

Vancouver, B.C.

Called to the bar: June 29, 1972

Discipline hearing panel: September 27, 1997

P.D. Warner, Q.C., as a one-Bencher panel

G.B. Gomery, for the Law Society

C.E. Hinkson, Q.C., for Mr. Adelaar

Summary

Mr. Adelaar breached Law Society accounting rules by failing to maintain required books and records and by failing to record transactions in the required time frame.

Facts

In November, 1995 the Law Society ordered an investigation of Mr. Adelaar's books, records and accounts. The accountant retained by the Society carried out the investigation and prepared a report in January, 1996.

The Law Society review of Mr. Adelaar's books and records showed that he failed to maintain a trust cash book or synoptic as required by Rule 842(a), failed to maintain non-trust books and records in the form required by Rule 843(1)(a) and failed to record transactions as required by Rule 844(2).

In April, 1996 a Law Society staff accountant wrote to Mr. Adelaar to request that he remedy various deficiencies described in the 1996 report; she pointed out that similar deficiencies had been noted in the previous few years by Mr. Adelaar's accountants in preparing his Form 47 (accountant's report). When the staff accountant telephoned Mr. Adelaar in June, 1996 to follow up on her April letter, Mr. Adelaar said he had lost the letter (later re-faxed to him) and said he was concerned that the Law Society was wasting its time in investigating his accounts.

In January, 1997 the Law Society staff accountant attended Mr. Adelaar's office to review his books and records since February, 1996. She asked Mr. Adelaar to bring his books and records up to date, in accordance with the Law Society Rules, by the end of February, 1997.

In early March the Law Society staff accountant again visited Mr. Adelaar's office. Mr. Adelaar had not brought his books and records up to date, but promised to do so by April 3.

On April 3, 1997 the staff accountant followed up with Mr. Adelaar by telephone, who said that he was too busy to complete the records and that his bookkeeper was ill. Mr. Adelaar said he would complete the records before he left on holidays the following week and would send them to the Law Society, but he did not.

The Discipline Committee authorized a citation against Mr. Adelaar in May, 1997.

When the Law Society staff accountant contacted Mr. Adelaar on May 29 to find out the status of his records, Mr. Adelaar said that he had a new bookkeeper who was completing the records.

On May 30, 1997 Mr. Adelaar's accounting firm filed his Form 47 for the year ended February 28, 1997, noting that Mr. Adelaar did not maintain all the books and records required by the Law Society Rules.

The Society staff accountant followed up with Mr. Adelaar again in June, 1997, but he would not commit to bringing all his records into compliance by the end of the month. He said he planned to do so in time for his discipline hearing.

The panel noted that there was no evidence or allegation of any mishandling of trust funds or other money, no client complaints and no evidence of any harm, loss or inconvenience suffered by a client as a result of Mr. Adelaar's accounting problems. In addition, all of the source documentation was available in his accounting system, although not in a form that provided the necessary financial control.

By the time of his hearing, Mr. Adelaar was in compliance with the Law Society Rules, except that he was not maintaining a non-trust cash book or synoptic as required by Rule 843(1)(a).

Decision

Mr. Adelaar breached Law Society Rules 842(a), 843(1)(a) and 844(2) respecting the accounting records of his practice.

Penalty

In February, 1998, the discipline hearing panel ordered that Mr. Adelaar pay:

1. a \$1,500 fine by July 1, 1998; and
2. \$5,750 as costs of the discipline proceedings by July 1, 1998.

As a condition of Mr. Adelaar's right to continue practising law, the panel also ordered that the Law Society will, after September 1, 1998, inspect Mr. Adelaar's accounting records and systems to verify that they are established and maintained in accordance with the Law Society Rules. The panel ordered that Mr. Adelaar pay the reasonable expenses incurred by the Law Society in the course of this inspection.

Discipline Case Digest — 1998: No. 13 October (Adelaar)