

Parksville, B.C.

Called to the Bar: September 1, 1989

Discipline hearing:

Dates: July 20, 2001

Panel: Gerald J. Lecovin, Q.C., as a one-Bencher panel by consent

Reports: July 20, 2001

Hearing report indexed as [2001] LSBC 27

Counsel:

Jessica Gossen, for the Law Society

Samuel D. Stevens, for Mr. Evans

Summary

Mr. Evans arranged for a client to loan \$4,000 to his daughter's company. Mr. Evans used confidential client information in arranging for the loan, had an indirect financial interest in the matter, failed to advise the client that he was not acting for her in the matter and failed to advise the client to obtain independent legal advice. The Discipline Committee and a discipline hearing panel accepted Mr. Evans' admission of professional misconduct and his proposed disciplinary action and ordered that he be suspended for one month and pay \$1,500 as costs.

Facts

In late 1997 Mr. Evans made a personal loan of \$4,050 to his daughter's company. As the daughter had car repair debts, she asked whether Mr. Evans knew of anyone who could provide a short-term loan. Mr. Evans discussed this matter with a client (Ms. T) for whom he held \$30,000 in trust pending resolution of her family litigation.

Ms. T agreed to advance \$4,000 by way of a loan to Mr. Evans' daughter. Mr. Evans transferred this amount from money held in trust for Ms. T to his firm's general account on December 31, 1997. He in fact intended the proceeds of this loan to repay himself for the money he had previously loaned to his daughter. He prepared a promissory note whereby his daughter's company was to repay the \$4,000 loan to Ms. T at 10% interest, calculated semi-annually.

Ms. T received repayment of the principal of the loan in July, 1998, stating that she did not want the interest. After Ms. T made a complaint to the Law Society arising from her unhappiness with Mr. Evans respecting another matter, Mr. Evans' daughter sent Ms. T a cheque for the interest.

Admission and penalty

Mr. Evans admitted that:

- in acting for his daughter's company in a matter in which he had an indirect financial interest, his conduct was contrary to Chapter 7, Rule 1(a) of the *Professional Conduct Handbook*;
- in acting for his daughter's company and preparing the promissory note in relation to the loan, he failed to advise Ms. T that he did not act for her in the matter and further failed to advise her to obtain independent legal advice;
- in using confidential client information, he acted contrary to Chapter 5, Rule 5 of the *Professional Conduct Handbook*.

Pursuant to Law Society Rule 4-22, Mr. Evans admitted that this conduct constituted professional misconduct. The Discipline Committee and the discipline hearing panel accepted Mr. Evans' admission and his proposed disciplinary action, and accordingly ordered that he:

1. be suspended for one month, effective August 1, 2001; and
2. pay \$1,500 towards costs of the proceedings.

Discipline Case Digest — 2001: No. 18 July (Evans)