

Port Hardy, B.C.

Called to the bar: July 12, 1983

Discipline hearing panel: January 12, 1998

E.M. Reid, Q.C., Chair, D.P. Ramsay and M. Martin

C.I. Wiseman, for the Law Society

R.R. Sugden, Q.C., for Mr. Grier

Summary

After receiving \$20,000 in trust for investment in a first mortgage pool, Mr. Grier placed the money in a mortgage company that he knew had been suspended by the Registrar of Mortgage Brokers and was not entitled to receive new investments.

Facts

In December, 1993 the Registrar of Mortgage Brokers suspended registration of Mr. S and his company, S Mortgage Group, and ordered a freeze of all funds in its accounts. Mr. Grier, who had incorporated the company for Mr. S, was aware of the suspension.

On December 20 Mr. Grier wrote to the Financial Institutions Commission to express concern that, as a result of the order freezing S Mortgage Group's accounts, the company was unable to pay money owing to investors. He proposed that the company's trust money be released to his law firm and that he attend to paying the investors according to their interests. Mr. Grier's letter enclosed a letter from Mr. S repeating the request and also stating that the S Mortgage Group was not receiving any new funds from investors or considering new applications.

The Financial Institutions Commission did not respond to these letters from Mr. Grier and Mr. S.

In March, 1994 a chamber of commerce, of which Mr. Grier was a director, began looking at investment options. Mr. Grier suggested short-term first mortgages, and the chamber of commerce decided to place \$20,000 in a first mortgage pool.

On March 17, after having received \$20,000 in trust from the chamber of commerce, Mr. Grier placed the money with S Mortgage Group for investment.

On March 25 another lawyer at Mr. Grier's firm wrote to the Financial Institutions Commission to request, on behalf of S Mortgage Group, the release of certain frozen trust

funds. The Commission wrote back and stated that the law firm would have to agree to indemnify the Commission for any claims arising from the release of funds. The firm did not agree to provide this indemnity

On September 20 Mr. Grier's office was subject to a search under the *Mortgage Brokers Act*. S Mortgage Group and Mr. S were charged with breaches of that Act; they later entered guilty pleas and were fined \$1,000 and \$2,000 respectively. Mr. Grier was also charged under the Act, but the charge was stayed.

Mr. Grier did not receive any fees, commissions or other money in relation to these matters, except for reimbursement of expenses he incurred on behalf of S Mortgage Group.

The chamber of commerce received full repayment of its investment in November, 1994.

Decision

Mr. Grier admitted to professional misconduct in having placed a \$20,000 investment in a mortgage company when he knew the company had been suspended by the Registrar of Mortgage Brokers and was not entitled to receive new investments.

Penalty

The discipline hearing panel accepted Mr. Grier's admission and his proposed disciplinary action, and ordered that he:

1. pay a \$2,500 fine, within eight months;
2. pay \$1,250 as costs of the discipline proceeding, within eight months.

Discipline Case Digest — 1998: No. 12 October (Grier)