

Resignation: Misappropriation of trust funds, fabricating documents, failing to perform services

WILLIAM JOHN GRAHAM

Vernon, B.C.

Called to the Bar: May 17, 1996

Suspended pending hearing: January 26, 1999

Resigned: October 20, 1999

Client M

In 1997 Mr. Graham received, on behalf of client M, proceeds from the sale of M's house. He received the funds in trust to pay out and discharge a mortgage, to discharge a court order filed against title and to discharge a judgment registered against title by the Family Maintenance Enforcement Program (FMEP). Mr. Graham gave his undertaking to a notary public to discharge the FMEP judgment.

Sale of M's property completed on January 9, but Mr. Graham did not discharge the judgment until February 16, 1998. He did so using a cheque for \$10,600.09 drawn, in breach of trust, on funds held in trust for R, another of Mr. Graham's clients.

In January, 1997 Mr. Graham told M that he had obtained a court order reducing her maintenance payments from \$300 to \$150 per month and provided her with a purported copy of the order. In fact, Mr. Graham had not obtained an order; rather, he had fabricated an order and provided M with a copy.

Mr. Graham informed M that he had provided FMEP with a letter and a cheque for \$4,000 and gave her purported copies of these documents. In fact, neither the letter nor the cheque was sent and the documents provided were fabrications. M did not receive an accounting from Mr. Graham who informed her he was making FMEP payments from money held in trust.

By trust cheque dated July 31, 1997 Mr. Graham paid \$7,225 to himself, which he had held in trust for M, then falsified and removed trust records of his law practice to cover the breach.

Client R Ltd.

In October, 1997 Mr. Graham began acting for the principals of R Ltd. to take the steps necessary to remove a builder's lien that he had filed against the property. On several occasions between October, 1997 and January, 1999, Mr. Graham advised R Ltd. that he was attending in Supreme Court on the company's behalf. In fact, the builder's lien had been removed by consent on October 28, 1997 and Mr. Graham had commenced no legal proceedings.

As noted above, Mr. Graham paid \$10,600.09 from the funds held in trust for R Ltd. to the Family Maintenance Enforcement Program in relation to the representation of M. The principals of R Ltd. gave no instructions for this payment and were unaware of it.

On April 17, 1998 Mr. Graham misappropriated \$4,971.25 from funds held in trust for R Ltd. by withdrawing them and making them payable to his personal account.

Clients N and H

In November, 1996 Mr. Graham was retained by N and H to prepare a demand letter to their insurance company and, if there was no reply, to commence a Small Claims action against the company.

In May, 1998 Mr. Graham told N and H that the action had been commenced and had progressed. He paid to N and H \$2,000, informing them that the money had come from the defendants in the Small Claims action. This was not in fact the case as Mr. Graham had failed to commence an action. The funds did not flow through a trust account in Mr. Graham's firm.

* * *

A citation against Mr. Graham was authorized on January 14, 1999. He was suspended on January 26 pending his discipline hearing. The hearing was scheduled for October 25 to 29, 1999.

On October 20, 1999 Mr. Graham tendered to the Discipline Committee an admission that his conduct constituted professional misconduct and he undertook:

1. to resign from the Law Society and never to apply for reinstatement;
2. not to apply for membership in any other law society without first advising the Law Society in writing;
3. not to permit his name to appear on the letterhead of any lawyer or law firm without the Law Society's written consent;
4. not to work for any other lawyer or law firm in B.C. without the Law Society's written consent.

On October 22, 1999 the Discipline Committee accepted Mr. Graham's admission and undertakings, ordered that these be endorsed on his professional conduct record and ordered that the outstanding citation against him be rescinded.