

Delta, B.C.

Called to the Bar: May 31, 1984

Discipline hearing:

Date: November 23, 2000

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

Report: November 24, 2000

Discipline hearing report indexed as [2000] LSBC 32

Counsel:

Todd R. Follett, for the Law Society

E. David Crossin, Q.C., for RB

Summary

RB met with Mr. and Mrs. JB for the purpose of executing documents, including a power of attorney from Mrs. JB to Mr. JB. Although RB purported to witness the signature of Mrs. JB on the power of attorney, the document was not signed by Mrs. JB, but by Mr. JB in her name. RB further purported to witness, as an officer under the *Land Title Act*, the signature of Mrs. JB on a mortgage of property when in fact the mortgage was not executed by her but signed in her name by Mr. JB. Although RB noticed the error and had Mr. JB execute the mortgage by signing his own name as attorney holder, RB erroneously submitted the incorrect version of the document to the Land Title Office. RB also witnessed the execution of several documents that were incorrectly dated and was grossly negligent in doing so. RB admitted that his conduct in these matters constituted professional misconduct. The Discipline Committee and the discipline hearing panel accepted RB's admission and his proposed disciplinary action and ordered that he be reprimanded, pay a \$5,000 fine and pay costs of \$1,000.

Facts

In August, 1994 RB met with Mr. and Mrs. JB for the purpose of executing documents, including a power of attorney from Mrs. JB to Mr. JB .

RB, as an officer under the *Land Title Act*, certified the signature of the donor on the power of attorney as being that of Mrs. JB. As such, he represented that he was a solicitor authorized by the *Evidence Act* to take affidavits for use in B.C. and certified that Mrs. JB had appeared before him, signed the document and acknowledged that she was the person named in the power of attorney. RB stated that he mistakenly certified the signature of Mrs. JB on the power of attorney as he was not aware at the time that Mr. JB had signed his wife's name.

In October, 1994 RB met with Mr. JB to execute documents relating to real property held by Mrs. JB. Mr. JB executed a mortgage to a credit union by signing Mrs. JB's name on page 2 of this document as mortgagor. RB, acting as an officer under the *Land Title Act*, certified the signature of Mrs. JB, thereby representing that she had appeared before him, signed the document and acknowledged that she was the person named in the mortgage. Later, during the same meeting, RB realized that Mr. JB had signed page 2 of the mortgage incorrectly, and it consequently appeared that the document had been signed personally by Mrs. JB. RB prepared a new page 2 of the mortgage. Mr. JB correctly executed the document as attorney holder, witnessed by RB.

When RB submitted the mortgage documents to the Land Title Office, he inadvertently included the wrong version of page 2 on which Mr. JB had signed the name of Mrs. JB.

Between August and November, 1994 RB prepared various documents, including a mortgage and two powers of attorney, and witnessed the execution of these documents although they were incorrectly dated.

Admission and Penalty

Pursuant to Law Society Rule 4-22, RB admitted professional misconduct in that he failed in his duty as an officer under the *Land Title Act* by:

1. certifying a signature purportedly that of Mrs. JB on a power of attorney when it was not in fact her signature but rather that of Mr. JB; and
2. certifying a signature purportedly that of Mrs. JB on a mortgage when in fact Mr. JB had signed the mortgage in her name, and by submitting the mortgage with this signature to the Land Title Office for registration, rather than the later version that was correctly executed by Mr. JB.

RB further admitted that he was grossly negligent in failing to ensure that certain documents he witnessed were correctly dated.

The Discipline Committee and the discipline hearing panel accepted RB's admissions and his proposed disciplinary action and accordingly ordered that he:

1. be reprimanded;
2. pay a \$5,000 fine; and
3. pay \$1,000 as costs of the discipline proceedings.

Both the fine and costs were ordered to be paid within one year, in monthly instalments of \$500, commencing December 1, 2000.

Discipline Case Digest — 2001: No. 05 January (RB)