

Kelowna, B.C.

Called to the Bar: August 30, 1991

Voluntarily ceased membership: January 1, 1999

**Hearing dates:** August 19 and October 18, 1999

**Discipline hearing panel:** Richard S. Margetts, Q.C. Chair, Ralston S. Alexander, Q.C and William J. Sullivan, Q.C.

**Counsel:**

Jessica Gossen, for the Law Society

Mr. Haynes, appearing on his own behalf (October 18, 1999)

**Discipline hearing report:** February 1 and April 20, 2000

Indexed as [1999] LSBC 42

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**Summary**

Mr. Haynes failed to respond to Law Society communications, failed to respond reasonably promptly to communications from two other lawyers and practised law while uninsured, although he was not exempt from insurance requirements. Mr. Haynes admitted, and the discipline hearing panel found, that his conduct constituted professional misconduct. Mr. Haynes, a former member, was reprimanded and ordered to pay \$1,000 as costs of the discipline proceedings within one year of his return to practice.

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**Facts**

*Failing to respond to the Law Society*

In November, 1998 a Law Society staff lawyer wrote to Mr. Haynes to request his explanation of complaints against him on seven different matters. The Society wrote reminder letters to Mr. Haynes respecting these complaints in December, 1998 and January, 1999, and sent two further letters in February, 1999, but Mr. Haynes did not respond to any of these letters.

The Law Society wrote to Mr. Haynes on February 4 and 23, 1999 to request his explanation of six other complaints, but received no response.

The Society requested Mr. Haynes' explanation of one further complaint in late February, 1999, but received no response.

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In September, 1998, the Discipline Committee rescinded an outstanding citation against Mr. Haynes respecting certain complaints and ordered that he instead attend a conduct review.

On October 7, 1998 Law Society staff informed Mr. Haynes of this decision and asked that he advise of his availability for a meeting with the conduct review subcommittee. Mr. Haynes did not respond to this request or to a November 5 follow-up letter from the Society. On November 18 a Law Society staff member wrote

again, noted the earlier efforts to contact Mr. Haynes and advised him that the conduct review had been set for December 14, 1998. In a telephone conversation with Mr. Haynes prior to that date, staff agreed that the conduct review could be rescheduled after the holiday season.

In January, 1999 the Law Society staff member wrote to Mr. Haynes to remind him of this telephone conversation and to urge him to contact her to discuss scheduling. Staff called Mr. Haynes on January 28, February 5 and February 17, 1999 and left messages for him to call. Staff wrote again on February 23, called and left further messages on March 5 and March 9. A further message was left and a letter sent on March 19, 1999. Mr. Haynes failed to respond to any of these communications.

### ***Failing to respond to other lawyers***

Mr. Haynes failed to reply reasonably promptly to communications from two other lawyers on matters that required his response.

### ***Engaging in the practice of law when uninsured***

Mr. Haynes continued to engage in the practice of law after June 30, 1998 although he had failed to pay the second instalment of the insurance fee and was not exempt from insurance.

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On November 27, 1998 Mr. Haynes undertook to cease practising law and consented to the appointment of a custodian for his practice. He did not renew his practising certificate at the end of 1998 and ceased membership in the Law Society.

## **Decision**

Mr. Haynes admitted, and the hearing panel found, that his conduct in failing to respond to Law Society communications, as required by Chapter 13, Rule 3 of the *Professional Conduct Handbook*, constituted professional misconduct.

He further admitted, and the hearing panel found, that his conduct in failing to reply reasonably promptly to communications from other lawyers on matters requiring a response, as required by Chapter 11, Rule 6 of the *Professional Conduct Handbook*, constituted professional misconduct.

He further admitted, and the panel found, that his conduct in engaging in the practice of law while uninsured, and not exempt from insurance requirements, constituted professional misconduct.

## **Penalty**

The hearing panel noted, from the authorities provided, that the range of penalty for similar misconduct ranged from a reprimand to a modest fine. The panel agreed with the Law Society's submission that a reprimand was appropriate in these circumstances.

The panel ordered that Mr. Haynes:

1. be reprimanded; and
2. pay \$1,000 as costs towards the discipline proceedings, payable within one year of his return to practice.

*Discipline Case Digest — 2000: No. 11 June (Haynes)*