

Campbell River, B.C.

Called to the Manitoba Bar: June 28, 1979

Called to the B.C. Bar: September 2, 1994

Discipline hearing panel: January 28, 1999

Howard Berge, as a one-Bencher panel by consent

Geoffrey Gomery, for the Law Society

Mr. Jamieson, appearing on his own behalf

Hearing report indexed as [1999] LSBC 11

Summary

In responding to the Law Society regarding the complaint of a former client, Mr. Jamieson falsely claimed to have sent three letters to the client when he had not. Mr. Jamieson then fabricated three letters and provided them to the Law Society as if they were genuine file copies of correspondence to the client. The hearing panel found Mr. Jamieson's conduct constituted professional misconduct and ordered that he be suspended for eight months and pay costs of the discipline proceedings.

Facts

In July, 1996, a former client (Mr. B), whom Mr. Jamieson had represented in a custody and access dispute, complained to the Law Society about the representation. In particular, Mr. B complained that Mr. Jamieson had not advised him of a court order made on June 3 on application of Mrs. B's lawyer.

Mr. B said he had learned about the order from Mrs. B's lawyer almost two weeks after it was made.

In response to the Law Society's enquiries on this complaint, Mr. Jamieson told a Law Society staff lawyer that he had written to Mr. B on May 6, 1996 to advise him of the June 3 court date and the position of the opposing side. Mr. Jamieson also said that he later sent Mr. B two letters enclosing copies of the June 3 order, on June 14, 1996 and June 21, 1996. These assertions were false. Mr. Jamieson had written to Mr. B only once (May 16, 1996) in relation to the court application.

When requested by the Law Society staff lawyer to provide copies of his letters, Mr. Jamieson fabricated three letters and dated them May 6, June 14 and June 21. He

provided these letters to the Society, representing them to be genuine file copies of correspondence to the client and intending that the Society rely on them in investigating the complaint. After further investigation, the staff lawyer flagged discrepancies in the letters and told Mr. Jamieson they appeared to be fabricated. Mr. Jamieson subsequently admitted that he had fabricated the letters.

Decision

The panel found that Mr. Jamieson's conduct in lying to the Law Society and providing fabricated letters in support of the lie constituted professional misconduct.

Penalty

In considering penalty, the hearing panel noted that Mr. Jamieson's conduct in lying to the Law Society, fabricating letters and providing these letters to the Society to induce it to discontinue its investigation was extremely serious.

The panel considered disbarment, but concluded it was not warranted in the circumstances as a continuing lack of good character or fitness to practise law on the part of Mr. Jamieson had not been established.

His conduct was, however, extremely serious and worthy of significant punishment, and similar previous cases had resulted in substantial suspensions. In considering aggravating factors on penalty, the panel noted that Mr. Jamieson's misconduct persisted over a long period during the investigation of the complaint, that he had lied to the Law Society for personal advantage and that he had fabricated false documentary evidence in support of the lie. These factors militated in favour of the higher end of the range of punishment for lying.

As mitigating factors, the panel considered that Mr. Jamieson was sincerely remorseful, that this was an isolated incident, that he was unlikely to reoffend, that he admitted his misconduct during the investigative stage and that no other disciplinary matters were cited on his conduct record. The panel also noted that suspensions may have graver consequences for sole practitioners, such as Mr. Jamieson, than for other lawyers whose practices can be maintained in their absence.

The panel ordered that Mr. Jamieson be suspended for a period of eight months, commencing April 1, 1999, and that he pay \$1,800 as costs of the discipline proceeding by December 31, 1999.