

Lawyer C

Surrey, BC

Called to the Bar: June 29, 1972

Discipline hearing: May 27, 2003

Panel: David Zacks, QC, as a one-Bencher panel by consent

Report issued: June 9, 2003; indexed as [2003] LSBC 24

Counsel: Jessica Gossen, for the Law Society; Mr. C, on his own behalf

Summary

From 1992 through 2000 Mr. C failed to remit to the provincial Consumer Taxation Branch the social service tax that he had collected on his accounts to clients. The hearing panel found that, in failing to remit the tax, Mr. C breached the *Social Service Tax Act* and breached the trust reposed in him by his clients. He also placed those clients at risk since they were legally responsible to pay the tax should he fail to do so. The hearing panel found that Mr. C's conduct constituted professional misconduct. The panel ordered that he be reprimanded, pay a \$1,500 fine and \$500 in costs, register under the *Social Service Tax Act*, submit to the Law Society quarterly statutory declarations on his billings and tax remittances, undergo an audit and consult with a trustee in bankruptcy who must report to the Law Society.

Facts

A Law Society audit of Mr. C's practice in 2000 revealed that social service tax remittances for the practice were not up to date. Mr. C had not registered with the Consumer Taxation Branch of the Ministry of Finance, had never applied for a social service tax number and had not remitted the funds he collected on his accounts to clients from May, 1992 through December, 2000.

Following correspondence between a Law Society staff lawyer and Mr. C, the matter was referred to the Discipline Committee, which authorized a citation.

Verdict

The hearing panel noted that, in failing to remit the social service tax on accounts rendered to clients, Mr. C breached the *Social Service Tax Act* and breached the trust reposed in him by his clients. He put his clients at risk since, under that legislation, the authorities could seek recourse against those clients as legally responsible for the tax should Mr. C not make payment.

The panel found that Mr. C's conduct constituted professional misconduct.

Penalty

While sympathetic to Mr. C's personal and financial circumstances, the panel noted that he had chosen a course of action that put him in breach of the law and in breach of a trust reposed in him by his clients.

Mr. C cooperated with the Law Society in its investigation as much as he was able and subsequently took steps to reach agreement with the provincial authorities to resolve his social service tax problems.

The panel noted the various factors to be considered in assessing penalty, including general and specific deterrence, rehabilitation, punishment and denunciation.

The panel ordered that Mr. C:

1. be reprimanded;
2. pay a \$1,500 fine within two years;
3. immediately register under the *Social Service Tax Act*;
4. provide the Executive Director of the Law Society with quarterly statutory declarations setting out the total fees billed and total social service tax remitted for each preceding quarter;
5. undergo an audit of his practice at the end of 2003;
6. consult with a licensed trustee in bankruptcy whose report must be provided to the Executive Director within 60 days of the hearing; and
7. pay \$500 as costs of the proceedings within two years.