

Coquitlam, BC

Called to the Bar: July 13, 1977

Discipline hearing: December 9, 2002

Panel: Robert W. Gourlay, QC, as a one-Bencher panel, by consent

Oral reasons: December 9, 2002

Report issued: December 17, 2002; indexed as [2002] LSBC 31

Counsel: Todd R. Follett for the Law Society; G. Jack Harris, QC for AZ

Summary

AZ, having agreed to represent a client on criminal charges on a legal aid retainer, accepted money from the client for payment of disbursements, although his acceptance of the money contravened the criminal tariff of the Legal Services Society. AZ further failed to deposit the funds to his trust account as required by the Law Society Rules. Pursuant to Rule 4-22, the Discipline Committee and the hearing panel accepted AZ's admission of professional misconduct and his proposed disciplinary action. The hearing panel ordered that he be suspended for three months and pay \$4,000 as costs.

Facts

In February, 2000 AZ accepted a legal aid referral from the Legal Services Society (LSS) to represent H who was facing criminal charges. AZ met with his client who was then incarcerated in a federal prison, and the two arranged for H's wife (C) to provide AZ with \$1,000 cash on H's behalf.

AZ went to C's house where he received the \$1,000 in cash. His explanation was that he intended to apply these funds to disbursements incurred in the defence of H. AZ did not issue a receipt for the funds, nor did he disclose to LSS that he had received the funds.

AZ represented H at trial in April, 2000. The client was convicted and sentenced to a period of incarceration.

On April 20 AZ rendered to LSS his account totalling \$664.54 for fees and disbursements. LSS paid the account.

A private investigator, whom AZ had earlier retained in H's defence, had remitted a bill for \$576.84. This disbursement had not been authorized in advance by the Legal Services Society. The bill was therefore not eligible for payment under the legal aid tariff and AZ did not remit it to LSS for payment.

On April 25 H told AZ that he was dissatisfied with the conduct of his file and wanted his \$1,000 returned. On May 2 AZ delivered \$1,000 cash to C, on H's behalf.

On May 10 AZ paid the account of the private investigator by general account cheque.

Admission and penalty

Pursuant to Law Society Rule 4-22, AZ admitted that he was guilty of professional misconduct in:

1. accepting \$1,000 from his client's wife on behalf of the client, in contravention of the Legal Services Society criminal tariff; and
2. failing to deposit those funds in his trust account, in breach of Law Society Rule 3-51.

The Discipline Committee and the hearing panel accepted AZ's admission and his proposed disciplinary action. The panel accordingly ordered that he:

1. be suspended for three months commencing December 12, 2002; and
2. pay \$4,000 as costs of the discipline proceedings by September 12, 2003.

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