

Alexander Peter Watt*

Kamloops, B.C.

Called to the Bar: July 13, 1977

Bench review: May 30, 2001

Panel: (*Majority*) Gerald J. Lecovin, QC, Chair, Jaynie W. Clark, Richard C. Gibbs, QC, Gerald J. Kambeitz, QC, Anita Olsen and Ross Tunnicliffe; (*Dissent*) Patricia L. Schmit and G. Ronald Toews, QC

Report (majority reasons) issued: December 7, 2001; indexed as [2001] LSBC 16

Counsel: Todd R. Follett, for the Law Society; Richard R. Sugden, QC, for Mr. Watt

**A section 47 Bench review: see DCD 01/07 for a summary of the hearing panel decision.*

Summary

On application by Mr. Watt, a panel of Benchers reviewed the penalty imposed on him by a discipline hearing panel in 2001. The hearing panel had found Mr. Watt guilty of conduct unbecoming a member of the Law Society, following his guilty plea in Provincial Court to possession of cocaine for personal use. The panel had ordered that Mr. Watt be reprimanded, pay a \$7,500 fine and pay costs of the hearing. In reviewing that penalty, a majority of the Benchers determined that a fine should not be imposed. Mr. Watt had acknowledged his substance abuse was inappropriate, sought appropriate medical treatment, taken all the necessary steps to overcome his addiction, received a positive prognosis that recurrence was unlikely and helped other lawyers with addiction problems. In these circumstances, the majority of the review panel determined that a reprimand and costs were a sufficient penalty.

Review of penalty

On application by Mr. Watt under section 47 of the *Legal Profession Act*, the Benchers reviewed the penalty imposed on him by a discipline hearing panel in 2001. The hearing panel had found Mr. Watt guilty of conduct unbecoming a member of the Law Society, following his 1998 guilty plea in Provincial Court to possession of cocaine for personal use (for which the court had ordered a conditional discharge and one year of probation).

A majority of the hearing panel had ordered that Mr. Watt be reprimanded, pay a \$7,500 fine and pay costs of the hearing. The panel had taken into account Mr. Watt's good character, strength and integrity, his steps to seek treatment for his addiction and his assistance to other lawyers in overcoming addictions.

The majority of the hearing panel nevertheless found that, with the stature of being a lawyer, came significant professional and private responsibilities. Accordingly, penalty must reflect the seriousness of the impugned conduct to ensure that the public retains confidence in the Law Society's ability to police the profession.

In reviewing penalty, the majority of the Benchers review panel noted that reasonable, informed members of the public would view lawyers who abused substances as ill and in need of assistance. The most important consideration is whether or not the public is being harmed by the conduct. If not, it is appropriate to address the conduct with cascading sanctions, depending on whether or not the substance abuse is under control. A reprimand is appropriate for a lawyer whose conduct is under control. For a lawyer still abusing substances, practice conditions or a suspension would be an appropriate penalty and, as a last resort in truly intransigent cases, disbarment.

The majority of the Benchers review panel took note of Mr. Watt's successful rehabilitation efforts in the two years leading up to his penalty hearing. Mr. Watt had acknowledged his substance abuse as inappropriate, sought appropriate medical treatment, taken all necessary steps to overcome his addiction, received a positive prognosis that recurrence was unlikely and helped other lawyers in overcoming addiction.

In these circumstances, a majority of the Benchers determined that a reprimand and costs were a sufficient penalty. (*Ms. Schmit and Mr. Toews dissented, with reasons pending.*)

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