

§4.03 POWER TO MAKE SPECIFIC TYPES OF ORDERS

Administrative Law in Canada, 7th Ed.

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PART I PROCEEDINGS BEFORE THE TRIBUNAL

Chapter 4 DECISION-MAKING POWERS

§4.03 POWER TO MAKE SPECIFIC TYPES OF ORDERS

1.

Payment of Fees

A fee may be charged only with statutory authority.¹ As the purpose is to cover the costs of regulation, the amount levied should correlate to the cost of the regulatory service provided.² The fee may be collected prior to providing the service.³ An offer to pay additional money in exchange for the issuance of a licence may not be accepted even if the funds are to be used to advance public interest goals.⁴

2.

Payment of Compensation

Compensation may not be awarded without express statutory authority.⁵ A power to award compensation is not a power to penalize a bad actor by awarding punitive damages.⁶ It may be exercised only to compensate a person for injuries and losses caused by wrongful acts of a type that the tribunal has jurisdiction to adjudicate.⁷ There must be a causal link in that the loss must have been caused by the wrongful conduct.⁸ The goal is to make the victim whole for the damage caused by the misconduct. Evidence of financial loss and attempts to mitigate that loss may be considered. In employment cases, compensation may include amounts for loss of earnings, loss of continued employment and emotional pain and suffering.⁹

3.

Payment of Disgorgement

The purpose of statutory authority to order disgorgement is to compel a wrongdoer to give up ill-gotten gains obtained in violation of the statute. Statutes typically authorize what the tribunal may use these amounts for.¹⁰

4.

Payment of an Administrative Monetary Penalty

A tribunal, with express statutory authority, may impose an administrative monetary penalty. As long as the penalty is imposed to encourage compliance with the regulatory scheme, it does not violate section 11 of the *Charter*.¹¹ The amount of the penalty may be determined by the application of principles of specific and general deterrence and

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should be proportionate to furthering the remedial purposes of the Act.¹² Authority to order payment of a financial penalty does not authorize an order to make restitution.¹³ A regulatory fine is extinguished by bankruptcy but an order suspending a licence for failure to pay the fine survives and may be enforced after bankruptcy.¹⁴

5.

Payment of Legal Costs

Costs are the fees paid for representation in the proceeding by a lawyer or agent. They include disbursements or other expenses such as costs of expert witnesses, process servers and print shops.

With statutory authority, a party can be ordered to pay the tribunal's costs.¹⁵ Only a party may be ordered to pay costs.¹⁶ Costs are not a penalty as their purpose is to reimburse the tribunal for its expenses.¹⁷ A power to order the payment of "costs of the investigation" includes costs of the hearing that results from the investigation,¹⁸ but a power to order payment of "costs of the hearing" does not include costs of the investigation.¹⁹ The costs should be for the parts of the investigation and hearing that related to misconduct that was proven.²⁰ Statutory authority to order a party to pay the tribunal's costs does not violate section 7 of the *Charter*, nor give rise to a reasonable apprehension of bias.²¹ A party against whom allegations were not proven may not be awarded costs payable by the tribunal without specific statutory authority.²²

With statutory authority, a tribunal may order a party to pay another party's costs. A power to award compensation or expenses does not include power to award costs.²³ A tribunal must exercise its discretion on the basis of relevant factors. A departure from the courts' practice, by which costs are payable by the losing party to the winning party, except in exceptional circumstances, may be seen as arbitrary²⁴ if not explained.²⁵ A tribunal may refuse to order the payment of costs by a losing government party that acted in good faith in the pursuit of its statutory mandate.²⁶

A tribunal may award costs only after the completion of the proceeding or the part of the proceeding to which they relate.²⁷ A power to award costs does not permit a tribunal to order that anticipated costs be paid before the hearing commences, in the absence of express provision for intervenor funding,²⁸ nor does it include a power to order a party to post security for costs in advance of the hearing.²⁹

The amount of the costs should be reasonable, on a partial-indemnity scale.³⁰ A tribunal should explain how it arrived at each amount awarded.³¹ A costs premium may not be awarded.³² Public interest intervenors that have financial arrangements that would result in reduced costs awards if only out-of-pocket expenses were reimbursed may be awarded an amount of costs that may be reasonably attributed to their participation as if they had been incurred.³³ Procedural fairness requires that parties be given an opportunity to make submissions as to costs.

6.

Licences, Benefits and Other Privileges

Protection of the public is the main purpose of licensing. An applicant for a licence, and for renewal of a licence, must demonstrate competence, integrity, trustworthiness and compliance with regulatory requirements. An applicant must honestly provide information respecting qualifications, experience and past conduct. A licence may be refused or revoked for a misrepresentation in the application.³⁴ Relevant past conduct includes conduct in the operation of a licensed business and any conduct relevant to the public interest purposes of licensing.³⁵ An application for a professional licence may also be denied for lack of good character. This qualification concerns the maintenance of high ethical standards and public confidence in the profession.³⁶ A licence may be refused to a corporate applicant whose shareholders and associates would be refused a licence. The concept of the "corporate veil", which shields shareholders from financial liability for corporate acts, does not apply in the licensing context.³⁷ There is no right to a licence, regardless how much money and time the applicant has expended to apply for it. It is a privilege.³⁸

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An application for a benefit or a privilege must disclose all material facts, without omission or misrepresentation.³⁹

Licensing is also used as a tool to manage natural resources so that they are not depleted, and to manage markets for farm products and services such as taxis and carriers, so that over-supply does not result in the type of cut-throat competition that puts providers out of business. General authority to regulate, by licensing and other powers, includes the power to limit the number of licences issued.⁴⁰ Policy concerns relating to the management of the resource or supply are relevant in deciding whether to issue an individual licence.⁴¹ Applicants who apply at the same time should be judged on the same criteria.⁴²

Regulatory approvals for large projects may require multiple licences and permits obtained in a multi-stage process in which the major issues, such as the scope of the project or its general geographical location, are decided first and the details deferred to be decided later.⁴³

A power to impose conditions may be exercised to impose conditions unique to each licence and identical conditions on all licences without the need to pass a regulation prescribing the rules applicable to all licences.⁴⁴ Conditions must be consistent with the statutory purpose of licensing⁴⁵ and with conditions imposed by regulation.⁴⁶ If a licence is authorized but not issued until certain conditions are met, the authorization may be rescinded at any time up until the licence is actually issued, without following the process for revoking a licence.⁴⁷

Statutes prescribe the term of a licence, typically one year, so that suitability may be periodically reassessed in accordance with licensing purposes, including the licensee's compliance with regulatory requirements. There is no right to a renewal of a licence.⁴⁸ A regulator may issue a temporary short-term licence, typically so that the regulator may review the circumstances surrounding the applicant's operations under the temporary licence. This does not fetter the discretion of the tribunal to refuse to issue or renew the licence.⁴⁹

A licence does not vest any interest or property right in the licensee beyond the profits earned or a property right in natural resources acquired pursuant to a licence.⁵⁰ It is merely a privilege to engage in the licensed business until the licence expires. Licences are sometimes bought and sold but generally may not be transferred without approval. A licensee's regulatory obligations cannot be avoided by bankruptcy.⁵¹

A power to grant a licence includes a power to amend or revoke any licence previously granted.⁵²

7.

Discipline

A licence may be suspended or revoked for misconduct. The purpose is to protect the public.⁵³

Professional misconduct is typically undefined. It includes a violation of express regulatory requirements,⁵⁴ dishonourable conduct, failure to meet the standards of the profession and failure to cooperate in a regulatory investigation.⁵⁵ The discipline committee comprises members of the profession who base their decision on objective standards of the profession. If the conduct may reasonably be regarded by members of the profession as dishonourable or unprofessional, it constitutes professional misconduct.⁵⁶ A technique or exercise of judgment may be found not to be professional misconduct if it is approved by a responsible and competent body of professional opinion, even though the majority of the profession do not approve.⁵⁷ To be "professional misconduct", the impugned conduct must reasonably relate to the practice of the profession.⁵⁸ "Conduct unbecoming" includes misconduct unrelated to the practice of the profession that reflects upon the profession as a whole and upon the person's suitability to be a member of it.⁵⁹

Proof of intent, knowledge or moral turpitude is not required because the purpose of regulatory discipline is to protect the public from harm even if not deliberately caused.⁶⁰ For this reason, a defence of due diligence is not

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available with respect to failure to comply with prescribed standards.⁶¹ Whether it is available in respect of other misconduct is not settled.⁶² That defence was developed in the criminal context: a person who took reasonable care to avoid committing the crime should not be convicted. Regardless, the issue of diligence is relevant to the nature of the remedy necessary to protect the public.

Disciplinary proceedings may be taken against a member facing criminal or regulatory charges with respect to the same conduct.⁶³ The primary purposes of disciplinary proceedings are to protect the public from similar misconduct in the future and to maintain professional standards, while the purposes of criminal and quasi-criminal proceedings are to punish for past misconduct and to make the offender account to society for his or her wrong.⁶⁴

A member might avoid discipline by resigning membership but most professional regulators have authority to require a member to obtain permission to resign or to discipline former members for acts committed prior to resignation.⁶⁵

In determining the nature of the disciplinary order, the focus is on protection of the public. This entails an assessment of the degree of risk to the public if the member is permitted to continue to practise the profession. The nature and severity of the disciplinary order should relate to the nature and seriousness of the misconduct.⁶⁶ Criminal law sentencing principles do not apply to the issue of whether to suspend or revoke a licence,⁶⁷ but may be applied when deciding whether to impose a deterrent financial penalty.⁶⁸ The likelihood that the member can be rehabilitated may be taken into account.⁶⁹ Progressive discipline may be appropriate for repeated minor misconduct.⁷⁰ A global remedy for multiple instances of misconduct may be appropriate, provided it does not effectively punish the member for unproven allegations.⁷¹

Reinstatement of a revoked licence is at the discretion of the tribunal, who may review whether the applicant appreciates and has learned from the past mistakes and can be trusted not to repeat them.⁷² If authorized by statute, the order revoking or suspending the licence may include specified conditions to be met for reinstatement, such as a requirement for educational upgrading⁷³ or, if there are findings of dysfunctional or abnormal behaviour, a psychiatric assessment addressing the behaviour.⁷⁴

8.

Interim Remedies

To protect the public, some tribunals have statutory authority to issue interim orders before holding a hearing.⁷⁵ If the continuing practice of a licensee poses a risk to the public, the licence may be suspended. To protect the environment, emergency orders may be made.

Usually a hearing need not be held before making an interim order.⁷⁶ These powers are in the nature of injunctions and should be used sparingly, especially if the suspension deprives a person of a source of income.⁷⁷ If the suspension order is not made promptly upon learning of the risk, a court may question the need to act without a hearing.⁷⁸ Most statutes that authorize interim orders specify a short time limit within which a hearing must be held. If no time limit is specified, the hearing should be held as soon as practicable.⁷⁹ An interim remedy granted to maintain the status quo pending a hearing should be precise as to the acts that must or must not be done.⁸⁰ An order freezing assets to prevent property from being dissipated or destroyed should be reviewed periodically to determine if the public interest requires that it be maintained.⁸¹

Tribunals that regulate rates charged to consumers may grant interim rate increases to relieve applicants from financial difficulties caused by the duration of rate-application proceedings. Interim rate increases may be varied or rescinded by the final order.⁸²

9.

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Retroactive Orders

No order may take effect prior to the date it is made without express authority. Orders must be prospective in effect.⁸³

Benefits may be reinstated on appeal effective the date they were revoked.⁸⁴ Eligibility for benefits may not be backdated due to delay in processing an application⁸⁵ but, if an emergency makes it impossible to meet a requirement for prior approval of a reimbursable cost, necessity may permit retroactive approval.⁸⁶

Rates may be fixed as at the date of the interim rate order or application⁸⁷ but may not compensate for a windfall or loss resulting from a prior final rate order.⁸⁸ Authority to review a decision fixing rates may be exercised to adjust the rates effective the date of the earlier order.⁸⁹ If a complaint of an unlawful charge is upheld, adjustments may be made to reverse it.⁹⁰ An order directing the use of funds that were ordered put aside in case of a difference between forecast and actual revenues and costs, is not regarded as retroactive.⁹¹

10.

Contempt Powers

Every tribunal has the power to prevent abuse of its processes. It need not apply to court to bar vexatious litigants.⁹² However, a tribunal may not punish a person for contempt unless it is granted, by statute, the powers of a superior court to enforce its own orders.⁹³

Footnote(s)

- 1 *Oulton v. Chicken Farmers of Nova Scotia*, [2002] N.S.J. No. 127 (N.S.S.C.), affd [2002] N.S.J. No. 513 (N.S.C.A.). See general authority to charge fee: *Administrative Tribunals Act*, S.B.C. 2004, c. 45, s. 60(1)(c); *Legislation Act, 2006*, S.O. 2006, c. 21, Sch. F, s. 83.
- 2 *Eurig Estate (Re)*, [1998] S.C.J. No. 72; *620 Connaught Ltd. v. Canada (Attorney General)*, [2008] S.C.J. No. 7.
- 3 *Li v. Canada (Minister of Citizenship and Immigration)*, [2011] F.C.J. No. 471 (F.C.A.).
- 4 *Assoc. des crabiers acadiens Inc. v. Canada (Attorney General)*, [2006] F.C.J. No. 1566 (F.C.).
- 5 *Ontario (Board of Funeral Services, Registrar) v. Schmolinski*, [2007] O.J. No. 4355 (Ont. Div. Ct.); *Westfair Foods Ltd. (c.o.b. Western Grocers) v. Retail, Wholesale and Department Store Union, Local 454*, [1993] S.J. No. 209 (Sask. Q.B.); *Bourgoin c. Fédération des producteurs acéricoles du Québec*, [2010] J.Q. no 8699 (Que. C.A.), leave to appeal refused [2010] S.C.C.A. No. 375.
- 6 *Nova Scotia Construction Safety Assn. v. Nova Scotia (Human Rights Commission)*, [2006] N.S.J. No. 210 at para. 143 (N.S.C.A.).
- 7 *Chopra v. Canada (Attorney General)*, [2007] F.C.J. No. 1134 (F.C.A.); *Ayangma v. Prince Edward Island Eastern School Board*, [2008] P.E.I.J. No. 31 (P.E.I.C.A.), leave to appeal refused [2009] S.C.C.A. No. 19; *Québec (Procureur général) c. R. (A.)*, [2011] J.Q. no 18744 (Que. C.A.); *Pitawanakwat v. Canada (Attorney General)*, [1994] F.C.J. No. 552 (F.C.T.D.); *Ontario v. Ontario Public Service Employees Union (OPSEU)*, [1990] O.J. No. 635 (Ont. Div. Ct.); *Hureau v. Yukon (Human Rights Board of Adjudication)*, [2014] Y.J. No. 26 (Y.T.S.C.).
- 8 *Jane Doe v. Canada (Attorney General)*, [2018] F.C.J. No. 1008 (F.C.A.).
- 9 *169809 Canada Ltd. (c.o.b. Portrait Impressions of Canada) v. Alter*, [1995] O.J. No. 4902 (Ont. Gen. Div.); *Walden v. Canada (Social Development)*, [2010] F.C.J. No. 1408 (F.C.), affd [2011] F.C.J. No. 898 (F.C.A.).
- 10 *Poonian v. British Columbia (Securities Commission)*, [2017] B.C.J. No. 1029 (B.C.C.A.).

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- 11** *Guindon v. Canada*, [2015] S.C.J. No. 41. *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
- 12** *Cartaway Resources Corp. (Re)*, [2004] S.C.J. No. 22; *Biller v. British Columbia (Securities Commission)*, [2001] B.C.J. No. 515 (B.C.C.A.).
- 13** *Crundwell & Associates (c.o.b. Blueline Limousine Service) v. Manitoba (Taxicab Board)*, [2001] M.J. No. 359 (Man. C.A.).
- 14** *Hover (Re)*, [2005] A.J. No. 220 (Alta. C.A.).
- 15** *Moncton (City) v. Buggie*, [1985] N.B.J. No. 276 at para. 35 (N.B.C.A.); *Chaudry (Re)*, [2015] O.J. No. 2332 (Ont. C.A.), leave to appeal refused [2016] S.C.C.A. No. 460; *Ontario (Attorney General) v. Ontario (Review Board)*, [2010] O.J. No. 207 (Ont. C.A.); *Ontario (Environmental Protection Act, Director) v. Becker Milk Co.*, [2005] O.J. No. 4514 (Ont. Div. Ct.); *Franklin v. College of Physicians and Surgeons of Ontario*, [2007] O.J. No. 3906 (Ont. Div. Ct.); *Brooks v. Nova Scotia Board of Examiners in Psychology*, [1995] N.S.J. No. 415 (N.S.S.C.); *Ontario Human Rights Commission v. Jeffrey*, [2007] O.J. No. 3767 (Ont. Div. Ct.). See for example, *Administrative Tribunals Act*, S.B.C. 2004, c. 45, ss. 47, 47.1, 47.2; *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22, s. 17.1. However, statutory power to prevent abuse of process may authorize an order to pay expenses in an egregious case: *Royal & SunAlliance Insurance Co. of Canada v. Volfson*, [2005] O.J. No. 4523 (Ont. Div. Ct.).
- 16** *Nolan v. Kerry (Canada) Inc.*, [2009] S.C.J. No. 39 at paras. 116-117.
- 17** *Brand v. College of Physicians and Surgeons of Saskatchewan*, [1990] S.J. No. 360 (Sask. C.A.).
- 18** *Barik v. College of Physicians and Surgeons of Saskatchewan*, [1992] S.J. No. 50 (Sask. C.A.).
- 19** *Logan v. Nova Scotia (Denturist Licensing Board)*, [1994] N.S.J. No. 91 (N.S.S.C.).
- 20** *Pezim v. British Columbia (Superintendent of Brokers)*, [1994] S.C.J. No. 58 at para. 109; *Logan v. Nova Scotia (Denturist Licensing Board)*, [1994] N.S.J. No. 91 (N.S.S.C.).
- 21** *Pearlman v. Manitoba Law Society Judicial Committee*, [1991] S.C.J. No. 66.
- 22** *O'Toole v. Law Society of New Brunswick*, [2017] N.B.J. No. 342 (N.B.C.A.); *Logan v. Nova Scotia (Denturist Licensing Board)*, [1994] N.S.J. No. 91 (N.S.S.C.); *Regular (Re)*, [1995] N.J. No. 241 (Nfld. T.D.).
- 23** *Canada (Canadian Human Rights Commission) v. Canada (Attorney General)*, [2011] S.C.J. No. 53; *Halifax (Regional Municipality) v. Nova Scotia (Human Rights Commission)*, [2005] N.S.J. No. 156 (N.S.C.A.); *Quereshi v. Ontario (Human Rights Commission)*, [2006] O.J. No. 1782 (Ont. Div. Ct.).
- 24** *Canada (Attorney General) v. EDS Canada Ltd.*, [2004] F.C.J. No. 535 (F.C.A.); *Canada (Attorney General) v. Georgian College of Applied Arts and Technology*, [2003] F.C.J. No. 801 (F.C.A.); *Canada (Attorney General) v. Georgian College of Applied Arts and Technology*, [2004] F.C.J. No. 1454 (F.C.A.); *Alkali Lake Indian Band v. Westcoast Transmission Co.*, [1984] B.C.J. No. 1642 (B.C.C.A.); *Regular (Re)*, [1995] N.J. No. 241 (Nfld. T.D.).
- 25** *Canada (Attorney General) v. EDS Canada Ltd.*, [2004] F.C.J. No. 535 (F.C.A.); *Canada (Attorney General) v. Georgian College of Applied Arts and Technology*, [2003] F.C.J. No. 801 (F.C.A.); *Canada (Attorney General) v. Georgian College of Applied Arts and Technology*, [2004] F.C.J. No. 1454 (F.C.A.); *Alkali Lake Indian Band v. Westcoast Transmission Co.*, [1984] B.C.J. No. 1642 (B.C.C.A.); *Regular (Re)*, [1995] N.J. No. 241 (Nfld. T.D.). *ATCO Gas and Pipelines Ltd. v. Alberta (Utilities Commission)*, [2014] A.J. No. 1336 (Alta. C.A.); *Kelly v. Alberta (Energy Resources Conservation Board)*, [2012] A.J. No. 43 (Alta. C.A.).
- 26** *Cabre Exploration Ltd. (Re)*, [2001] A.J. No. 463 (Alta. Q.B.).
- 27** *Manitoba Society of Seniors, Inc. v. Greater Winnipeg Gas Co.*, [1982] M.J. No. 127 (Man. C.A.); *Hamilton-Wentworth (Regional Municipality) v. Hamilton-Wentworth Save the Valley Committee, Inc.*, [1985] O.J. No. 1881 (Ont. Div. Ct.); *Ontario Energy Board*, [1985] O.J. No. 2582 (Ont. Div. Ct.).
- 28** *Pétrolière Impériale v. Fédération nationale des assoc. de consommateurs du Québec*, [1999] J.Q. no 1040 (Que. S.C.).
- 29** *Ramot Gil Development Corp. v. Precision Homes Corp.*, [1979] O.J. No. 4485 (Ont. Div. Ct.).
- 30** *Roberts v. College of Dental Surgeons of British Columbia*, [1999] B.C.J. No. 357 (B.C.C.A.); *Huerto v. College of Physicians and Surgeons*, [1994] S.J. No. 390 at paras. 94-98 (Sask. Q.B.), affd [1996] S.J. No. 56 (Sask. C.A.); *Al-*

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- Ghamdi v. College of Physicians and Surgeons of Alberta*, [2020] A.J. No. 207 (Alta. C.A.), leave to appeal refused [2020] S.C.C.A. No. 272.
- 31** *Donnini v. Ontario (Securities Commission)*, [2005] O.J. No. 240 (Ont. C.A.); *Green, Michaels and Associates Ltd. v. Alberta (Public Utilities Board)*, [1979] A.J. No. 826 (Alta. C.A.); *Hatfield v. Barristers' Society Nova Scotia*, [1978] N.S.J. No. 677 at para. 59 (N.S.C.A.).
- 32** *Ontario (Ministry of Natural Resources) v. 555816 Ontario Inc. (c.o.b. Campbellville Sand & Gravel Supply)*, [2009] O.J. No. 238 (Ont. Div. Ct.).
- 33** *Bell Canada v. Consumers' Assn. of Canada*, [1986] S.C.J. No. 8.
- 34** *Ontario (Motor Vehicle Dealers Act, Registrar) v. Unity-A-Automotive Inc.*, [2009] O.J. No. 5198 (Ont. Div. Ct.); *Alves v. Ontario (Superintendent of Financial Services)*, [2009] O.J. No. 2950 (Ont. Div. Ct.); *Paudash Shores Cottagers Assn. v. Ontario (Ministry of Natural Resources)*, [2012] O.J. No. 2542 (Ont. Div. Ct.).
- 35** *Ontario (Alcohol and Gaming Commission, Registrar) v. 751809 Ontario Inc. (c.o.b. Famous Flesh Gordon's)*, [2013] O.J. No. 1139 (Ont. C.A.), leave to appeal refused [2013] S.C.C.A. No. 259; *Ontario v. Mander*, [2018] O.J. No. 1446 (Ont. Div. Ct.).
- 36** *Lum v. Council of Alberta Dental Assn. and College, Review Panel*, [2016] A.J. No. 485 (Alta. C.A.); *Rajnauth v. Law Society of Upper Canada*, [1993] O.J. No. 999 (Ont. Div. Ct.); *Chauhan v. Health Professions Appeal and Review Board*, [2013] O.J. No. 2056 (Ont. Div. Ct.).
- 37** *Villetard's Eggs Ltd. v. Canada Egg Marketing Agency*, [1995] F.C.J. No. 598 (F.C.A.); *Elson v. Canada (Attorney General)*, [2019] F.C.J. No. 140 (F.C.A.), leave to appeal refused [2019] S.C.C.A. No. 102; *Davies v. Ontario College of Pharmacists*, [2003] O.J. No. 91 (Ont. Div. Ct.); *Old Cosmo Club Complex Inc. v. New Brunswick (Minister of Public Safety)*, [2014] N.B.J. No. 45 (N.B.Q.B.).
- 38** *Sticky Nuggz Inc. v. Ontario (Alcohol and Gaming Commission)*, [2020] O.J. No. 4376 (Ont. Div. Ct.).
- 39** *Canada (Minister of Citizenship and Immigration) v. Singh Sidhu*, [2019] F.C.J. No. 662 (F.C.A.); *Gordashevskiy v. Canada (Minister of Citizenship and Immigration)*, [2016] F.C.J. No. 1372 (F.C.).
- 40** *United Taxi Drivers' Fellowship of Southern Alberta v. Calgary (City)*, [2004] S.C.J. No. 19.
- 41** *Comeau's Sea Foods Ltd. v. Canada (Minister of Fisheries and Oceans)*, [1997] S.C.J. No. 5; *St. Anthony Seafoods Limited Partnership v. Newfoundland and Labrador (Minister of Fisheries and Aquaculture)*, [2004] N.J. No. 336 (N.L.C.A.), leave to appeal refused [2004] S.C.C.A. No. 548; *R. v. Huovinen*, [2000] B.C.J. No. 1365 (B.C.C.A.); *Unicity Taxi Ltd. v. Manitoba (Taxicab Board)*, [1992] M.J. No. 381 (Man. Q.B.), affd [1992] M.J. No. 608 (Man. C.A.); *Cardinal c. Québec (Ministre de la Santé et des Services sociaux)*, [2014] J.Q. no 14087 (Que. C.A.); *Pacific Centre for Reproductive Medicine v. British Columbia (Medical Services Commission)*, [2019] B.C.J. No. 1701 (B.C.C.A.).
- 42** *Goodrich Transport Ltd. v. Vancouver Fraser Port Authority (c.o.b. Port Metro Vancouver)*, [2015] F.C.J. No. 572 (F.C.).
- 43** *Tsleil-Waututh Nation v. Canada (Attorney General)*, [2018] F.C.J. No. 876 at paras. 285-291 (F.C.A.), leave to appeal refused (*sub nom. Burnaby (City) v. Canada (Attorney General)*) [2018] S.C.C.A. No. 465.
- 44** *R. v. Cox*, [2003] N.J. No. 98 (N.L.T.D.), affd [2004] N.J. No. 316 (N.L.C.A.).
- 45** *ATCO Gas & Pipelines Ltd. v. Alberta (Energy and Utilities Board)*, [2006] S.C.J. No. 4; *Zenner v. Prince Edward Island College of Optometrists*, [2005] S.C.J. No. 80.
- 46** *Morton v. Canada (Minister of Fisheries and Oceans)*, [2015] F.C.J. No. 566 (F.C.).
- 47** *Comeau's Sea Foods Ltd. v. Canada (Minister of Fisheries and Oceans)*, [1997] S.C.J. No. 5; *Wagowsky v. Toronto (Metropolitan)*, [1997] O.J. No. 3566 (Ont. Div. Ct.).
- 48** *Genex Communications Inc. v. Canada (Attorney General)*, [2005] F.C.J. No. 1440 (F.C.A.), leave to appeal refused [2005] C.S.C.R. no 485; *Tucker v. Canada (Minister of Fisheries and Oceans)*, [2000] F.C.J. No. 1868 (F.C.T.D.), affd [2001] F.C.J. No. 1862 (F.C.A.); *Platinum Auto Gallery Inc. v. Ontario (Motor Vehicle Dealers Act, Registrar)*, [2013] O.J. No. 4156 (Ont. Div. Ct.); *Stenlund v. Ontario (Minister of Natural Resources and Forestry)*, [2019] O.J. No. 4307 (Ont. Div. Ct.).
- 49** *Spruce Grove Gun Club v. Parkland (County) Subdivision and Development Appeal Board*, [2016] A.J. No. 99 (Alta. C.A.).

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- 50** *Saulnier v. Royal Bank of Canada*, [2008] S.C.J. No. 60.
- 51** *Orphan Well Assn. v. Grant Thornton Ltd.*, [2019] S.C.J. No. 5.
- 52** *Manitoba (Motor Transport Board) v. Purolator Courier Ltd.*, [1981] S.C.J. No. 88; *AS169988 Consultants Inc. (c.o.b. Warden Pharmacy) v. Ontario (Ministry of Health and Long-Term Care)*, [2019] O.J. No. 2516 (Ont. Div. Ct.).
- 53** *Brosseau v. Alberta (Securities Commission)*, [1989] S.C.J. No. 15.
- 54** *Manitoba Chiropractors Assn. v. Alevizos*, [2003] M.J. No. 206 (Man. C.A.).
- 55** *Law Society of Ontario v. Diamond*, [2021] O.J. No. 2115 (Ont. C.A.).
- 56** *Pearlman v. Law Society (Man.)*, [1989] M.J. No. 430 (Man. C.A.), affd [1991] S.C.J. No. 66; *Al-Ghamdi v. College of Physicians and Surgeons of Alberta*, [2020] A.J. No. 207, leave to appeal refused [2020] S.C.C.A. No. 272; *Young v. College of Physicians and Surgeons of Saskatchewan*, [2005] S.J. No. 614 (Sask. C.A.); *Matthews v. Ontario (Board of Directors of Physiotherapy)*, [1987] O.J. No. 838 (Ont. C.A.).
- 57** *Brett v. Board of Directors of Physiotherapy*, [1991] O.J. No. 44 (Ont. Div. Ct.), affd [1993] O.J. No. 1253 (Ont. C.A.).
- 58** *Li v. College of Pharmacists*, [1994] B.C.J. No. 1830 (B.C.C.A.); *Davies v. Ontario College of Pharmacists*, [2003] O.J. No. 91 (Ont. Div. Ct.).
- 59** *Sazant v. College of Physicians and Surgeons of Ontario*, [2012] O.J. No. 5076 (Ont. C.A.), leave to appeal refused [2012] S.C.C.A. No. 549; *Strom v. Saskatchewan Registered Nurses Assn.*, [2020] S.J. No. 370 (Sask. C.A.); *College of Dental Surgeons of British Columbia v. Walker*, [1993] B.C.J. No. 2305 (B.C.S.C.); *Coady v. Royal Newfoundland Constabulary Public Complaints Commission*, [2007] N.J. No. 139 (N.L.T.D.).
- 60** *Erikson v. Ontario (Securities Commission)*, [2003] O.J. No. 593 (Ont. S.C.J.); *Hesje v. Law Society of Saskatchewan*, [2015] S.J. No. 2 (Sask. C.A.).
- 61** *La Souveraine, Compagnie d'assurance générale v. Autorité des marchés financiers*, [2013] S.C.J. No. 63; *Shakes v. Ontario (Racing Commission)*, [2013] O.J. No. 3803 (Ont. Div. Ct.).
- 62** *504174 N.B. Ltd. (c.o.b. Choo Choo's) New Brunswick (Minister of Public Safety)*, [2005] N.B.J. No. 55 (N.B.C.A.).
- 63** *R. v. Shubley*, [1990] S.C.J. No. 1; *Barry v. Alberta (Securities Commission)*, [1986] A.J. No. 110 (Alta. C.A.), affd [1989] S.C.J. No. 15; *R. v. Wigglesworth*, [1987] S.C.J. No. 71; *1022049 Alberta Ltd. v. Medicine Hat (City)*, [2007] A.J. No. 348 (Alta. C.A.).
- 64** See further discussion below in 4.05, "Regulatory Overlap and Re-litigation of Same Matter in Another Forum".
- 65** *Chalmers v. Toronto Stock Exchange*, [1989] O.J. No. 1839 (Ont. C.A.); *Pelletier v. Law Society*, [1989] N.B.J. No. 34 (N.B.C.A.); *Taub v. Investment Dealers Assn. of Canada*, [2009] O.J. No. 3552 (Ont. C.A.); *Abouabdallah v. College of Dental Surgeons of Saskatchewan*, [2011] S.J. No. 526 (Sask. C.A.), leave to appeal refused [2011] S.C.C.A. No. 474; *College of Nurses of Ontario v. Dumchin*, [2016] O.J. No. 1668 (Ont. Div. Ct.).
- 66** *Stetler v. Ontario Flue-Cured Tobacco Growers' Marketing Board*, [2009] O.J. No. 1050 (Ont. C.A.); *Stevens v. Law Society of Upper Canada*, [1979] O.J. No. 4546 (Ont. Div. Ct.); *Adamo v. College of Physicians and Surgeons of Ontario*, [2007] O.J. No. 1168 (Ont. Div. Ct.); *Edmonton Police Service (Chief of Police) v. Furlong*, [2013] A.J. No. 284 (Alta. C.A.); *Law Society of Upper Canada v. Abbott*, [2017] O.J. No. 3311 (Ont. C.A.), leave to appeal refused [2017] S.C.C.A. No. 355; *Law Society of Manitoba v. Alghoul*, [2018] M.J. No. 52 (Man. C.A.).
- 67** *McKee v. College of Psychologists of British Columbia*, [1994] B.C.J. No. 1778 (B.C.C.A.).
- 68** *Cartaway Resources Corp. (Re)*, [2004] S.C.J. No. 22.
- 69** *Brock-Berry v. Registered Nurses Assn. of British Columbia*, [1995] B.C.J. No. 1876 at para. 29 (B.C.C.A.).
- 70** *Law Society of Saskatchewan v. Peet*, [2019] S.J. No. 203 (Sask. C.A.).
- 71** *Landry c. Guimont*, [2017] J.Q. no 946 (Que. C.A.).
- 72** *Sawh v. Ontario (Securities Commission)*, [2013] O.J. No. 2726 (Ont. Div. Ct.).
- 73** *Zenner v. Prince Edward Island College of Optometrists*, [2005] S.C.J. No. 80; *Modi v. Ontario (Health Professions Board)*, [1996] O.J. No. 539 (Ont. Div. Ct.). (Note: These cases discuss the imposition of educational upgrading absent discipline.)

§4.03 POWER TO MAKE SPECIFIC TYPES OF ORDERS

- 74** *Brand v. College of Physicians and Surgeons of Saskatchewan*, [1991] S.J. No. 417 (Sask. Q.B.).
- 75** See for example, *Administrative Tribunals Act*, S.B.C. 2004, c. 45, s. 15; *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22, s. 16.1.
- 76** *Bunn v. Law Society of Manitoba*, [1990] M.J. No. 76 (Man. Q.B.), revd [1990] M.J. No. 87 (Man. C.A.); *Durham (Regional Municipality) Police Service v. Ontario Civilian Police Commission*, [2020] O.J. No. 1490 (Ont. Div. Ct.); *Morzaria v. College of Physicians and Surgeons of Ontario*, [2017] O.J. No. 1512 (Ont. Div. Ct.); *Walpole Island First Nation v. Ontario*, [1996] O.J. No. 4682 (Ont. Div. Ct.).
- 77** *James (Re)*, [1982] B.C.J. No. 1555 (B.C.S.C.); *Farbeh v. College of Pharmacists of British Columbia*, [2009] B.C.J. No. 1640 (B.C.S.C.).
- 78** *Marston c. Autorité des marchés financiers*, [2009] J.Q. no 13816 at para. 64 (Que. C.A.).
- 79** *Menon v. College of Physicians and Surgeons of New Brunswick*, [2007] N.B.J. No. 270 (N.B.Q.B.).
- 80** *Saskatchewan Health Care Assn. v. Service Employees International Union, Local 299*, [2007] S.J. No. 240 (Sask. Q.B.).
- 81** *Zhu v. British Columbia (Securities Commission)*, [2013] B.C.J. No. 1051 (B.C.C.A.).
- 82** *Bell Canada v. Canada (Canadian Radio-television and Telecommunications Commission)*, [1989] S.C.J. No. 68.
- 83** *Day & Ross Ltd. v. Jumbo Motor Express Ltd.*, [1972] N.B.J. No. 74 (N.B.C.A.); *Western Decalta Petroleum Ltd. v. Alberta (Public Utilities Board)*, [1978] A.J. No. 597 (Alta. C.A.).
- 84** *Kelley v. New Brunswick (Workplace Health, Safety and Compensation Commission)*, [2009] N.B.J. No. 165 (N.B.C.A.).
- 85** *Lee v. British Columbia (Employment and Assistance Appeal Tribunal)*, [2013] B.C.J. No. 575 (B.C.S.C.).
- 86** *C.-W. (C.) (Litigation guardian of) v. Ontario (Health Insurance Plan, General Manager)*, [2009] O.J. No. 140 (Ont. Div. Ct.).
- 87** *Nova Corp. v. Amoco Canada Petroleum Co.*, [1981] S.C.J. No. 92; *Eurocan Pulp & Paper Co. v. British Columbia Energy Commission*, [1978] B.C.J. No. 1228 (B.C.C.A.).
- 88** *Northland Utilities (Yellowknife) Ltd. v. Northwest Territories (Public Utilities Board)*, [2010] N.W.T.J. No. 91 (N.W.T.S.C.).
- 89** *Scott v. Nova Scotia (Rent Review Commission)*, [1977] N.S.J. No. 571 (N.S.C.A.).
- 90** *Capital Power Corp. v. Alberta (Utilities Commission)*, [2018] A.J. No. 1539 (Alta. C.A.).
- 91** *Bell Canada v. Bell Aliant Regional Communications*, [2009] S.C.J. No. 40.
- 92** *Makis v. Alberta Health Services*, [2020] A.J. No. 510 (Alta. C.A.).
- 93** *Chrysler Canada Ltd. v. Canada (Competition Tribunal)*, [1992] S.C.J. No. 64; *Sternberg v. Ontario (Racing Commission)*, [2008] O.J. No. 3864 (Ont. Div. Ct.).

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