

Vancouver, B.C.

Called to the Bar: May 14, 1979

Ceased membership: January 1, 1992

Discipline hearing panel: June 1 and July 7, 1992; October 22, November 16, December 10 and 24, 1992 (submissions on verdict); and May 4, 1994 (submissions on penalty).

J. Whittow, for the Law Society

The member, on his own behalf (as to facts and verdict); J.W. Williams (as to penalty)

Summary

While acting as a committee under the *Patients Property Act*, the member invested the patient's funds in a company in which the member had an interest and in which the investment of funds was not authorized under the *Trustee Act*. He also failed to respond promptly to Law Society correspondence respecting a complaint about his conduct.

Facts

The member was appointed committee of the person and the estate of his grandmother (J) in March, 1985. The Public Trustee wrote to one of the member's partners, asking that he remind the member to follow the filing provisions of the *Patients Property Act*.

In July, 1985 the member sold J's house and deposited the \$83,000 proceeds to his law firm trust account. The firm gave the member a cheque for the proceeds, which the member deposited in an account he maintained as committee for J.

The member invested the proceeds of J's estate in shares of S Ltd. At the time, the member was a guiding force in that company: he held a substantial number of its escrowed shares, recruited its investors, directors and officers, personally guaranteed payment of the president's salary and attempted to negotiate its asset purchases. During the early history of S Ltd., the member's law firm had represented the company.

The member was still the committee for J when she died in November, 1989, and her will appointed the member a co-executor. The will provided a \$5,000 cash legacy to the member, \$18,000 in cash legacies to other people and the estate residue to the member.

In January, 1990 the Public Trustee wrote to the member to request an accounting of J's funds from April 15, 1985 through October 31, 1989. After communicating with the member by telephone, the office of the Public Trustee sent a second request for the information on March 26, 1990. The member provided statements of receipts and disbursements through April 30, 1990.

The Public Trustee's office wrote in May, 1990 to ask why the estate assets were generating no interest or investment income. When a staff member from the Public Trustee's office met with the member on July 5, 1990, she told him that the investment in S Ltd. shares was not permitted under the *Patients Property Act* and *Trustee Act*.

On his application for probate of J's estate, the member declared that, at the date of J's death in November, 1989, the gross value of the estate was \$24,953.06, which included \$24,000 in S Ltd. shares. The shares, in fact, subsequently proved to be without value.

During a Law Society investigation of a complaint from the Public Trustee, the member failed to respond promptly to a Law Society letter dated November 12, 1991 and to follow-up letters dated December 4 and December 19, 1991.

The member voluntarily ceased membership at the end of 1991.

Decision

While acting as a committee under the *Patients Property Act*, the member professionally misconducted himself by investing the patient's funds in a company in which he had an interest and in which the investment of funds was not authorized under the *Trustee Act*. His failure to respond promptly to Law Society correspondence also constitutes professional misconduct.

Penalty

The panel ordered that the member:

1. be reprimanded for his failure to reply promptly to Law Society correspondence;
2. pay a \$5,000 fine for investing funds not authorized by the *Trustee Act*; and
3. pay costs of the discipline proceedings, which totalled \$6,344.52.

The panel stated that, had GC been a current member of the Society, they would have suspended him for at least three months and would have imposed conditions respecting his return to practice.

Discipline Case Digest — 1994: No. 12 November (GC)