

Ulf Bo Gjerulf Kristiansen

Prince Rupert, BC

Called to the Bar: September 27, 1985

Voluntarily ceased Law Society membership: January 1, 2002

Discipline hearing: March 5, 2002

Panel: G. Ronald Toews, QC, Chair, Anita Olsen and Ross D. Tunnicliffe

Report issued: July 24, 2002; indexed as [2002] LSBC 6

Counsel: Jessica S. Gossen, for the Law Society; Albert Roos, for Mr. Kristiansen

Summary

Mr. Kristiansen failed to file Form 47 accountant's reports at the end of two reporting periods, as required under the Law Society Rules, and he further failed to correct exceptions in another Form 47 report as requested by the Law Society. The Law Society contacted Mr. Kristiansen 11 times between March and August, 2001 with respect to these reports. The day before Mr. Kristiansen's hearing, his accountant sent to the Law Society the two previously unfiled Form 47 reports. On the day of the hearing, Mr. Kristiansen faxed a letter to correct exceptions in the other Form 47 report. The hearing panel found that Mr. Kristiansen's conduct in failing to file the two reports and in failing to correct the exceptions in the other report constituted professional misconduct. The panel ordered that Mr. Kristiansen, then a former member, be reprimanded, that as a condition of his future return to the practice of law he must arrange for a mentor acceptable to the Practice Standards Committee to oversee the business aspects of his practice and that he must pay costs of the discipline proceedings.

Facts

Mr. Kristiansen practised as a sole practitioner until the end of 2000 when he wound up his practice and took a position as a staff lawyer for the Legal Services Society. He ceased membership in the Law Society on January 1, 2002.

Mr. Kristiansen failed to file two Form 47 accountant's reports for his practice when these came due as required under Law Society Rule 3-72. He first failed to file a report within three months of his practice year ending September 30, 2000. Having wound up his law practice at the end of 2000, Mr. Kristiansen then failed to file a report for the period October 1 through December 31, 2000 within three months of that reporting period.

Mr. Kristiansen further failed to correct exceptions in his Form 47 accountant's report for his practice year ended September 30, 1999 as requested by the Law Society in October, 2000.

The Law Society contacted Mr. Kristiansen 11 times between March and August, 2001 in efforts to obtain the unfiled Form 47 reports for 2000 and corrections to the Form 47 report for 1999.

The day before Mr. Kristiansen's hearing, his accountant provided the previously unfiled Forms 47 reports. The day of the hearing, Mr. Kristiansen faxed a letter regarding the correction of exceptions in his 1999 Form 47 report.

Verdict

The hearing panel found that Mr. Kristiansen's conduct in failing to file two Form 47 reports on time as required by Law Society Rule 3-72, and in failing to respond to Law Society requests that he provide a letter correcting exceptions in another Form 47 report, constituted professional misconduct.

Penalty

The hearing panel considered a letter from Mr. Kristiansen describing his difficult financial situation and his hopes of returning to practice. He addressed his practice history and acknowledged to the panel that he had a tendency to procrastinate. As a result of his procrastination, he failed to bill \$30,000 to the Legal Services Society within the necessary time limits. His failure to file his Form 47 reports with the Law Society on time also resulted in very large late filing penalties against him. The panel noted that he would need to ask the Law Society to waive these penalties if he were to have any reasonable chance of re-establishing a practice.

The panel found that Mr. Kristiansen had remedied the matters at issue in the citation and that he was in counselling. However, the panel also noted that the timing of his actions was in keeping with his procrastination problem. There was a public interest aspect to Mr. Kristiansen's failure to do that which is required of all practising lawyers. If the public is to have faith in Law Society regulation, it is of paramount importance that lawyers respond to the Law Society's enquiries in a timely way and observe the rules that govern trust monies, including the filing of Form 47 reports.

The panel ordered that Mr. Kristiansen;

1. be reprimanded;
2. as a condition of returning to the practice of law, arrange for a mentor acceptable to the Practice Standards Committee to oversee the business aspects of his practice until relieved of that obligation by the Committee; and
3. pay costs of the discipline hearing.

In determining it appropriate to order full costs in this case, the panel took note of a precedent decision (*see: DCD 99/13 and 00/3*) dealing with the issue and considered that Mr. Kristiansen had fulfilled his obligations very late in the process.

Discipline Case Digest — 2002: No. 16 October (Kristiansen)