

Vancouver, B.C.

Called to the Bar: May 20, 1994

Discipline hearing panel: July 6, 1999

Russell Tretiak, Q.C., as a one-Bencher panel by consent

Jessica Gossen, for the Law Society

William Smart, Q.C., for Mr. Samuels

Discipline hearing report indexed as [1999] LSBC 36

Summary

While defending two youth on criminal charges, Mr. Samuels implied to the court that he had recently contacted the mothers of his clients when, in fact, he had not been in contact with them for a considerable time. Mr. Samuels later wrote to apologize for his inaccurate statement to the judge who had presided in the matter, and the judge accepted his apology. Mr. Samuels admitted to the Discipline Committee and to a discipline hearing panel that his conduct in misleading the court constituted professional misconduct. The panel accepted Mr. Samuels' admission and proposed disciplinary action and accordingly ordered that he be suspended for 90 days and pay \$1,000 as costs.

Facts

In 1996 Mr. Samuels represented two young people on criminal charges of assaulting and obstructing a peace officer. A court date was set for May 31, 1996. Mr. Samuels intended to obtain diversion of the charges, or if this were not possible, to enter guilty pleas on behalf of the two accused and obtain discharges. The Crown subsequently advised Mr. Samuels that diversion would be refused.

On May 28 Mr. Samuels applied to a judge of the Provincial Court to adjourn the May 31 trials. During submissions from counsel, it became apparent that the judge did not intend to grant the adjournment. At this point, Mr. Samuels advised the court that he had been in contact with the mothers of his clients. Although he did not directly state that the contact had been recent, Mr. Samuel implied that it was. In fact, this was untrue; he had not been in contact with his clients' mothers for a considerable period prior to the appearance.

On May 31 Mr. Samuels appeared in court before the same judge. At this time, one of his clients pleaded guilty and Mr. Samuels again sought an adjournment on behalf of the other client.

Mr. Samuels later wrote the judge to apologize for leaving the court with a false impression on May 28 respecting his contact with his clients' mothers. The judge wrote back to acknowledge and accept this apology and to advise Mr. Samuels that a transcript of the proceeding had been forwarded to the Law Society.

While responding to Law Society enquiries about his conduct, Mr. Samuels admitted that he was knowingly inaccurate in what he had implied to the court.

Admission

Mr. Samuels admitted that his conduct in misleading the court constituted professional misconduct.

The Discipline Committee and the discipline hearing committee accepted his admission. The panel noted that it is a cornerstone of our justice system that the court be able to rely on submissions from counsel as fact. For a lawyer to mislead the court is an assault on the integrity of the system and a very serious matter.

Penalty

The panel accepted Mr. Samuels' proposed disciplinary action, and ordered that he:

1. be suspended for 90 days as of July 10, 1999; and
2. pay \$1,000 as costs of the discipline proceedings.

The panel noted that the Washington State Bar would also record this disposition, and that Mr. Samuels' practice would be severely impacted, both in B.C. and in Washington State.