

## **Anthony Herman Zipp**

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 Mr. Zipp

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### Summary

Mr. Zipp, 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. Mr. Zipp 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 Mr. Zipp'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.

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### Facts

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

Mr. Zipp 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. Mr. Zipp did not issue a receipt for the funds, nor did he disclose to LSS that he had received the funds.

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

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

A private investigator, whom Mr. Zipp 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 Mr. Zipp did not remit it to LSS for payment.

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

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

### **Admission and penalty**

Pursuant to Law Society Rule 4-22, Mr. Zipp 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 Mr. Zipp'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.

*Discipline Case Digest — 2003: No. 04 February (Zipp)*