

North Vancouver, B.C.
Called to the Bar: October 1, 1969

Discipline hearing:

Date: May 8, 2000

Panel: Ralston S. Alexander, Q.C., as a single-Bencher panel by consent

Report: May 25, 2000

Indexed as [2000] LSBC 12

Counsel:

Maureen E. Baird, for the Law Society

William B. Smart, Q.C., for EK

Summary

EK underwent several Law Society practice reviews directed at identifying and correcting numerous deficiencies in his practice. EK failed to 1) implement practice review recommendations approved by the Competency Committee (now the Practice Standards Committee), 2) respond to communications from the Committee or 3) complete a remedial program required by the Committee. A discipline hearing panel found that his actions amounted to professional misconduct. The panel ordered that EK be reprimanded, that his practice be restricted, that he complete a professional counselling program to address his chronic procrastination problems and that he undergo, at his own expense, a further practice review. EK was ordered to pay costs of the discipline proceedings.

Facts

Following a complaint to the Law Society respecting his handling of holdback funds, EK underwent a practice review in 1994. The review disclosed a number of deficiencies in his practice, including in his office systems, file organization and documentation and also in his practice of real estate, wills, corporate/commercial and family law. The practice review report detailed these deficiencies and made recommendations, which were approved by the Competency Committee (now the Practice Standards Committee). The Committee directed that EK complete several remedial studies programs or, in the alternative, refrain from practising in the fields in which he was deficient. EK was unwilling to restrict his practice.

A follow-up practice review in 1995 revealed improvements in some areas of his practice, but overall EK was unable or unwilling to make substantial changes.

Despite many reminders, warnings and extensions given by Law Society staff, EK missed deadlines for completion of remedial assignments and never completed the first two remedial studies programs. The Competency Committee extended the deadline for completion of the wills remedial program to April 30, 1996, but EK did not meet this deadline. The Chair of the Competency Committee wrote to EK to list the defaults in his compliance with Committee directions. The Chair told EK that, if he took certain steps by June 1, 1996, referral of the matter to the Discipline Committee would be deferred. EK did not respond.

The Competency Committee, concerned about the protection of EK's clients, referred the matter to the Discipline Committee. A citation was issued against EK in September, 1996 and the Discipline Committee referred to a three-Bencher panel the issue of whether EK should be suspended pending his hearing.

EK subsequently agreed to voluntarily restrict his practice pending the hearing, which was accepted by the Discipline Committee. A further practice review was conducted and EK also agreed to undergo a psychiatric examination, which revealed that he had longstanding procrastination problems.

Decision

The panel found, and EK admitted, that his conduct amounted to professional misconduct in failing to:

- implement the recommendations of Law Society practice review reports approved by the Competency Committee (now the Practice Standards Committee);
- respond to communications from the Committee; and
- complete a wills and estates remedial program required by the Committee.

Penalty

The hearing panel noted that the Law Society cannot discharge its responsibilities if the members are willfully non-responsive. EK's indifference to responding to the Law Society when he was given an abundance of opportunities to do so was unacceptable in the extreme.

The panel considered imposing a suspension or fine, but considered that the former would be unfair to EK's clients and the latter would be impractical because of his modest financial circumstances. EK, however, must bear the costs of the Law Society in this matter. The panel said it hoped that, through this substantial burden, EK would learn to appreciate the folly of ignoring the Law Society when it contacts him about the conduct of his practice.

The panel ordered that EK:

1. be reprimanded;
2. not practise in the field of wills or trusts, but restrict his practice to the areas of real estate, estates, corporate / commercial law (and Supreme Court chambers applications incidental to and necessary for these areas of law), small claims matters, powers of attorney and representation agreements, until relieved of these restrictions by resolution of the Practice Standards Committee;
3. propose to the Practice Standards Committee, within six months, a course of professional counselling that is directed at his chronic procrastination problems and that he will complete at his own expense;
4. complete such counselling program as approved by the Practice Standards Committee and provide evidence to the Committee of completion;
5. undergo at his own expense a further practice review within six to nine months; and
6. pay \$14,884.53 as costs of the proceedings in monthly instalments of \$300, with the first payment due July 1, 2000.

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