

2005 LSBC 46

Report issued: November 4, 2005

Oral Reasons: October 17, 2005

The Law Society of British Columbia  
In the matter of the *Legal Profession Act*, SBC 1998, c.9  
and a hearing concerning

**Shawn Peter Jodway**

Applicant

**Decision of the Hearing Panel on  
Application for Call and Admission  
on Transfer**

Hearing date: October 17, 2005

Panel: James Vilvang, Q.C., Chair, Brian J. Wallace, Q.C., Art Vertlieb, Q.C.

Counsel for the Law Society: Jason Twa

Counsel for the Respondent: Jerome Ziskrout

[1] The Applicant has applied for call and admission to the Bar of British Columbia by way of a transfer application after completion of articles and having been called to the Bar in Saskatchewan on May 13, 2005.

[2] Counsel for the Law Society raises two issues with respect to the application:

1. In an application for temporary articles completed by the Applicant on April 23, 2002, he failed to disclose that he had been the subject of bankruptcy proceedings which started in 1989.
2. The Applicant did not properly deal with the bankruptcy matter for over ten years.

[3] To be called to the Bar in British Columbia an applicant must satisfy the Law Society that he or she is a person of good character and repute and fit to be a member. This statutory test is set out in Section 19(1) of the *Legal Profession Act*. The meaning of that Section has been interpreted by the Benchers and confirmed by the B.C. Court of Appeal in the decision in *McOuat v. The Law Society of B.C.* Court of Appeal decision is at 1993 B.C.J., 807.

## **The History**

[4] The Applicant was born in 1963. His parents were not well educated. He graduated from high school in 1981 and held numerous jobs and mainly working for the District of Abbotsford in the maintenance department. In 1987 the Applicant enrolled in BCIT and got a diploma in forestry in 1989. After having been out of the workforce for the two years while he was attending BCIT, he incurred debts of approximately \$10,000.

[5] Not aware of the seriousness or repercussions of bankruptcy, the Applicant went into bankruptcy. He then started work with [company] in remote areas of B.C. and did not maintain contact with his Trustee in

Bankruptcy. As a result, the bankruptcy matter was never properly resolved.

[6] The Applicant returned to school, first at the University College of the Fraser Valley in 1993. He then moved to Simon Fraser University and earned his BA in 1997. He then returned to the workforce taking a variety of jobs; all this time thinking that the bankruptcy was behind him.

[7] In 2001 the Applicant enrolled at UBC Law School and started part time, taking only three courses. The next spring he applied for and obtained summer articles with the lawyer, B.R.

[8] In a rush to get started with his summer articles, he answered "no" to questions relating to bankruptcy which appear as Question 20 in the application form. The Applicant said that he misread the question and thought it meant "was he currently bankrupt" .

[9] As a result of communications with the Law Society over this incorrect answer, the Applicant also found out that he had never been discharged from the bankruptcy. The Applicant sought counsel and immediately got the bankruptcy discharge taken care of. He also, on the advice of counsel, withdrew his application for temporary articles, proceeded to finish law school, and then commenced articles in Saskatchewan.

[10] Upon completing his articles and becoming a member of the Saskatchewan Bar, he applied to transfer to British Columbia. Counsel for the Law Society framed the question for this Panel as follows: " Was the Applicant's incorrect answer to Question 20 of the Application for Temporary Articles a result of a desire to mislead the Law Society? If so, his fitness would be called into question." The Applicant stated that he had no intent to mislead but that he simply misinterpreted the meaning of the question through haste.

## Decision

[11] The Panel accepts the Applicant's explanation. However, the Panel is concerned about the Applicant's lack of attention to detail and his failure to recognize the importance of the application form.

[12] Consequently, the Panel approves the application for call and enrolment but imposes a condition that he work for a period of one year with the firm of Palmer Gillen.

[13] In the event circumstances relating to his employment change within that period, the Applicant will have leave to apply for a variation of this condition.

[14] The Law Society will have its costs in this matter in the amount posted by the Applicant as security for costs, being \$1,000.