committee's investigation took from November 2014 to February 2015 (4 months), including an interview with Mr. Abrametz. The investigation then turned to the potential tax issues that had been uncovered, with the determination ultimately being made to bifurcate the matters in the interests of expediency. This process and the formulation of the charges took from February 2015 to October 2015 (8 months).

44. The period from the charge to the commencement of the hearing lasted from October 2015 to May 2017 (19 months).[54] In January 2016, Mr. Abrametz's counsel advised that he would be

[50] Hearing Transcript at SAT11, Transcripts (September 18, 2018), AR, Vol. IV., Tab 27, p. 338.
[51] HC Decision at paras. 360, 364.
[52] CA Decision at para. 175.
[53] Allen Affidavit, AR, Vol. II, Tab 19, p. 10.
[54] The CA stopped the clock on May 17, 2017, the date the conduct hearing commenced: CA Decision at para. 178.

making a preliminary motion to the Hearing Committee to adjourn the disciplinary proceedings indefinitely pending resolution of the now bifurcated tax investigation, as they potentially related to the disciplinary proceedings.[55] The motion to adjourn the proceedings was brought in March 2016 and dismissed on August 22, 2016. The parties then turned to the disclosure of the hearing file. After disclosing portions of the file, counsel for the Law Society invited Mr. Abrametz to attend at his office to review the entirety of the file in December 2016. This did not occur until late April 2017 due to Mr. Abrametz being out of the country.[56]

45. The hearing started on May 17, 2017. Given the difficulty of scheduling dates for busy practitioners such as Mr. Abrametz, his counsel and Hearing Committee members who are all volunteers,[57] the time taken to bring the matters from the charge to the hearing is hardly surprising.

46. As can be seen, most of the lapse of time occurred prior to the charge, during Mr. Allen's investigation and the review by the Investigation Committee, who formulated the charge. After the charge, the lapse of time was 19 months, with no significant period of inactivity on the part of the Law Society. As can be seen from the above, 8 months of the 19 months which elapsed total post-charge flowed directly from Mr. Abrametz's failed motion.

2) Errors in attributing delay

47. In relation to the attribution of delay, again the Hearing Committee proceeded on the basis of Mr. Abrametz's argument that delay should be assessed globally rather than by breaking it down and assigning responsibility to this or that party.[58] It nevertheless clearly indicated that one of the key factors in its conclusion that delay was not inordinate was "the delay that can be attributable directly to the Member's conduct".[59]

48. In ignoring the Hearing Committee's findings, reweighing the evidence and substituting its own analysis, the Court of Appeal made multiple errors along the way. It refused to accept the

[55] Huber Affidavit at para. 17, AR, Vol. I, Tab 18, p. 382.
[56] Huber Affidavit at para. 27, AR, Vol. I, Tab 18, p. 385.
[57] Huber Affidavit at para. 29, AR, Vol. I, Tab 18, p. 385. The Conduct Investigation Committee is a standing committee, composed of a majority of Benchers, with a Bencher as Chairperson. Similarly, Hearing Committees rely on volunteers. See Rule 1114(1), Rules of the Law Society of Saskatchewan, Appellant's Book of Authorities [BOA], Vol. II, at Tab 13.
[58] Hearing Transcript at SAT15-16, Transcripts (September 18, 2018), AR, Vol. IV., Tab 27, pp. 342-43.
[59] HC Decision at para. 364.

Hearing Committee's conclusion that Mr. Abrametz had ceased to cooperate, without ever referring to the Hearing Committee's analysis of this point.[60] It also ignored the key finding that Mr. Abrametz's had been "obstructive" throughout the investigation by, for example, lodging a meritless complaint against Timothy Huber, counsel with the LSS, in February 2017.[61] Overall, there was ample evidence to explain and justify the time taken.[62]

49. Even where the Court of Appeal acknowledged the standard as being "palpable and overriding error", it failed to justify its assertions of fact in this regard as it sliced and diced its way through the chronology. For example, the Court of Appeal interfered with the Hearing Committee's finding that a full 14.5 months of the overall time taken to either Mr. Abrametz or his counsel being unavailable for certain steps in the proceeding.[63] The Court of Appeal provided no basis for its finding that the Hearing Committee's reliance on this evidence constituted a palpable and overriding error, but instead simply substituted its own interpretation of the events.

50. In short, Mr. Abrametz's allegations of delay attributable to the Law Society had no foundation in the evidence.[64]

b. Complexity and Nature of the Proceeding

51. As part of the contextual analysis, *Blencoe* requires consideration of the complexity and nature of the proceeding at issues. The complexity of the proceeding is also a question of fact which should attract deference from a reviewing court.[65] Again, the Court of Appeal erred in failing to identify and apply the appropriate standard of review.

52. The Hearing Committee was unequivocal in its finding that the hearing was complex:

> In this case, the nature and number of allegations of conduct unbecoming, the total number of client files reviewed and documents examined during the investigation and the lengths to which the Member went to conceal his conduct were extensive and complex. While the Member initially

[60] CA Decision at para. 185.
[61] HC Decision at para. 412; Huber Affidavit at paras. 33-34, AR, Vol. I, Tab 18, p. 386.
[62] Compare *Champagne c. Colas*, 2020 QCCA 1182 at para. 17.
[63] CA Decision at para. 197; see also para. 193.
[64] See also *Camara v. Canada*, 2015 FCA 43 at para. 14 [*Camara*]; *Marsh v. Zaccardelli* 2006 FC 1466 at para. 24.
[65] *Virk* at paras. 23-24.

cooperated with the investigation, that cooperation ceased in May of 2015.[66] [Emphasis added.]

1) Complexity of investigation

53. The Hearing Committee was correct to underscore the complexity of this matter,[67] particularly given the disjointed nature of Mr. Abrametz's accounts. In effect, once the agreement had been negotiated in relation to the alternatives to interim suspension, the LSS undertook an extensive and thorough investigation. Mr. Allen was tasked with reviewing Abrametz's voluminous and fragmentary records, checking and double-checking entries in order to separate accurate entries from misleading ones. This task was "exceptionally difficult", as Mr. Abrametz's files "could not be relied upon to reflect what had actually happened on the client matters".[68] In essence, Mr. Allen and his staff had to "recreate" the transactions Mr. Abrametz had engaged in with his clients,[69] reviewing documents "numerous times" to understand Mr. Abrametz's *modus operandi*.[70] Indeed, Mr. Abrametz's spouse, the office's accountant, accepted in her examination in chief that the office's system was confusing.[71] And counsel for the Law Society brought magnifying glasses to the hearing should the members of the Hearing Committee have had difficulty reading the documents.[72] In sum, John Allen examined at least 15,000 documents: his document review of Mr. Abrametz's accounting records required up to 27 five (5)-inch binders of hard copies.[73]

54. Further, Mr. Abrametz was not especially forthcoming. During the 2013 investigation, Mr. Abrametz "became more reticent" to cooperate.[74] Mr. Abrametz did not provide access to his personal banking information, which the investigators required to verify some transactions where funds appeared to have been routed to Mr. Abrametz's personal account.[75]

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[66] HC Decision at para. 357.
[67] HC Decision at paras. 304, 357, 364.
[68] Allen Affidavit at para. 22, AR, Vol. II, Tab 19, p. 13.
[69] Allen Affidavit at para. 22, AR, Vol. II, Tab 19, p. 13.
[70] Allen Affidavit at para. 23, AR, Vol. II, Tab 19, p. 13.
[71] Examination in Chief of B. Abrametz at T446 ff., Transcripts (May 19, 2017), AR, Vol. III, Tab 23, p. 129 ff.
[72] Transcripts at T120 (May 17, 2017), AR. Vol. II, Tab 21, p. 203.
[73] Allen Affidavit at para. 25, AR, Vol II, Tab 19, p. 14.; the record that Mr. Allen examined were a "test period". He might have found more if he had cast the net wide: Examination in Chief of J. Allen at T240, Transcripts (May 19, 2017), AR, Vol. II, Tab 22, p. 323.
[74] Allen Affidavit at para. 17, AR, Vol. II, Tab 19, p. 12.
[75] Allen Affidavit at para. 24, AR, Vol II, Tab 19, pp. 13-14.

55. As such, the Court of Appeal erred in failing to afford any deference to these findings of the Hearing Committee or to Mr. Allen's uncontradicted evidence. Instead, the Court went on to state that "volume and complexity are not the same",[76] adding that the hundreds of hours spent by Mr. Allen and Mr. Huber hardly indicated any complexity at all.[77] The Court of Appeal even referred to the limited time records prepared by Mr. Huber in the context of costs submissions as evidence of the allegedly little time spent on Mr. Abrametz's file.[78]

56. However, as the record shows, and as found by the Hearing Committee, this matter was "complex, protracted and pointedly adversarial throughout".[79] As noted above, the Hearing Committee expressly found that "the total number of client files reviewed and documents examined during the investigation and the lengths to which the Member went to conceal his conduct were extensive and complex".[80] It was therefore an error for the Court of Appeal to suggest that the Hearing Committee had conflated the two.

57. The Court of Appeal also criticized John Allen, suggesting that there were periods where he "either chose or was obliged to do other things, whether personal or professional"[81] without referencing Mr. Allen's affidavit evidence, which explains what his office does (25-30 investigations a year) and what he did in respect of Mr. Abrametz (800 hours of forensic investigative work), which Mr. Allen testified took a significant amount of his time between 2013 and 2015.[82]

2) Complexity of misconduct allegations

58. It is important to keep in mind when considering the complexity of the proceeding that Mr. Abrametz's acts of misconduct spanned a broad range of professional discipline issues. In assessing the complexity of the case, the Hearing Committee expressly noted the "nature and number of allegations of conduct unbecoming".[83] Indeed, the investigation uncovered professional

[76] CA Decision at para. 185.
[77] CA Decision at paras. 185, 187.
[78] CA Decision at paras. 19, 22, 30, 182, 184, 190; Affidavit of T. Huber sworn August 23, 2018 re Costs, AR, Vol. II, Tab 20, p. 58.
[79] See *e.g.*, HC Decision at para. 392.
[80] HC Decision at para. 357.
[81] CA Decision at para. 186.
[82] Allen Affidavit, paras. 26-27, AR, Vol. II, Tab 19, p. 14.
[83] HC Decision para. 357.

misconduct that sprawled over multiple provisions of the *Rules of the Law Society of Saskatchewan* and the *Code of Conduct*.[84] The many pages-long charging document reveals the breadth of the alleged misconduct.[85] As underlined by the Hearing Committee, it was not clear – and remains unclear to this day – quite why Mr. Abrametz issued cheques to clients which were then endorsed back to him for cashing, or to what end he created the mysterious "Paul Spakowsky".[86] One possibility is that Mr. Abrametz did so in order to avoid or evade tax. If so, there was a real risk that Mr. Abrametz had enmeshed his clients and his trust account in a web of criminal conduct,[87] which the Law Society had a duty to untangle.[88]

59. As a result, it was incumbent upon the Law Society to further investigate Mr. Abrametz's affairs, looking at his tax arrangements in particular, in order to appreciate the true scale of his misdeeds. These further investigations caused the parties to become embroiled in complex litigation about the scope of the Law Society's power to issue subpoenas under s. 39 of *The Legal Profession Act, 1990,* S.S. 1990-91, c. L-10.1 and whether the Law Society can apply under s. 63 of the Act to gain access to a member's tax records.

60. The Hearing Committee fully appreciated the resultant complexity of the proceedings against Mr. Abrametz. There was no basis for the Court of Appeal to interfere with these factual findings nor would there be one for this Court.

3) Nature of the proceeding

61. The *Blencoe* analysis also requires consideration the nature of the proceeding when examining whether there has been inordinate delay. Although the Hearing Committee did not expressly address the nature of the proceeding as part of its *Blencoe* analysis, it made findings on this issue as part of its analysis of Mr. Abrametz's *Charter* s. 7 claim.

62. The Hearing Committee noted that the role of a professional disciplinary order has to be

[84] BOA, Vol. II, at Tabs 12-13.
[85] HC Decision at para. 2.
[86] See HC Decision at paras. 90-93, 169.
[87] HC Decision at para. 159: "By issuing cheques to the clients and having the clients endorse those cheques back to the Member as payment for legal fees the clients were enlisted to participate in the Member's dishonest scheme. The Hearing Committee was unable to imagine any explanation for the Member's conduct in this regard that would not bring disrepute upon the legal profession".
[88] See *Sazant* at para. 248.

taken into account, especially its "responsibility for maintaining the discipline, standards, competency and integrity of the profession's membership in furtherance of protecting the public from those within the profession that may fall below the acceptable threshold established by the regulatory body".[89]

63. Ultimately, this matter proceeded to a Hearing Committee. But consideration of non-discipline alternatives is integral to the complaints process. Determining whether to send a matter down the three (3) paths provided for in the Law Society's *Rules* – ethics, competency (for practice management issues), or discipline – invariably takes time.[90] The need to consider alternative resolutions must be taken into account in the assessment of inordinate delay.[91]

c. Acquiescence or Waiver

64. One of the key contextual factors in the Blencoe analysis is whether there was any acquiescence or waiver.[92]

65. The Appellant acknowledges that the issue of acquiescence or waiver was not argued before the Court of Appeal. However, the absence of any expressed reservation by Mr. Abrametz about delay was an important factor for the Hearing Committee in its *Blencoe* analysis:

> Additionally, the Member brought an application before this Committee for a temporary stay of the proceedings in April of 2016. The application was not based upon an allegation that there had been delay up to that point in the process. To the contrary, the Member's application at that time was to temporarily put the proceedings on hold pending further CIC investigation - an investigation that was stalled due to the Member's refusal to disclose certain financial records.[93] [Emphasis added.]

66. The Court of Appeal simply ignored this aspect of the Hearing Committee's reasons in its analysis, notwithstanding that acquiescence is an integral element of the analysis espoused by this Court in *Blencoe*.[94] Acquiescence and waiver should therefore form part of this Court's analysis.

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[89] HC Decision at para. 339.
[90] See Rules Part 11.B; See also *Blencoe* at para. 126.
[91] See e.g., *Diaz-Rodriguez v. British Columbia (Police Complaint Commissioner)*, 2020 BCCA 221 at para. 52 [*Diaz-Rodriguez*].
[92] *Blencoe* at para. 122.
[93] HC Decision at para. 360.
[94] *Blencoe* at paras. 122, 160.

67. Indeed, Mr. Abrametz did acquiesce in the delay. The Law Society was in constant contact with Mr. Abrametz throughout the disciplinary proceedings, culminating most notably in the agreements about Mr. Abrametz continuing to practice. As in *Blencoe*, there was "no extended period without any activity in the processing of the Complaints" but rather a "continuous dialogue" between the parties.[95]

68. It bears noting that, the Investigation Committee decided in mid-2015 to bifurcate the disciplinary proceedings against Mr. Abrametz, continuing with the seven (7) charges listed above but disentangling the tax issues, to be addressed separately. By early 2016, therefore, the proceedings were ready to move forward to a hearing. But Mr. Abrametz objected. As mentioned earlier, in March 2016 he brought a motion to the Hearing Committee to adjourn the discipline proceedings pending an authoritative resolution by the courts of the Law Society's ability to investigate his tax affairs. Mr. Abrametz was thus seeking to adjourn a matter ripe for hearing to wait for a different matter, in respect of which the Law Society's ability to begin to investigate was only determined in September 2016,[96] a decision which Mr. Abrametz immediately appealed. As such, this was a request to adjourn the proceedings *sine die*. The Hearing Committee refused the request for an adjournment by a decision issued in August 2016.

69. Even if there was inordinate delay up to this point, Mr. Abrametz's failure to object in March 2016 would be fatal.[97] His motion to adjourn the proceedings did not indicate a desire for the matter to be expedited. Indeed, Mr. Abrametz not only failed to object, but he also actively sought further delay.[98] As put by the Hearing Committee in its 2016 interlocutory decision regarding the request for a stay/adjournment:

> It is insincere for [Mr. Abrametz] to suggest that that (*sic*) the hearing of charges against him should be delayed until the CIC investigation has concluded when the conclusion of the investigation is entirely dependent

[95] *Blencoe* at para. 123.
[96] See QB *Abrametz #2*, rendered in September 2016.
[97] See also *Diaz-Rodriguez* at para. 51; *Financial and Consumer Services Commission v. Emond et al.*, 2017 NBCA 28 at para. 37 [*Emond*], citing Sara Blake, *Administrative Law in Canada*, 5th ed. (Markham: LexisNexis Canada, 2011), at pp. 34-36: "A party who requests or agrees to an adjournment waives delay".
[98] For ex., he asked for an extension of time to respond to the Second Notice of Intention to Interim Suspend: Exhibit "R-2", Tab 6, AR, Vol VII, Tab 32, p. 195.

upon the Member's refusal to disclose certain accounting records in his possession.[99]

70. In short, Mr. Abrametz failed to raise any issue about delay in a timely manner. This is waiver.[100] There was a variety of points at which Mr. Abrametz could have raised the issue. Most of all, instead of seeking a stay from the Hearing Committee in March 2016, Mr. Abrametz could have asked for expedition. Mr. Abrametz was entitled to take a litigious approach through the process – for example, fighting to restrict the Law Society's ability to review his tax affairs – but not to turn around and cry "Delay!" when it became convenient to do so.[101]

d. Conclusion on Inordinate Delay

71. As explained above, given the complexities of the matter, the facts and issues and the nature of the proceedings, there was no inordinate delay. Whether one counts from the moment of the self-report in December 2012 or from the moment of the charge in October 2015, the time taken was proportionate to the underlying matter. The Law Society moved swiftly after the self-report and, to the extent there was any delay in the investigation, Mr. Abrametz could have raised it in early 2016, at the latest. After the charge, the hearing was held as soon as practicable given Mr. Abrametz's adjournment request and desire for disclosure. No matter when the clock begins to tick, Mr. Abrametz's claim for inordinate delay must fail on these facts, as the Hearing Committee determined. Even if a finding of inordinate delay could be made out, Mr. Abrametz fails to establish that he suffered serious personal prejudice as a result, as addressed immediately below.

ii. No Serious Personal Prejudice

72. A finding of prejudice or absence thereof is another finding that has consistently attracted deference in the context of criminal, civil and administrative proceedings. The Saskatchewan Court of Appeal itself has repeatedly recognized that findings related to prejudice caused by delay are entitled to deference.[102]

73. The Court of Appeal tried nevertheless to reframe the issue in this case as follows:

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[99] Decision of the Hearing Committee dated August 20, 2016 at para. 44., 2016, AR, Vol. I, Tab 11, p. 168.
[100] See *e.g.*, *Camara* at para. 17.
[101] See *e.g.*, *Emond* at para. 29; see also David J. Mullan and Deirdre Harrington, "The Charter and Administrative Decision Making: The Dampening Effects of *Blencoe*" (2002), 27 Queen's L.J. 879, at p. 909, BOA, Vol. I, at Tab 3.
[102] See e.g., *R v. Scott*, 2015 SKCA 144 at para. 52; see also *R v. MacIntosh*, 2011 NSCA 111 at para. 100, aff'd 2013 SCC 23.

> However, I agree with Garson J.A. in *Robertson* that while findings as to the impact of delay on Mr. Abrametz – such as an impact on his practice, professional reputation or health – are findings of fact, the question of whether those facts have resulted in prejudice of the sort necessary to demonstrate an abuse of process is reviewable on a correctness standard….[103]

74. The Court of Appeal then used this purported distinction to interfere with the factual findings by the Hearing Committee that the delay had no impact at all on Mr. Abrametz's practice, professional reputation or health. In other words, there was no prejudice distinctly caused by the alleged inordinate delay – let alone of the sort necessary to demonstrate an abuse of process. In fact, any prejudice related to Mr. Abrametz's health was only raised *after* the findings of misconduct by the Hearing Committee.[104]

75. As the Hearing Committee observed:

> While this Committee accepts that the Member's reputation has suffered as a result of the media attention, we conclude that the Member has failed to illustrate that he has suffered prejudice by any state-caused delay in the proceedings. The Member has not pointed to any publicity, adverse or otherwise, of the proceedings between 2013 and 2018. The publicity occurred over a short period of time early in 2018. Media coverage of the hearing, which pursuant to s. 48(9) of the Act is open to the public, has no connection to the passage of five years between initiation of the investigation and this Committee's decision in January 2018.
>
> The Member submits that he has been prejudiced as a result of the practice conditions that he has been subjected to since March, 2013. The practice conditions … include supervision of the Member's practice and trust account activities. The conditions were consented to by the Member as an alternative to the LSS's move to interim suspend him. The practice conditions are not overly restrictive of the Member's practice. […]
>
> Other than the Member's general statement that he has suffered prejudice as a result of delay in these proceedings, the Member has been unable to provide supporting evidence that he has suffered as a result of the practice conditions he has been under during the last 5 years. He has not argued that the practice conditions have impacted his billings or his caseload or the time typically required by him to process his personal injury files. He has provided no validating evidence that the practice conditions have unreasonably impacted his business and this Committee is unable to find

[103] CA Decision at para. 100, citing *Robertson v. British Columbia (Teachers Act, Commissioner)*, 2014 BCCA 331 [*Robertson*].
[104] Mr. Abrametz's Affidavit in support of the stay application was sworn July 13, 2018, more than six (6) after the Hearing Committee rendered its Conduct Decision: AR, Vol. I, Tab 17, p. 347; HC Decision at para. 257.

> evidence of personal prejudice suffered by the Member due to any delay in the proceedings. [Emphasis added.]

76. Rather than deferring to the fact-specific findings of the Hearing Committee, which determined that any prejudice suffered by Mr. Abrametz was "not so significant",[105] the Court of Appeal inappropriately substituted its own unsupported findings. Indeed, in wholly reweighing the evidence, it concluded, contrary to the Hearing Committee, that Mr. Abrametz had suffered "very significant personal prejudice".[106]

a. Court of Appeal's Errors on Prejudice

77. The Court of Appeal took the view that the stress suffered by Mr. Abrametz went on for longer than was necessary;[107] that the stress on Mr. Abrametz's family and employees should have been taken into account;[108] that practicing under conditions was highly prejudicial to Mr. Abrametz;[109] and that Mr. Abrametz's guilt was irrelevant to the prejudice analysis.[110] With the exception of the stress on Mr. Abrametz's family and employees (which the Hearing Committee took into account in analyzing an argument Mr. Abrametz made based on s. 7 of the *Charter*),[111] these findings have no basis in the record.

78. Contrary to the Court of Appeal, the Hearing Committee's findings of fact on the personal prejudice point are unimpeachable. In effect, Mr. Abrametz has failed to demonstrate the sort of personal prejudice required to sustain a *Blencoe* application.[112] On any view, the sort of personal prejudice suffered by Mr. Abrametz, if any, was minor and attributable to his own misconduct, which itself brought about the disciplinary proceedings.

79. Mr. Abrametz complains of being monitored for high blood pressure. Being monitored for high blood pressure is not serious personal prejudice. Even if Mr. Abrametz had alleged more extensive prejudice, the Hearing Committee observed that "[n]o medical evidence has been provided by the Member. No affidavit from his family, his employees or his doctor was presented

[105] HC Decision at para. 364. [Emphasis added.]
[106] CA Decision at para. 204. [Emphasis added.]
[107] CA Decision at para. 200.
[108] CA Decision at para. 201.
[109] CA Decision at para. 202.
[110] CA Decision at para. 203.
[111] HC Decision at paras. 334-38.
[112] See also *Holder v. Manitoba (College of Physicians and Surgeons)*, 2002 MBCA 135 at para. 30.

with his application".[113] There is no evidence as to when this high blood pressure started or about its gravity.

80. Moreover, Mr. Abrametz complains that his practice was impacted by the delay. But, as highlighted by the Hearing Committee, there is a dearth of evidence in the record to support such a contention:

> The practice conditions have been in place since early in 2013. No evidence was presented to suggest that the practice conditions have hampered the Member's practice, professional activities or freedom. No evidence has been tendered indicating that the regular involvement of [the supervising lawyer] has been challenging for the Member.[114]

81. In fact, Mr. Abrametz maintained a busy law practice throughout the disciplinary proceedings; his practice even expanded.[115] Indeed, Mr. Abrametz appeared at least seven (7) times in the Court of Appeal as counsel while he was practicing under conditions.[116]

b. No Causal Relationship

82. Furthermore, there is no causal relationship between the prejudice and the length of the proceedings.[117] Mr. Abrametz asserted that he was being monitored for high blood pressure but there is nothing to indicate that the length of the proceedings *caused* his high blood pressure, which can plausibly be attributed to the stress of the proceedings themselves or the simple vicissitudes of life, especially in stressful professional jobs. Similarly, even if Mr. Abrametz's practice had suffered, the suffering could plausibly be attributed to the existence of the proceedings rather than the time taken to bring them to a conclusion.[118] Moreover, any social stigma suffered by Mr. Abrametz because of media attention was mostly caused by his being found *guilty* of professional

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[113] HC Decision at para. 335 [Emphasis added].
[114] HC Decision para. 331.
[115] In his correspondence with the LSS in early 2013 about the suspension, Mr. Abrametz had 148 open files: Exhibit "R-2", Tab 6, AR, Voll. VII, Tab 32, p. 165; by 2017 he had 200 active files: Examination in Chief of P. V. Abrametz at T665, Transcripts (August 9, 2017), AR, Vol. II, Tab 24, p. 348.
[116] See *e.g.*, *Embee Diamond Technologies Inc. v. Prince Albert (City)*, 2018 SKCA 44; *Embee Diamond Technologies Inc. v. I.D.H. Diamonds NV*, 2017 SKCA 79; *Montgrand v. Saskatchewan Government Insurance*, 2017 SKCA 2; *Markwart v. The City of Prince Albert*, 2015 SKCA 64; *Markwart v. City of Prince Albert*, 2015 SKCA 63; *Long v. Van Burgsteden*, 2014 SKCA 115; *R v. Gitzel*, 2013 SKCA 41.
[117] See also *Peet* at para. 61.
[118] *Rules of the Law Society of Saskatchewan*, Rule 1120(2) provides that "A discipline matter becomes public as soon as a Hearing Committee is appointed…and a Formal Complaint has been served on the member…"; Rule 1137(1) provides that a formal complaint "shall" be posted on the Law Society's website; this is in keeping with the obligations of transparency imposed by the open justice principle: *Toronto Star v. AG Ontario*, 2018 ONSC 2586, at paras. 54-55.

misconduct, not because of long-pending, unproven allegations.[119] The media coverage Mr. Abrametz complained of largely came not after the charges nor after the hearing but only after the Hearing Committee's Conduct Decision in January 2018.

83. Given the findings of the Hearing Committee and the record, the Court of Appeal ought not to have interfered with these findings. This was an error. Many more errors flowed from the Court's own analysis, untethered to either the record or jurisprudence. This Court must intervene to either restore the findings of the Hearing Committee.

iii. Extraordinary Remedy of a Stay Not Justified

84. Having concluded that there was no inordinate delay in this case nor any prejudice other that attributable to the conduct being investigated, the Hearing Committee did not need to consider whether a stay of proceedings was an appropriate remedy. Nonetheless, the Hearing Committee did note: "The importance of the LSS's primary mandate of public protection overshadows the specific delay, state caused or otherwise, in this matter".[120] It is well-stablished that "[t]he core of the work of self-regulated law societies is the need to protect the interests of the public".[121] Indeed, the Law Society is obliged by statute to have regard to the need to protect the public: "In any exercise of the society's powers or discharge of its responsibilities or in any proceeding pursuant to this Act, the protection of the public and ethical and competent practice take priority over the interests of the member".[122] Given this legislative injunction, it is unsurprising that the Hearing Committee concluded summarily that a stay would not be appropriate here.

85. What is more surprising is that the Court of Appeal was equally summary in its conclusion that a stay would be appropriate, simply concluding that the remedy of a stay "should have been granted" by the Hearing Committee.[123] Ultimately, the weak evidential foundation provided by Mr. Abrametz did not provide adequate support for a stay in the circumstances of this case. The personal prejudice he invoked and lapse of time he complained of were insignificant compared to the gravity of the acts of misconduct and ongoing risk to the public interest, both of which the

[119] Abrametz Affidavit at paras. 25-26, AR, Vol. I, Tab 17, p. 350.
[120] HC Decision at para. 364.
[121] *Law Society of Ontario v. Diamond*, 2021 ONCA 255 at para. 65; see generally *Pearlman v. Manitoba Law Society Judicial Committee*, [1991] 2 S.C.R. 869 at pp. 887-90.
[122] *The Legal Profession Act*, s. 3.2.
[123] CA Decision at para. 216.

Court of Appeal gave little weight to in its analysis.

a. Seriousness of Conduct

86. The Court of Appeal erred in downplaying the gravity of Mr. Abrametz's misconduct,[124] stepping into the province of the Hearing Committee – which made detailed findings as to the appropriate penalty – under cover of applying *Blencoe*. The Court of Appeal minimized the fact that the Hearing Committee found that "[Mr. Abrametz]'s behaviour strikes a blow against the fundamental principles of the legal profession's code, namely; honesty, trustworthiness and protection of the public".[125] The Committee did not equivocate in its condemnation of Mr. Abrametz's behaviour:

> Indeed, the majority of the allegations lodged against the Member were determined by this Hearing Committee to be well founded. In this Committee's decision of January 10th, 2018, it was noted at paragraph number 159 that the Member had enlisted his clients to participate in his dishonest scheme. Further, at paragraph number 168, the Committee concluded that the Member's conduct suggested a deliberate and calculated effort to deceive. At paragraphs 244 and 245 of the decision it was determined that loans to the Member's clients were extensive and excessive and in entering into the business relationships with his clients there was the appearance of undue influence by the Member. [Emphasis added.][126]

87. It was an error for the Court of Appeal to gloss over this key finding and discard it as irrelevant. Worse, the Court of Appeal *misunderstood* the Hearing Committee's penalty analysis, focusing on a comparison with cases where the member guilty of misconduct had misappropriated funds – but the Hearing Committee also took into account cases where the member had done the honourable thing and resigned before a penalty was imposed.[127]

b. Public Interest

88. Throughout its analysis in relation to remedy, the Court of Appeal minimized the public

[124] CA Decision at para. 208: "Although the offences with which Mr. Abrametz was charged implicated important interests, he did not misappropriate funds. The alleged criminal conduct of tax evasion was not in play. Further, he was a very long-standing practitioner with no prior disciplinary record, and had, by the time of the hearing, been effectively compelled to practice under supervision for in excess of four years. Given the primary importance of the public interest and protection of the public, the fact that he had done so without incident is significant".
[125] HC Decision at para. 399.
[126] HC Decision at para. 352.
[127] HC Decision at para. 381; The Court of Appeal repeatedly downplayed the gravity of Mr. Abrametz's misconduct by mentioning that he had not misappropriated funds: CA Decision at paras. 14, 200-08.

interest and ignored the Hearing Committee's findings in this regard.

89. As a starting point, the Court of Appeal took the view that the fact that Mr. Abrametz was quickly subjected to conditions served to protect the public interest.[128] This was an error. As the British Columbia Court of Appeal noted in *Robertson*, interim suspensions establish an absence of individual prejudice; the analysis of the public interest in keeping unfit professionals away from practice must be kept distinct.[129] Irrespective of interim measures, the public has an interest in disciplinary charges being adjudicated in full and those guilty of professional misconduct being subjected to appropriate penalties.[130]

90. The Court of Appeal also emphasized the fact that there was no complainant in the present case, invoking the notion of a victimless breach to minimize the public interest in having the prosecution proceed.[131] Such an approach was rejected by the Ontario Court of Appeal in *Abdul v. Ontario College of Pharmacists*.[132] In particular, the Ontario Court of Appeal emphasized the "potential for harm to the public".[133] This is consistent with the forward-looking nature of professional discipline legislation. The role of a professional regulator is not to punish or compensate victims,[134] but rather to protect the public going forward.[135] As the Ontario Court of Appeal observed in *Sazant*, regulators have "not just the right but the duty to protect the public from members who may pose a danger".[136] In other words, the question remains whether the conduct of the regulatee gives rise to a risk to the public in the future. The Court of Appeal in this case ignored this risk entirely.

91. It is necessary to recall the gravity of Mr. Abrametz's misconduct. Not only did he involve

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[128] CA Decision at para. 214.
[129] *Robertson* at para. 80: "Rather than establishing individual prejudice, the delay permitted Mr. Robertson to pursue his profession as a teacher for 30 years. As for the public prejudice, it must be remembered that the Commissioner holds the very public responsibility of determining fitness for teaching in public schools;" see also *Sazant* at paras. 247-248.
[130] *Diaz-Rodriguez* at para. 72.
[131] CA Decision at paras. 209-11.
[132] 2018 ONCA 699 [*Abdul*], application for leave to appeal to S.C.C. dismissed, 2019 CanLII 21175.
[133] *Abdul* at para. 22, citing the Discipline Committee.
[134] See *e.g., College of Physicians and Surgeons of Ontario v. McIntyre*, 2017 ONSC 116 at para. 48 (Div. Ct.); *Law Society of Upper Canada v. Flumian*, 2015 ONLSTH 162 at para. 5; see also *Bolton v. The Law Society*, [1993] EWCA Civ 32 at para. 15.
[135] See *Adams v. Law Society of Alberta*, 2000 ABCA 240 at para. 6; a professional regulator may be found civilly liable for failing to protect the public: *Finney v. Barreau du Québec*, 2004 SCC 36.
[136] *Sazant* at para. 248.

his vulnerable clients in a fraudulent tax avoidance scheme, but Mr. Abrametz also loaned them money at exorbitant (sometimes criminal) interest rates, acting outside the scope of the lawyer-client relationship and breaching his fiduciary duties. For instance, he on one occasion loaned $172 to a young woman so that she could pay for childcare.[137] Disciplinary proceedings were entirely proper; granting a stay allowed Mr. Abrametz to return unsupervised to the practice of law, in circumstances where the protection of the public demanded robust safeguards.

c. Options Other Than a Stay

92. A stay of proceedings is not the only remedy which may be granted pursuant to a successful application of *Blencoe*. There were other options before the Court of Appeal given the record. For example, in this case, the costs incurred by the Law Society were significant, "considerably larger" than in cases to which the Hearing Committee was referred.[138] A reduction of costs would therefore have been a possible remedy.

93. Further, Mr. Abrametz could have asked for expedition earlier, rather than waiting until the eleventh hour.[139] Had Mr. Abrametz raised concerns about delay in a timely manner the Hearing Committee could have developed a timetable for an expedited hearing.

iv. Conclusion on Application of Blencoe to This Case

94. This is not a case of inordinate delay as defined in *Blencoe*. First, the time taken to bring the complex proceedings against Mr. Abrametz to a conclusion did not constitute inordinate delay. Pre-charge, 34.8 months elapsed. This time was required to illuminate Mr. Abrametz's accounting system, the scale of the wrongdoing and the implication of clients in nefarious schemes. Second, Mr. Abrametz has not established personal prejudice attributable to the lapse of time. To the extent he has suffered any prejudice at all, it is attributable to the existence of the proceedings, not to the

[137] A single mother needed money to buy baby formula and called Mr. Abrametz from a women's shelter: Examination in Chief of P. V. Abrametz at T700, T722, Transcripts (August 9, 2017), AR, Vol. III, Tab 24, pp. 383, 5 (Vol. IV, Tab 25); see also Cross-Examination of P V. Abrametz at T743, Transcripts (August 10, 2017), AR, Vol. IV, Tab 25 (a client with no bank account); T787 (others desperate for funds). See also HC Decision at para. 228.
[138] HC Decision at para. 410.
[139] See also *Gill v. Canada (Minister of Employment and Immigration)*, [1984] 2 F.C. 1025 at para. 15 (C.A): "[t]he procedural duty to act fairly includes a duty to proceed within a reasonable time. It does not by any means follow, however, that the breach of such a duty would give rise to the setting aside of the tardy action when it is finally taken. The remedy surely is to compel timely action rather than to annul one that, though untimely, may otherwise be correct".

time taken to complete the investigation and to run a fair hearing. The prejudice, if any, is attributable to Mr. Abrametz's misconduct, not to the Law Society. Third, there is no basis here for granting the extraordinary remedy of a stay of proceedings. Given the gravity of the misconduct and the weak foundations of Mr. Abrametz's prejudice claim, a stay does not strike a fair balance between the interests of Mr. Abrametz and those of the public. A stay would be an entirely disproportionate remedy on the facts of this case.

D. This Court Should Not Change the Law Relating to Undue Delay

95. The Court of Appeal also erred in purporting to change the law on inordinate delay.[140] *Blencoe* is not in need of rehabilitation. *Blencoe* provides a general, principled and robust framework for judicial consideration of administrative delay.

i. Blencoe: A General, Robust and Principled Framework

a. *Blencoe* is a general framework

96. As with this Court's other frameworks for administrative law – like those set out in *Vavilov* and *Baker* – *Blencoe* applies to the "full galaxy" of administrative decision-makers.[141] Administrative law consists of a body of general principles, which can be easily grasped by judges, practitioners and litigants. *Blencoe* requires a contextual analysis – as do *Baker* and *Vavilov* – the better to accommodate the many complexities of administrative decision-making by bodies as diverse as ministers, disciplinary bodies, economic regulators, administrative tribunals, adjudicators, municipalities and much else besides.[142]

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[140] CA Decision at paras. 8-10, 212-13.

[141] *Canada (Citizenship and Immigration) v. Khosa*, 2009 SCC 12 at para. 33, *per* Binnie J.

[142] See *e.g.*, the invocation of *Blencoe* in the varied contexts of administrative monetary penalties (see *e.g.*, *Re A1606066*, 2018 CanLII 134960 at paras. 157-72 (B.C. W.C.A.T.)); employment insurance (see *e.g.*, *S.W. v. Canada Employment Insurance Commission and Health Canada*, 2018 SST 672 at para. 17 ff. (A.D.)); employment standards (see *e.g.*, *Re Garrick Automotive*, 2020 BCEST 85 at paras. 28-41); environmental protection (see *e.g.*, *Skibsted v. Canada (Environment and Climate Change)*, 2021 FC 416 at paras. 123-24); immigration (see *e.g.*, *Ratnasingam v. Canada (Public Safety and Emergency Preparedness)*, 2007 FC 1096 at paras. 30-33; *Canada (Public Safety and Emergency Preparedness v. Najafi)*, 2019 FC 594 at paras. 41-51); income tax (see *e.g.*, *Addison & Leyen Ltd. v. Canada*, 2005 FC 411 at para. 22); labour relations (see *e.g.*, *Canadian Union of Postal Workers v. Canada Post Corporation*, 2019 ONSC 5240 at para. 9 (Div. Ct.); *United Food And Commercial Workers, Local 1400 v. Affinity Credit Union*, 2019 SKQB 236 at paras. 36-39 (arbitration board)); licensing (see *e.g.*, *CFG Construction inc. et Régie du bâtiment du Québec*, 2018 QCTAT 4315 at para. 26 ff.); municipal decision-making (see *e.g.*, *Wu v. Vancouver (City)*, 2019 BCCA 23 at paras. 40-42, application for leave to appeal to S.C.C dismissed, 2019 CanLII 55721; *6165347 Manitoba Inc. et al. v. The City of Winnipeg et al.*, 2018 MBQB 153 at para. 6); and workers' compensation

b. The *Blencoe* framework is also robust

97. *Blencoe* makes powerful and flexible remedies available for undue administrative delay: mandatory orders to compel timely action,[143] costs awards to take account of dilatory administrative practice,[144] reductions in penalty,[145] expeditious judicial review proceedings,[146] quashing orders where these are required to undo an injustice,[147] and, in appropriate cases, prohibition[148] or stays of proceedings.[149]

c. The *Blencoe* framework is principled

98. Animating *Blencoe* is proportionality. Striking a fair balance between the public good and private interests is the heart of *Blencoe*. The time taken must be in proportion to the nature of the matter. Where there has been inordinate delay, the remedy must be calibrated to be proportionate to the harm suffered because of the delay and to any damage to the public interest which would be caused by granting a remedy.

ii. Criteria for Overturning a Precedent Not Met

99. The burden of demonstrating that the settled *Blencoe* principles should be cast aside rests on the shoulders of Mr. Abrametz. He bears a heavy burden and must demonstrate "compelling reasons".[150] Departing from settled precedent is "a step not to be lightly undertaken".[151]

100. As a matter of constitutional principle, administrative law and constitutional law should be

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(see *e.g., Roy v. Alberta (Workers' Compensation Board)*, 2010 ABQB 321 at paras. 93-125). See also *Liang v. Canada (Citizenship and Immigration*, 2012 FC 758 at paras. 46-49) (mandamus issued against the Minister for inordinate delay in visa processing but not citing *Blencoe*); *D'Errico v. Canada (Attorney General)*, 2014 FCA 95 at para. 16 (inordinate delay a factor in exercising remedial discretion but not citing *Blencoe*).

[143] See *e.g., Latham v. Canada*, 2020 FC 670 at para. 52; *6165347 Manitoba Inc. et al. v. The City of Winnipeg et al.*, 2018 MBQB 153 at para. 28; *ADM* at para. 46.

[144] See *e.g., Wachtler v. College of Physicians and Surgeons of the Province of Alberta*, 2009 ABCA 130 at para. 50.

[145] See *e.g., Law Society of Saskatchewan v. Peet*, 2013 SKLSS 5 at paras. 87-93, aff'd 2014 SCKA 109; *Law Society of Ontario v. Savone*, 2020 ONLSTA 16 at para. 46.

[146] See *e.g., Haj Khalil v. Canada*, 2007 FC 923 at para. 347, aff'd 2009 FCA 66, application for leave to appeal to S.C.C. dismissed, 2011 CanLII 20826.

[147] See *e.g., Watson v. Regina Police Service*, 2005 SKQB 286. *Blencoe* can also influence the exercise of remedial discretion: see *e.g., Giguere v. Chambre des notaires du Québec*, 2004 SCC 1 at para. 34; *Canada (Public Safety and Emergency Preparedness) v. LeBon*, 2013 FCA 55 at para. 14.

[148] See *e.g., Hutchinson v. Newfoundland (Minister of Health and Community Services)*, 2001 CanLII 37644 (Nfld. Sup. Ct. (T.D.)).

[149] See *e.g., Stinchcombe v. Law Society of Alberta*, 2002 ABCA 106 [*Stinchcombe*]

[150] *Ontario (Attorney General) v. Fraser*, 2011 SCC 20, at para. 57 [*Fraser*]. See also *R. v. Comeau*, 2018 SCC 15 at para. 29-34 [*Comeau*].

[151] *Fraser* at para. 56.

kept apart as far as inordinate delay is concerned. As a matter of public policy, supercharging the *Blencoe* principles as the Court of Appeal did would carry significant risks. Ultimately, *Blencoe* strikes a fair balance between private interests and the public good: where delay is disproportionate, an appropriate remedy will be made available; but in determining which remedy is appropriate, proportionality is the touchstone, with the remedy calibrated by reference to the relative gravity of the harm to private interests and the public good.

iii. Constitutional Principle Supports Distinction between Criminal Law and Administrative Law

101. In *Blencoe*, this Court was clear that criminal law concepts drawn from section 11(b) of the *Charter*'s guarantee of a trial within a reasonable time should not be applied in the administrative law context.[152] It was impermissible, Bastarache J. explained, to take a concept developed under s. 11 and "apply it to a process that differs with respect to objectives, consequences and procedures".[153] *Blencoe* involved a human rights tribunal proceeding, but Bastarache J. was clear that this is analysis is equally applicable "when dealing with the regulation of a business, profession, or other activity".[154]

102. The *Blencoe* analysis has strong textual, purposive and contextual underpinnings.

a. Textual Analysis

103. Textually, s. 11 of the *Charter* applies only to criminal proceedings, to "[a]ny person charged with an offence". There is no textual basis for the extension of s. 11 to discipline proceedings in a regulated profession. Indeed, many of the specific procedural rights set out in s. 11 can have no application to professional discipline.

b. Purposive Analysis

104. Purposively, the panoply of procedural rights set out in s. 11 are designed to maximize the protections for individuals. Criminal proceedings pit individuals against the might and limitless

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[152] *Blencoe* at paras. 92-95, 126; see also *Burnham v. Metropolitan Toronto Police*, [1987] 2 S.C.R. 572 at p. 575; *Trumbley and Pugh v. Metropolitan Toronto Police*, [1987] 2 S.C.R. 577 at p. 580; *Trimm v. Durham Regional Police*, [1987] 2 S.C.R. 582 at p. 589; *Peet* at para. 51.
[153] *Blencoe* at para. 92.
[154] *Blencoe* at para. 96.

resources of the state, with deprivation of liberty a potential result. As Bastarache J. explained in *Blencoe*, the nature and purpose of criminal proceedings cannot be equated with the nature and purpose of administrative proceedings:

> In discussing the nature and purpose of s. 11(*b*), Lamer J. emphasized in *Mills* (1986), *supra*, that the need for protecting the individual in such cases arises "from the nature of the criminal justice system and of our society" (p. 920). He described the criminal justice process as "adversarial and conflictual" and states that the very nature of the criminal process will heighten the stress and anxiety that results from a criminal charge. In contrast to the criminal realm, the filing of a human rights complaint implies no suspicion of wrongdoing on the part of the state. The investigation by the Commission is aimed solely at determining what took place and ultimately to settle the matter in a non-adversarial manner. The purpose of human rights proceedings is not to punish but to eradicate discrimination. Tribunal orders are compensatory rather than punitive. The investigation period in the human rights process is not one where the Commission "prosecutes" the respondent. The Commission has an investigative and conciliatory role until the time comes to make a recommendation whether to refer the complaint to the Tribunal for hearing. These human rights proceedings are designed to vindicate private rights and address grievances.[155]

105. Professional discipline proceedings are designed to vindicate the public interest and address shortcomings in a member's appreciation of their professional obligations. Indeed, in this case, the Law Society has been established by legislation as an independent regulatory entity with an express statutory duty to protect the public.[156] Its *Rules* are structured to ensure that the Law Society can remedy misunderstandings of professional obligations. In this regard, the Law Society is in a very different position to a criminal investigator.

106. Professional discipline investigations are subject to the duty of procedural fairness,[157] which slows down the pace at which an investigation can progress. The Law Society's own *Rules* urge the consideration of alternative forms of resolution: when a complaint arises, three paths open up – ethics, competency and discipline – which may intersect from time to time.[158] Thus, applying a *Jordan*-esque analysis to the investigation period is therefore particularly problematic.

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[155] *Blencoe* at para. 94
[156] *The Legal Profession Act*, s. 3.2. See also, *Green v. Law Society of Manitoba*, 2017 SCC 20 at paras. 22, 30.
[157] See *Swanson v. Institute of Chartered Accountants of Saskatchewan (Professional Conduct Committee)*, 2007 SKQB 480 at paras. 56-66; *Mooney v. Canadian Society for Immigration Consultants*, 2011 FC 496 at para. 164.
[158] See Part 11.B, BOA, Vol. II, at Tab 13.

c. Contextual Analysis

107. Contextually, *Blencoe* is of a piece with this Court's general reluctance to impose *Charter* guarantees with full force in areas of regulated activity:

i. *Charter* section 7's has been held not to protect economic liberty;[159]

ii. *Charter* section 8's protection against unreasonable searches and seizures applies with less force in the context of regulatory activity, as participants appreciate that their business operations as well as personal activities connected to their professions may legitimately be scrutinized[160] and have actively chosen to engage in the regulatory activity;[161] and

iii. *Charter* section 11's protections have been held generally not to extend to administrative proceedings, unless these are, in pith and substance, an attempt to impose criminal sanctions under cover of regulatory sanctions.[162]

108. More generally, this Court has repeatedly cautioned against reading across from the criminal context to the administrative context.[163]

109. There is, therefore, no basis for transplanting the law of inordinate delay, as developed in the context of criminal procedure, to the administrative setting. Every other appellate court which has been asked to perform the transplant has flatly refused[164] – and rightly so.

d. No Basis to Transplant *Jordan* Here

110. The foundations for such a transplant are particularly weak in this case:

i. The practice of law is a privilege, not a right;[165]

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[159] See *e.g.*, *Re B.C. Motor Vehicle Act*, [1985] 2 S.C.R. 486.
[160] See *e.g.*, *Thomson Newspapers Ltd. v. Canada (Director of Investigation and Research, Restrictive Trade Practices Commission)*, [1990] 1 S.C.R. 425.
[161] See *e.g.*, *Goodwin v. British Columbia (Superintendent of Motor Vehicles)*, 2015 SCC 46.
[162] See *e.g.*, *Guindon v. Canada*, 2015 SCC 41.
[163] See *e.g.*, *R. v. Zora*, 2020 SCC 14 at para. 49. The proposition that *Jordan* should be read across has only received tepid academic support. See Daniel Mockle, « Le principe général du bon government » (2019), 60 *Cahiers de droit* 1031 at p. 1069; Michelle Alton, "Rethinking Fairness in Tribunal Adjudication to Best Promote Access to Justice" (2019) 32 *Canadian Journal of Administrative Law & Practice* 151 at p. 165, n. 112.
[164] *Diaz-Rodriguez* at para. 69; *Emond* at para. 22; *Brown v. Canada (Citizenship and Immigration)*, 2020 FCA 130 at paras. 48-53, leave to appeal to S.C.C. dismissed, 2021 CanLII 18039; see also *Forum National Investments Ltd. v. British Columbia (Securities Commission)*, 2019 BCCA 402 at para. 46.
[165] See *e.g.*, *Sazant* at para. 175: "Practising (*sic*) a profession such as medicine is not a right; rather, it is a privilege conferred by statute where a person possesses the necessary qualifications and undertakes to abide by the governing regulatory regime".

ii. Mr. Abrametz chose to engage in the practice of law, fully knowing that it is a heavily regulated activity and that the highest standards of probity are expected of and imposed on participants; and

iii. Mr. Abrametz is a sophisticated litigant, knowledgeable about practice and procedure, and able to retain skilled counsel.

111. The effect of *Jordanizing* undue delay in administrative law would be to impose judicially created limitation periods on administrative decision-makers.[166] It is one thing to do this in the criminal context, where s. 11 unlocks the supremacy clause of the Constitution (s. 52) and remedial powers in respect of *Charter* breaches (s. 24) but quite another to do so in the administrative law context. It is notable that the Court of Appeal went beyond even *Jordan* in its analysis, stating that time should begin to run against the Law Society from when it knew "enough about the nature of and foundation for a complaint or issue that might engage its investigatory, charge, decision-making and/or enforcement processes that it would be obliged to consider taking action".[167] But in criminal law, time runs from the time of the charge, not from the time investigators had information about a possible offence. The Court of Appeal's approach leads to the bizarre position that administrative law protections would be even greater than constitutional law protections. Had the calculation been made from the time of the charges against Mr. Abrametz to the Hearing Committee's decision, the clock would have shown 19 months (much of which was accounted for by Mr. Abrametz's requests for an adjournment and disclosure), almost short even of the 18-month threshold this Court set for provincial court matters in *Jordan*.

e. Conclusion on Keeping Criminal and Administrative Law Separate

112. It would be inappropriate to place the *Blencoe* principles in a *Jordan*-esque strait jacket. Criminal trials can be neatly classified based on the forum: provincial or superior court. Administrative processes, by contrast, are multifarious, with decisions taken by ministers, municipalities, economic regulators, administrative tribunals and other such bodies. Many of the members and adjudicators of these bodies are not only volunteers but work part-time. This array of bodies also takes a variety of preliminary, interlocutory and final decisions, which are often subject in turn to internal appeal, review or reconsideration. One-size-fits-all time limits would be unworkable. It is more proper, as this Court recognized in *Blencoe*, to adopt a context-sensitive

[166] *R. v. L. (W.K.)*, [1991] 1 S.C.R. 1091 at p. 1100; *Blencoe* at para. 101.
[167] CA Decision at para. 148.

approach which is calibrated to the particularities of the decision and decision-maker at issue.

iv. Proportionate Dispute Resolution Would be Endangered by Supercharging of Blencoe

113. The Court of Appeal invoked *Hyrniak* as well as *Jordan*. Ironically, however, the Court of Appeal's approach is much more likely to undermine the goal of proportionate dispute resolution, as established in *Hryniak*, than to advance it. There are three (3) ways in which professional disciplinary proceedings are likely to be significantly impacted by a supercharging of the *Blencoe* principles.

a. Regulators Will Rush Investigations

114. First, regulators may feel under pressure to rush proceedings and to charge, particularly in complex cases with overlapping investigations. Much of the delay in *Abrametz* can be explained by reference to the Law Society's concern that they did not yet have enough evidence to successfully press charges against a lawyer they had reasonable and probable grounds to fear was unfit to practice. In the future, wise counsel in professional discipline cases (in all professions or regulatory settings) will accelerate the prosecution of charges that might otherwise benefit from further investigation. The charge is what typically triggers a public notice of a hearing, potentially causing stigma to the regulatee. On the other side, regulatees may be encouraged to be more litigious in the hopes that bogging down the process may ultimately run the disciplinary body out of time, as the exercise of attributing delay may still benefit the regulatee as it did Mr. Abrametz before the Court of Appeal in this case.

b. Regulators Will Forego Alternatives

115. Second, professional disciplinary bodies may forego alternative, less onerous procedures in favour of the imposition of formal sanctions. As with modern regulation, contemporary professional discipline is designed to be flexible, with a range of ameliorative programmes falling short of coercive sanctions. Disciplinary bodies would have less time to explore alternatives to discipline, such as recommending coaching or remedial training. Many minor ethical breaches can be properly addressed in an informal manner without invoking the heavy machinery of formal sanctions. This is consistent with this Court's emphasis on flexibility and efficiency in *Hryniak*.

116. Legal discipline proceedings are not a neat, linear process which proceeds from investigation to the formulation of charges through to a hearing and, if appropriate, a formal sanction. Rather, the *Rules of the Law Society of Saskatchewan* provide for a multi-faceted process. Disciplining members is not the primary goal. Rather, there are a variety of remedial tools at the disposal of the Law Society, exercisable in the first instance by staff and subsequently, if the process moves forward, the Competency Committee and the Investigation Committee[168]

117. If, however, there is a risk that the time taken to explore alternative methods of dispute resolution will be invoked against a professional disciplinary body to defeat a formal sanction, the calculus will shift. Professional disciplinary bodies will send fewer regulatees for informal sanctions and more for formal sanctions. Therefore, a rushed procedure may well be more prejudicial to parties in the system. This would be all the truer if the clock starts to run before the regulatee is formally charged.

c. Less Time for Parallel Proceedings

118. Third, professional disciplinary bodies would have less time to let related matters wind their way through the civil or criminal courts. This might entail that different courts and tribunals make potentially contradictory findings of fact. Further, there would be more pressure on complainants to convey everything they know before they have had a chance to trust investigators or discipline counsel. This could hamper the disciplinary bodies' truth-seeking function and undermine the interests of justice.

119. Similarly, sometimes fairness and efficiency are in fact enhanced by the regulator delaying the regulatory prosecution until after the criminal proceedings have been fully resolved. This is a practice that numerous professional disciplinary bodies have adopted. As explained by the Ontario Court of Appeal in *Sazant*, "it would have been impractical and unfair to the appellant for the College to pursue misconduct charges in respect of one or more of these complainants until after the criminal proceedings had been fully resolved".[169] Indeed, the need for professional or regulatory consequences may not be known until the end of court proceedings. Accordingly, in the

[168] See *e.g.* Rule 1102(10-11), which regulates the role of staff; Rule 1110(3), which sets out the range of options at the disposal of the Conduct Investigation Committee; and Rule 1108(c), which deals with the role of the chair of competency committee, BOA, Vol. II, at Tab 13.
[169] *Sazant* at para. 245.

professional discipline context, procedural fairness is not always maximized through expediency.

v. Blencoe Framework Suffused with Proportionality Principle

120. Mr. Abrametz argued before the Hearing Committee and Court of Appeal that the values underlying section 11 should influence the application of the *Blencoe* principles. Leaving to one side the novelty of Mr. Abrametz's recourse[170] to the controversial concept of *Charter* values,[171] his argument rests on the false premise that *Blencoe* is undercharged and insufficiently protective of individual interests.

121. But Mr. Abrametz has sought a stay of proceedings (not one of the many other available remedies), which would leave Mr. Abrametz free to return unencumbered to the practice of law notwithstanding the conclusion of the Hearing Committee that he should be disbarred and the findings of the Court of Appeal upholding the findings of misconduct.

122. In cases where the applicant is seeking a stay, the *Blencoe* principles were always expected to be "extremely stringent".[172] As the British Columbia Court of Appeal observed recently, "it will be the rare case indeed in which delay in an administrative proceeding will amount to an abuse of process justifying a stay of proceedings".[173] This is entirely proper. Given the severe consequences of a stay, the applicant must show that it is a proportionate response to delay.

a. Proportionate Balancing of Delay and Remedy

123. Courts must engage in a proportionate balancing of the consequences of delay for the individual concerned against the damage (if any) the remedy sought would inflict on the public interest, the risk of damage being significantly greater where a stay is the targeted remedy.

124. As such, cases in which stays have been granted on the basis of inordinate delay involve significant interference with individual interests. *Stinchcombe* is the prime example. There, the

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[170] They have been invoked principally in the context of the exercise of administrative discretion: see *Doré v. Barreau du Québec*, 2012 SCC 12 at paras. 55-58. There is some authority for their use to interpret statutes: *Taylor-Baptiste v. Ontario Public Service Employees Union*, 2015 ONCA 495 at para. 57, application for leave to appeal to S.C.C. dismissed, 2016 CanLII 34004. But this is controversial: see *Ontario Nurses' Association v. Participating*, 2021 ONCA 148 at paras. 139-156, *per* Huscroft J.A. (dissenting).

[171] See *e.g.*, Matthew Horner, "*Charter* Values: the Uncanny Valley of Canadian Constitutionalism" (2014) 67 *Supreme Court Law Review* 361.

[172] Mullan and Harrington at p. 906, BOA, Vol. I, at Tab 3.

[173] *Diaz-Rodriguez* at para. 68.

proceedings were allowed to languish as a tortuous criminal case wound its way slowly through the courts, while the individual was entirely suspended from practice.[174] In *Macbain*, the regulator sat on a complaint for two (2) years and, moreover, the complaint was against someone the applicant was supervising, rather than against him directly.[175] In these cases, the gravity of the harm suffered by the individual who was subject to the delay was out of proportion to the public interest in seeing the individual's misconduct remedied. Further, the harm was demonstrated by the record.

125. Courts must also consider the damage a stay would cause to the public interest in seeing matters resolved by the competent authorities. In a line of cases in which remedies were granted, individuals often "were completely ignored by the administrative agencies conducting the proceedings"[176] and had gone about their business only to have proceedings sprung upon them years later.[177] There is no public interest in dilatory proceedings and perhaps even a presumption that the public interest is not engaged by a decision-making process if the decision-maker does not consider the matter sufficiently important to pursue in a timely manner. In some cases, such as *Emond* 2020, where delay was attributable to the province's failure to appoint French-language adjudicators in sufficient numbers, granting a stay vindicates the public interest by sanctioning the systemic effects of poor administrative practice.[178]

126. By contrast, it is disproportionate to grant a stay where the underlying misconduct was serious, such that there is a public interest in the matter being seen through the end,[179] or a stay would disrupt the legislative scheme.[180]

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[174] *Stinchcombe* at para 3.
[175] *Investment Dealers Association of Canada v. MacBain*, 2007 SKCA 70 at para. 39.
[176] Gerald P. Heckman, "Remedies for Delay in Administrative Decision-making: Where Are We after Blencoe?" (2011) 24 *Canadian Journal of Administrative Law & Practice* 177, at p. 192.
[177] *Hutchinson v. Newfoundland (Minister of Health & Community Services)*, 2001 CanLII 37644 (Nfld. Sup. Ct.): complete inactivity had led the doctor to believe that the claim had been abandoned; *Ratzlaff v. British Columbia (Medical Services Commission)*, 1996 CanLII 616 (B.C. C.A.): a physician carried on his practice and then retired thinking the billing dispute was behind him after having written to the tribunal requesting action but getting no response; *Warren v. Criminal Injuries Compensation Board*, 2005 CanLII 44842 (Ont. Div. Ct.): the Board had steadfastly refused to expedite the hearing; *Stearns v. Alberta Insurance Council*, 2001 ABQB 752: there were long periods of unexplained activity.
[178] *Financial and Consumer Services Commission v. Emond et al.*, 2020 NBCA 42 at para. 29.
[179] See *e.g., Diaz-Rodriguez* (a complaint of police misconduct with a racialized aspect) and *Robertson* (a complaint of historical sexual impropriety by a teacher).
[180] See *e.g., Henson v British Columbia (Superintendent of Motor Vehicles)*, 2017 BCSC 783 at para. 125.

b. Conclusion on Proportionate Remedies

127. In summary, Canadian courts have been willing to grant proportionate remedies – where these are sought. At the time, Professor Mullan and Deirdre Harrington observed that *Blencoe* "opened up" new remedial options in terms of delay.[181] However, Canada's legal community has been reluctant to heed the "signal" sent by *Blencoe* that parties, counsel and courts "should be more creative in the remedies they request and craft, respectively".[182] This has clouded the clarity of *Blencoe*: proportionate remedies are available for administrative delay, but the remedy sought must be in proportion to the harm being remedied and to the interference with the public interest.

128. When it comes to the extraordinary remedy of a stay of proceedings, the *Blencoe* bar is properly set high. But it is not insurmountable. In Mr. Abrametz's case, by contrast, the public interest in remedying the misconduct and protecting the vulnerable greatly outweighs any prejudice suffered by Mr. Abrametz. Simply put, Mr. Abrametz has not provided an evidential basis to support the proposition that a stay would be a proportionate remedy in his case.

E. The Appeal Should Be Allowed

129. Proportionality is central to the *Blencoe* principles. In calculating delay, the overarching question is whether the time taken was proportionate to the complexity of the case, the facts and issues and the nature and purpose of the proceedings (while also having regard to the applicant's responsibility for any delay). In determining an appropriate remedy, it is necessary to balance the gravity of the underlying misconduct with the prejudice (if any) suffered by the applicant.

130. Here, there is no factual basis for the conclusion that the time taken or the prejudice suffered were disproportionate. Whether one calculates delay from Mr. Abrametz's self-report (on the eve of the Law Society's visit to his office) or from the date of the formal charge, the time taken was entirely proportionate to the underlying matters.

131. Moreover, there is no basis for this Court to make the sweeping changes to the law proposed by the Court of Appeal. Mr. Abrametz bears a heavy burden to make out inordinate delay

[181] Mullan and Harrington at p. 909, BOA at Tab 3.
[182] Gerald P. Heckman, "Remedies for Delay in Administrative Decision-making: Where Are We after Blencoe?" (2011) 24 *Canadian Journal of Administrative Law & Practice* 177 at p. 196, BOA at Tab 4. See also Mullan and Harrington at pp. 907-909, BOA at Tab 3.

in his case and a heavier burden again to reform this Court's approach to inordinate delay. He has discharged neither of these burdens.

PART IV – COSTS

132. The Appellant asks that it be granted its costs in this Court and the Court of Appeal.

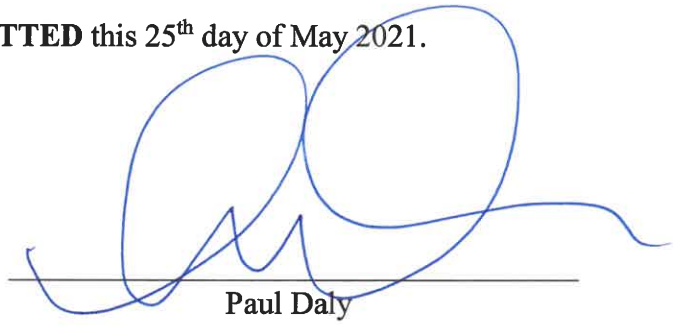
PART V – ORDER SOUGHT

133. The Appellant respectfully requests that this Court allow this Appeal and restore the Hearing Committee's penalty and costs award imposed by the Penalty Decision dated January 18, 2019.

PART VI – CONFIDENTIALITY ORDER

134. There is no confidentiality order in this case.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 25th day of May 2021.



Paul Daly
Alyssa Tomkins
Charles R. Daoust

PART VII – TABLE OF AUTHORITIES

NO.	DOCUMENT	PARA CITED
Legislation		
1.	*Canadian Charter of Rights and Freedoms*, Part I of *The Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (U.K.), 1982, c. 11	18
2.	*The Legal Profession Act*, s. 3.2	84, 105
Caselaw		
3.	*6165347 Manitoba Inc. et al. v. The City of Winnipeg et al.*, 2018 MBQB 153	96-97
4.	Abdul v. Ontario College of Pharmacists, 2018 ONCA 699	90
5.	*Abrametz v. Law Society of Saskatchewan*, 2020 SKCA 81	21
6.	*Adams v. Law Society of Alberta*, 2000 ABCA 240	90
7.	*Addison & Leyen Ltd. v. Canada*, 2005 FC 411	96
8.	*A.D.M. v. Canadian Institute of Actuaries*, 2008 ABQB 522	24, 32, 97
9.	*Agraira v. Canada (Public Safety and Emergency Preparedness)*, 2013 SCC 36	26
10.	*Blencoe v. British Columbia (Human Rights Commission)*, 2000 SCC 44	5, 24, 28-32, 35, 37, 63-64, 67, 79, 96, 101, 104, 111
11.	*Bolton v. The Law Society*, [1993] EWCA Civ 32	90
12.	*Brown v. Canada (Citizenship and Immigration)*, 2020 FCA 130	109
13.	*Burnham v. Metropolitan Toronto Police*, [1987] 2 S.C.R. 572	101
14.	*Camara v. Canada*, 2015 FCA 43	70,
15.	*Canada (Citizenship and Immigration) v. Khosa*, 2009 SCC 12	96
16.	Canada (Minister of Citizenship and Immigration) v. Vavilov, 2019 SCC 65 (CanLII)	24

NO.	DOCUMENT	PARA CITED
17.	*Canada (Public Safety and Emergency Preparedness) v. LeBon*, 2013 FCA 55	97
18.	*Canada (Public Safety and Emergency Preparedness v. Najafi*, 2019 FC 594	96
19.	*Canadian Union of Postal Workers v. Canada Post Corporation*, 2019 ONSC 5240	96
20.	*CFG Construction inc. et Régie du bâtiment du Québec*, 2018 QCTAT 4315	96
21.	*Champagne c. Colas*, 2020 QCCA 1182	
22.	*College of Physicians and Surgeons of Ontario v. McIntyre*, 2017 ONSC 116	90,
23.	*Diaz-Rodriguez v. British Columbia (Police Complaint Commissioner)*, 2020 BCCA 221	63, 69, 89, 109, 122, 126
24.	*D'Errico v. Canada (Attorney General)*, 2014 FCA 95	96
25.	*Doré v. Barreau du Québec*, 2012 SCC 12	120
26.	*Embee Diamond Technologies Inc. v. I.D.H. Diamonds NV*, 2017 SKCA 79	81
27.	*Embee Diamond Technologies Inc. v. Prince Albert (City)*, 2018 SKCA 44	81
28.	*Financial and Consumer Services Commission v. Emond et al.*, 2017 NBCA 28	69-70, 109,
29.	*Financial and Consumer Services Commission v. Emond et al.*, 2020 NBCA 42	126
30.	*Finney v. Barreau du Québec*, 2004 SCC 36	90
31.	*Forest Ethics Advocacy Association v. Canada (National Energy Board)*, 2014 FCA 245	24
32.	*Forum National Investments Ltd. v. British Columbia (Securities Commission)*, 2019 BCCA 402	109
33.	*Giguere v. Chambre des notaires du Québec*, 2004 SCC 1	97

NO.	DOCUMENT	PARA CITED
34.	*Gill v. Canada (Minister of Employment and Immigration)*, [1984] 2 F.C. 1025	93
35.	*Goodwin v. British Columbia (Superintendent of Motor Vehicles)*, 2015 SCC 46	107
36.	*Green v. Law Society of Manitoba*, 2017 SCC 20	105
37.	*Guindon v. Canada*, 2015 SCC 41	107
38.	*Haida Nation v. British Columbia (Minister of Forests)*, 2004 SCC 73	24
39.	*Haj Khalil v. Canada*, 2007 FC 923	97
40.	*Hennig v. Institute of Chartered Accountants of Alberta (Complaints Inquiry Committee)*, 2008 ABCA 241	24, 38
41.	*Henson v British Columbia (Superintendent of Motor Vehicles)*, 2017 BCSC 783	126
42.	*Holder v. Manitoba (College of Physicians and Surgeons)*, 2002 MBCA 135	78
43.	*Hryniak v. Mauldin*, 2014 SCC 7	22
44.	*Hutchinson v. Newfoundland (Minister of Health and Community Services)*, 2001 CanLII 37644 (Nfld. Sup. Ct. (T.D.)).	97, 126
45.	*Investment Dealers Association of Canada v. MacBain*, 2007 SKCA 70	124
46.	*Law Society of New Brunswick v. Ryan*, 2003 SCC 20	25
47.	*Law Society of Ontario v. Diamond*, 2021 ONCA 255	84
48.	*Law Society of Ontario v. Savone*, 2020 ONLSTA 16	97
49.	*Law Society of Saskatchewan v. Abrametz*, 2016 SKQB 134	14
50.	*Law Society of Saskatchewan v. Abrametz*, 2016 SKQB 320	14, 68
51.	*Law Society of Saskatchewan v. Abrametz*, 2018 SKLSS 8	3, 7, 17, 19-20, 25, 41, 47-48, 52-53, 56-58, 62, 65, 74, 76,

NO.	DOCUMENT	PARA CITED
		77, 79-80, 84, 86-87, 91-92
52.	*Abrametz v. Law Society of Saskatchewan*, 2020 SKCA 81	21, 22, 36, 41, 44, 48-49, 55, 57, 73, 76-77, 85-87, 89-90, 95, 111
53.	*Law Society of Saskatchewan v. Peet*, 2013 SKLS	82, 97
54.	*Law Society of Upper Canada v. Abbott*, 2017 ONCA 525	31
55.	*Law Society of Upper Canada v. Flumian*, 2015 ONLSTH 162	90
56.	*Latham v. Canada*, 2020 FC 670	97
57.	*Liang v. Canada (Citizenship and Immigration)*, 2012 FC 758	96
58.	*Long v. Van Burgsteden*, 2014 SKCA 115	81
59.	*Markwart v. City of Prince Albert*, 2015 SKCA 63	81
60.	*Markwart v. The City of Prince Albert*, 2015 SKCA 64	81
61.	*Marsh v. Zaccardelli*, 2006 FC 1466	
62.	*Mission Institution v. Khela*, 2014 SCC 24	24
63.	*Montgrand v. Saskatchewan Government Insurance*, 2017 SKCA 2	81
64.	*Mooney v. Canadian Society for Immigration Consultants*, 2011 FC 496	106
65.	*Nova Scotia Construction Safety Association v. Nova Scotia Human Rights Commission*, 2006 NSCA 63	24
66.	*Ontario Nurses' Association v. Participating*, 2021 ONCA 148	120
67.	*Ontario (Attorney General) v. Fraser*, 2011 SCC 20	99
68.	*Pearlman v. Manitoba Law Society Judicial Committee*, [1991] 2 S.C.R. 869	84
69.	*Ratnasingam v. Canada (Public Safety and Emergency Preparedness)*, 2007 FC 1096	96
70.	*Ratzlaff v. British Columbia (Medical Services Commission)*,1996 CanLII 616 (B.C. C.A.)	126

NO.	DOCUMENT	PARA CITED
71.	*Re A1606066*, 2018 CanLII 134960	96
72.	*Re B.C. Motor Vehicle Act*, [1985] 2 S.C.R. 486	107
73.	*Re Garrick Automotive*, 2020 BCEST 85	96
74.	*R. v. Comeau*, 2018 SCC 15	99
75.	*R v. Gitzel*, 2013 SKCA 41	81
76.	*R. v. Jordan*, 2016 SCC 27	22
77.	*R. v. L. (W.K.)*, [1991] 1 S.C.R. 1091	111
78.	*R v. MacIntosh*, 2011 NSCA 111	72
79.	*R v. Scott*, 2015 SKCA 144	72
80.	*R. v. Virk*, 2021 BCCA 58	39, 51
81.	*R. v. Zora*, 2020 SCC 14	108
82.	*Robertson v. British Columbia (Teachers Act, Commissioner)*, 2014 BCCA 331	74, 89
83.	*Roy v. Alberta (Workers' Compensation Board)*, 2010 ABQB 321	96
84.	*St-Jean v. Mercier*, 2002 SCC 15	26
85.	*Sazant v. College of Physicians and Surgeons of Ontario*, 2012 ONCA 727	24, 38, 58, 89-90, 110, 119,
86.	*Schwartz v. Canada*, [1996] 1 S.C.R. 254	
87.	*Skibsted v. Canada (Environment and Climate Change)*, 2021 FC 416	96
88.	*Stearns v. Alberta Insurance Council*, 2001 ABQB 752	126
89.	*Stinchcombe v. Law Society of Alberta*, 2002 ABCA 106	97, 124
90.	*Swanson v. Institute of Chartered Accountants of Saskatchewan (Professional Conduct Committee)*, 2007 SKQB 480	106
91.	*S.W. v. Canada Employment Insurance Commission and Health Canada*, 2018 SST 672	96
92.	*Taylor-Baptiste v. Ontario Public Service Employees Union*, 2015 ONCA 495	120

NO.	DOCUMENT	PARA CITED
93.	*Thomson Newspapers Ltd. v. Canada (Director of Investigation and Research, Restrictive Trade Practices Commission)*, [1990] 1 S.C.R. 425	107
94.	*Toronto Star v. AG Ontario*, 2018 ONSC 2586	82
95.	*Trimm v. Durham Regional Police*, [1987] 2 S.C.R. 582	101
96.	*Trumbley and Pugh v. Metropolitan Toronto Police*, [1987] 2 S.C.R. 577	101
97.	*United Food And Commercial Workers, Local 1400 v. Affinity Credit Union*, 2019 SKQB 236	96
98.	*Wachtler v. College of Physicians and Surgeons of the Province of Alberta*, 2009 ABCA 130	31, 97
99.	*Warren v. Criminal Injuries Compensation Board*, 2005 CanLII 44842 (Ont. Div. Ct.)	126
100.	*Watson v. Regina Police Service*, 2005 SKQB 286	97
101.	*Wu v. Vancouver (City)*, 2019 BCCA 23	96
Texts		
102.	David J. Mullan and Deirdre Harrington, "The Charter and Administrative Decision-Making: The Dampening Effects of *Blencoe*?" (2000) 27 *Queen's Law Journal* 879, pp. 906, 909	70, 122 127
103.	Gerald P. Heckman, "Remedies for Delay in Administrative Decisionmaking: Where Are We after Blencoe?" (2011) 24 *Canadian Journal of Administrative Law & Practice* 177, pp. 196, 199	126, 127
104.	Michelle Alton, "Rethinking Fairness in Tribunal Adjudication to Best Promote Access to Justice" (2019) 32 *Canadian Journal of Administrative Law & Practice* 151, at p. 165, n. 112	108
Manual from the Law Society of Saskatchewan		
105.	Rules from the Law Society of Saskatchewan dated January 1, 2020	63, 82, 106

ANNEX "A" – CHRONOLOGY

Date	Time	Description of Event	Source
Pre-Charge Investigation			
4-Dec-12	0.0	Self-report by Peter Abrametz one day prior to a scheduled attendance by LSS auditor John Allen at his office	Allen Affidavit, para 7, para 30
5-Dec-12	0.0	Site visit by Allen. Lasts 3 days	Allen Affidavit, para 6
10-Dec-12	0.2	Letter from Allen requesting further information	Allen Affidavit, para 8, Exh C
18-Dec-12	0.3	Abrametz provides additional emails and letters regarding self-reporting documents	Allen Affidavit, para 11
9-Jan-13	0.7	Notice of Intention to Interim Suspend prepared but not served as Abrametz outside country	Huber Affidavit, para 7
5-Feb-13	0.9	Notice of Intention to Interim Suspend served	Huber Affidavit, para 7
5-Jun-13	4.0	Allen requests further information from Abrametz	Allen Affidavit, para 13, Exh D
20-Jun-13	0.5	Abrametz responds and says any additional information should be requested from his counsel	Allen Affidavit, para 14
14-Aug-13	1.8	Allen writes to Abrametz requesting certain information.	Allen Affidavit, para 16
27-Aug-13	0.4	Allen returns to Abrametz's office for two days for a further review of documents. Asks Abrametz for input on client matters.	Allen Affidavit, para 15
5-Sep-13	0.3	Abrametz' counsel responds to Aug 13 request saying Abrametz had satisfied all requests	Allen Affidavit, para 16
24-Sep-13	0.6	Allen writes to Abrametz asking follow-up questions	Allen Affidavit, para 18
8-Oct-13	0.5	Allen writes to Abrametz confirming information requested relevant to investigation. No reply to this request.	Allen Affidavit, para 19, Exh E
9-Oct-13	0.0	Allen writes to Abrametz. No reply to this request.	Allen Affidavit, para 19, Exh F
17-Oct-13	0.3	Allen writes to Abrametz. No reply to this request.	Allen Affidavit, para 19, Exh F
12-Nov-13	0.9	Allen advises Abrametz's counsel that the matter is being forwarded to complaints' counsel.	Allen Affidaivt, para 20, Exh G
30-Oct-14	11.7	Examination and analysis of records by Allen. Allen provides his trust report (1400 pages) to Tim Huber (LSS discipline counsel).	Allen Affidavit, paras 21-25, 28
15-Jan-15	2.6	Conduct Investigation Committee decides to conduct questioning of Abrametz. Had to be postponed due to death in Abrametz' family	Huber Affidavit, para 8
5-Feb-15	0.7	CIC questions Abrametz	Huber Affidavit, para 8

Date	Time	Description of Event	Source
18-Mar-15	1.4	Letter from LSS to Abrametz with follow-up questions from questioning	Huber Affidavit, para 9
20-Mar-15	0.1	Request for extension by Abrametz's counsel. Extension given until April 15, 2015	Huber Affidavit, para 9
14-Apr-15	0.8	Correspondence from Abrametz's counsel, but not including information requested	Huber Affidavit, para 10
13-Oct-15	1.1	Charge: Formal complaint against Mr. Abrametz finalized and served. Proceeding bifurcated and tax allegations not included in charges.	Huber Affidavit, para 14
Total	**34.8**		
Post-Charge Prosecution			
20-Nov-15	1.3	Case Management Conference previously scheduled for November 30, 2015 adjourned at the request of Abrametz's counsel	Huber Affidavit, para 16
15-Jan-16	1.9	Huber advised by Abrametz's counsel that Abrametz will be making preliminary motions to hearing committee. Motions scheduled for April 20, 2016	Huber Affidavit, para 17
28-Mar-16	2.4	Abrametz brings motion to adjourn or stay discipline hearing until CIC investigation (subject of s. 63 demand) complete	Huber Affidavit, para 18, Exh C
8-Apr-16	0.4	Hearing Committee member has health issue, forcing adjournment.	Huber Affidavit, para 19
2-May-16	0.3	Preliminary motion by Abrametz to adjourn/stay heard by Hearing Committee. LSS opposes motion on basis that could result in inordinate delay.	Huber Affidavit, para 21
22-Aug-16	1.6	Hearing Committee denies Abrametz's request for a stay	Huber Affidavit, para 23
15-Sep-16	0.8	Correspondence re disclosure of LSS files re Abrametz. Abrametz ultimately requests the entirety of the audit file.	Huber Affidavit, para 24, Exh E
26-Sep-16	0.4	Huber advises Abrametz's counsel that they will need more time to review and disclose the entirety of the file given its size.	Huber Affidavit, para 25
14-Oct-16	0.3	LSS provides some disclosure of audit file	Huber Affidavit, para 27
26-Oct-16	0.4	LSS provides further disclosure of audit file	Huber Affidavit, para 27
21-Nov-16	0.9	Case conference held with Hearing Committee. Huber advises John Allen will be out of the country from January 2017 to April 2017. Abrametz's counsel says not waiving delay of setting hearing date.	Huber Affidavit, para 27
5-Dec-16	0.5	Invitation by Huber to Abrametz's counsel to attend and review the remainder of the audit file	Huber Affidavit, para 27
10-Feb-17	1.1	Counsel for Abrametz responds saying Abrametz will attend to review but that he is out of the country until April.	Huber Affidavit, para 27
10-Feb-17	0.0	Hearing dates set for May 17-May 19, 2017. Confirmed by counsel for Abrametz	Huber Affidavit, para 32, Exh I

Date	Time	Description of Event	Source
28-Apr-17	2.0	Abrametz attends at LSS offices to review the audit file.	Huber Affidavit, para 27
17-May-17	0.6	Hearing proceeds from May 17-19, 2017, though did not finish. On consent, further dates reserved to complete the evidence.	Huber Affidavit, paras 33, 40
Total	**19.4**		
Grand Total	**54.2**		