

Misappropriation of trust funds

Robin Lynn Pearson

Campbell River, B.C.

Called to the Bar: December 10, 1993

Became non-practising member: January 1, 2001

Voluntarily ceased membership: January 1, 2002

Admission and undertakings to Discipline Committee: May 30, 2002

Misappropriations from trust

Client M — In 2000 Ms. Pearson was retained by M in the preparation of a separation agreement. In July Ms. Pearson received in trust \$122,082, which were the proceeds from sale of the matrimonial home. Ms. Pearson placed the funds in a separate interest-bearing trust account for M. When the term deposit matured in October, Ms. Pearson misappropriated \$29,914.36 of the funds by transferring this amount from her trust account to her general account without the knowledge or consent of the client and without rendering an account for services.

Client C — While representing C in a family law matter in October, 2000, Ms. Pearson received a bank draft for \$775.75 on C's behalf to obtain a DNA report. Ms. Pearson subsequently misappropriated these funds by transferring them from her trust account to her general account, without the knowledge or consent of her client, without rendering an account for services and without having obtained the DNA report.

Client CM — While representing CM in October, 2000 Ms. Pearson deposited \$1,500 from the client directly to her general account, rather than her trust account, without rendering a statement of account and without performing the services for which she was retained, thereby misappropriating the retainer.

Client P — In November 2000 Ms. Pearson transferred \$8,936.14 from her trust account to her general account, noting in her records that the transfer related to client P. In fact, Ms. Pearson held no funds in trust for P and the fund transfer was a misappropriation from her trust account.

Withdrawing funds from trust without rendering accounts

On six client files in 2000, Ms. Pearson withdrew funds held in trust for those clients as retainers, without preparing or immediately delivering bills for fees to the clients, contrary to Law Society Rule 3-57:

- With respect to funds held in trust for client B, Ms. Pearson withdrew \$705 on September 5 and \$244.18 on September 25, 2000;
- With respect to trust funds held for client PC, Ms. Pearson withdrew \$971.28 on January 12 and \$1,028.72 on June 30, 2000;

- With respect to trust funds held for client H, Ms. Pearson withdrew \$752.40 on August 28, 2000;
- With respect to trust funds held for client GM, Ms. Pearson withdrew \$218.88 on August 25 and \$281.12 on September 25, 2000;
- With respect to trust funds held for client AP, Ms. Pearson withdrew \$612.86 on August 28, 2000;
- With respect to trust funds held for client DP, Ms. Pearson withdrew \$1,409.85 on June 30, 2000.

Failing to maintain books and records

Ms. Pearson removed the hard drive from her computer and destroyed it, thereby failing to maintain books and records, contrary to Rule 3-59 of the Law Society Rules.

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Ms. Pearson became ill and was hospitalized in November, 2000, following which a custodian was appointed for her practice. In December, 2000 the chair of the Discipline Committee ordered an investigation into Ms. Pearson's books, records and accounts, and an audit report was completed in August, 2001. The chair of the Discipline Committee directed the issuance of a citation, and the citation was served on Ms. Pearson in April, 2002.

Ms. Pearson became a non-practising member on January 1, 2001 and ceased membership in the Law Society for non-payment of fees on January 1, 2002.

On May 30, 2002, pursuant to Law Society Rule 4-21, Ms. Pearson admitted to the Discipline Committee that her conduct in misappropriating trust funds and failing to render accounts to clients in relation to funds transferred from trust constituted professional misconduct. The Committee accepted Ms. Pearson's admission and her undertaking:

1. not to apply for reinstatement in the Law Society for five years;
2. not to apply for membership in any other law society without first advising the Law Society in writing;
3. not to permit her name to appear on the letterhead of any lawyer or law firm without the written consent of the Law Society; and
4. to obtain the written consent of the Law Society before working for any other lawyer or law firm in B.C.