

Burnaby, B.C.

Called to the bar: May 12, 1967

Discipline hearing panel: December 17, 1997

E.M. Reid, Q.C., Chair, R.S. Margetts and P.J. Keighley

C.I. Wiseman, for the Law Society

J.M. Webster, for Mr. Motiuk

Summary

Mr. Motiuk witnessed and registered two mortgages for his client against her family home when he knew the client was prohibited by court order from encumbering the family home in this manner.

Facts

In September, 1995 Mr. Motiuk, while representing Ms. W as the petitioner in a matrimonial matter, entered into a consent order that precluded the petitioner and the respondent from:

“... disposing of, encumbering, signing or in any similar manner dealing with family assets or assets in which the petitioner and respondent have or may have an interest.”

In December, 1995 Ms. W granted a \$12,300 mortgage to a financial institution. In September, 1996 she granted a further \$40,000 mortgage to the same financial institution. She executed each of these mortgages before Mr. Motiuk who then presented the documents for registration.

In March, 1997 Mr. Motiuk appeared in B.C. Supreme Court chambers to apologize for his conduct to the master who had made the consent order.

Decision

Mr. Motiuk admitted to professional misconduct in witnessing and registering mortgages for his client when he knew that she was precluded by court order from mortgaging the property in question.

Penalty

The discipline hearing panel accepted Mr. Motiuk's admission and his proposed disciplinary action. The panel accordingly ordered that Mr. Motiuk:

1. pay a \$10,000 fine; and
2. pay \$1,250 as costs of the disciplinary proceedings.

Discipline Case Digest — 1998: No. 15 October (Motiuk)