

Resignation: Business transactions with clients, drug conviction, failure to disclose liabilities

BASIL JOHN HAVLOCK ROLFE

Vancouver, B.C.

Called to the bar: August 30, 1991

Resigned membership: June 10, 1999

Between January, 1993 and July, 1994, while an associate in a law firm, Mr. Rolfe acted on a variety of matters for clients B, W and L, or companies controlled by them.

In addition to the services he provided as a lawyer, Mr. Rolfe did other work for the clients, such as prospecting properties, bookkeeping, arranging for property insurance and conducting other administrative and organizational tasks. These services were closely connected with Mr. Rolfe's legal services and performed in such a way as his clients might reasonably find it difficult to determine whether or not he was acting as a lawyer. His conduct in this regard was contrary to Chapter 7, Rule 6 of the *Professional Conduct Handbook*.

In December, 1992 Mr. Rolfe incorporated M Corporation, of which the shareholders were Mr. Rolfe, his client W and his friend S. Mr. Rolfe's client B invested money in the company in order to purchase real property to build homes for resale. Mr. Rolfe acted for the company in these transactions and also acted for his clients B and W on other matters simultaneously. Mr. Rolfe's personal interest in the company and the interest of his friend were such that it could reasonably have been expected to affect his professional judgement, contrary to Chapter 7, Rule 7 of the *Handbook*.

In April, 1993 Mr. Rolfe obtained a 1990 Mercedes 500SL. He understood that his client B had paid the \$90,000 purchase price. Mr. Rolfe executed a \$90,000 promissory note in favour of B. This transaction was not of a routine nature or in the ordinary course of business of the client and Mr. Rolfe's conduct was contrary to Chapter 7, Rule 4 of the *Handbook*.

In August, 1993 Mr. Rolfe applied for a \$25,000 loan from a credit union and, in his financial statement, he listed the 1990 Mercedes as an asset having a value of approximately \$95,000. He deliberately failed to disclose the \$90,000 liability he had with respect to the car knowing this non-disclosure would assist him in obtaining the loan. This conduct was unbecoming a member of the Law Society. The credit union became aware of the non-disclosure; Mr. Rolfe has since repaid the loan and remains a customer of the credit union.

In February, 1994 Mr. Rolfe applied for a bank loan and listed the 1990 Mercedes in the financial statement but failed to disclose his liability of \$90,000 with respect to the car.

He did so knowing that it would assist him in obtaining credit from the bank. His non-disclosure was conduct unbecoming a member of the Society.

In June, 1993 Mr. Rolfe incorporated S Ltd. for his own purposes and was a director of the company. The company provided a mortgage loan to Mr. Rolfe's client B and Mr. Rolfe did not disclose his interest in the transaction, contrary to Chapter 7, Rule 1 of the *Handbook*.

In March, 1994 Mr. Rolfe obtained from his client B an interest-free loan of \$25,000, which Mr. Rolfe used as a down payment on his house. He also paid other of his personal expenses from an account jointly controlled by B, which he used as a line of credit for his own benefit. These transactions were not of a routine nature or in B's ordinary course of business and Mr. Rolfe's participation in them was contrary to Chapter 7, Rule 4 of the *Handbook*.

Throughout this period of representing B, W and L, Mr. Rolfe received numerous gifts and benefits from them that could reasonably be expected to affect his professional judgement.

Mr. Rolfe failed to report \$5,000 of rental income on his 1992 income tax form. In 1995 he pleaded guilty to a drug possession charge and was granted a conditional discharge. His conduct in these matters constituted conduct unbecoming a member of the Society.

Mr. Rolfe was cited in December, 1998. In June, 1999 he admitted to the Discipline Committee that his conduct constituted professional misconduct and conduct unbecoming a member. The Committee accepted his admission and his undertakings:

1. to resign as a member of the Law Society;
2. not to apply for reinstatement before June 10, 2002;
3. not to apply for membership in any other law society without first advising the Law Society of B.C. in writing; and
4. to pay \$2,500 as costs of the discipline proceedings within 30 days.

Discipline Digest — 1999: No. 2 September (Rolfe)