

## **Stephanie Lee Poschmann**

Victoria, B.C.

Called to the Bar: February 21, 1997; ceased membership: April 23, 2001

**Discipline hearing:** July 6, 2000 and November 30, 2001

**Panel:** Robert W. Gourlay, QC, Chair, D. Peter Ramsay, QC and William J. Sullivan, QC

**Reports issued:** July 6, 2000 and December 7, 2001; indexed as [2000] LSBC 17 (facts and verdict ), [2001] LSBC 37 (penalty)

**Counsel:** Todd R. Follett, for the Law Society; Richard R. Sugden, QC, for Ms. Poschmann

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### **Summary**

Ms. Poschmann failed to submit an application for landed immigrant status on behalf of a client and did not return the client's calls as needed, thereby failing to serve the client in a conscientious and diligent fashion. In another matter, Ms. Poschmann misled a client by advising that she had filed on the client's behalf an application for permanent residence in Canada under the investor class, although she knew this was untrue; she further prepared a letter to assist him at border crossings although she knew the letter contained a false statement with respect to his application for permanent residence. In another instance, Ms. Poschmann misled a client in an immigration matter by stating that she had prepared and couriered to Brazil an affidavit when in fact she had not yet prepared the affidavit. Finally, when one of Ms. Poschmann's clients retained new counsel, Ms. Poschmann misled that new counsel by allowing him to believe that she had filed a work permit application for the former client when that was not so. Ms. Poschmann admitted, and the panel found, that her conduct in these matters constituted professional misconduct. Prior to the penalty phase of the hearing, Ms. Poschmann ceased membership in the Law Society. The panel ordered that, as conditions of any reinstatement, Ms. Poschmann must first satisfy a board of examiners that she is competent to practise law and that her competence is not adversely affected by a mental disability and must pay \$5,000 as costs of the proceedings.

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### **Facts**

#### **Client JG**

While practising as an immigration lawyer in 1997, Ms. Poschmann was retained to represent JG, a British national, in obtaining landed immigrant status in Canada and ensuring that JG was eligible to be added to her husband's medical insurance plan. Ms. Poschmann received from her client the completed forms necessary for the application in September, 1997 and should have filed the application in October, but she failed to do so. In November, 1997 JG learned that she was pregnant and advised Ms. Poschmann of this.

Between November, 1997 and May, 1998 JG made numerous attempts to contact Ms. Poschmann by telephone, but Ms. Poschmann did not respond.

In March, 1998 JG applied for medical insurance coverage under her husband's plan and in May contacted Canada Immigration to check on her landed immigrant status. Canada Immigration told her that no application had been made on her behalf. JG found this information very stressful as she was due to have a child in July and faced doing so without medical insurance.

JG and her husband subsequently retained new counsel. Although Ms. Poschmann attempted to correct the insurance issue in cooperation with new counsel, she was unsuccessful in doing so prior to the birth of JG's child. JG required compensation of almost \$10,000 for medical costs associated with the birth, which was paid by Ms. Poschmann's liability insurance, with her law firm paying the \$5,000 deductible.

JG received medical coverage in September, 1998 and was granted landed immigrant status in November, 1998.

### **Client A**

In 1997 and 1998 Ms. Poschmann worked on the file of client A, who was seeking landed immigrant status under the immigrant investor class. The client's application was to be filed with Immigration Canada in June, 1998. Ms. Poschmann advised client A that the application had been filed when she knew this statement was untrue.

In September, 1998 Ms. Poschmann provided client A with a letter to assist him at border crossings. The letter indicated that client A had made application for permanent residence in Canada, on file with the Canadian High Commission in London, England. Ms. Poschmann knew this assertion was untrue as no such application had been filed.

### **Client O**

In January, 1998 Ms. Poschmann was retained by O to appeal the decision of a Canadian immigration hearing officer in Brazil. That officer had denied landed immigrant status in Canada to O's sister. In September Ms. Poschmann advised O that she had prepared and couriered to Brazil an affidavit required in the appeal. Ms. Poschmann knew that this statement was untrue as she had not couriered, or even prepared, the affidavit.

### **Client Z**

While representing client Z in his application to bring a foreign worker to Canada, Ms. Poschmann's work was interrupted by a medical leave from late April to mid-May. On her return to work, she did not complete the application. The client subsequently retained a Toronto lawyer.

In a telephone conversation with the new lawyer, Ms. Poschmann let him believe that she had completed the work required to file the application when she knew she had not done so. After admitting to her firm that she had not completed the work on this matter, Ms.

Poschmann called the Toronto lawyer to apologize and to offer her help in moving the application forward.

## **Decision**

Ms. Poschmann admitted, and the hearing panel found, that her conduct constituted professional misconduct in:

- failing to do the work at hand for client JG in a prompt manner (so that its value to the client was not diminished) and further failing to respond when necessary to that client's telephone calls;
- misleading clients A and O; and
- misleading another lawyer.

## **Penalty**

The hearing panel noted that Ms. Poschmann had ceased membership in the Law Society months prior to the penalty stage of the hearing and was therefore no longer practising law. Had she still been in practice, the panel would have ordered that she be suspended for one year and appear before a board of examiners.

In these circumstances, the panel ordered that, as a condition of any reinstatement, Ms. Poschmann must:

1. satisfy a board of examiners appointed by the Practice Standards Committee that she is competent to practise law and that her competence is not adversely affected by a mental disability; and
2. pay \$5,000 towards the costs of the discipline proceedings.

*Discipline Case Digest — 2002: No. 02 February (Poschmann)*