

Vancouver, B.C.

Called to the Bar: July 10, 1984

**Discipline hearing panel:** May 19, 1998

Peter Keighley, Chair, Ann Howard and Cecil Branson, Q.C.

Todd Follett, for the Law Society

Mr. Pierce, appearing on his own behalf

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### **Summary**

Mr. Pierce breached Law Society Rule 510(2) (now Rule 3-44(1)) by failing to notify the Law Society forthwith of the circumstances of an unsatisfied judgment against him and of his proposal to satisfy the judgment. The judgment was a certificate of costs for \$2,950.52, entered against a law firm in which he had been a partner. Mr. Pierce was fined \$3,000 and ordered to pay costs of the discipline proceedings.

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### **Facts**

In March 1997 the B.C. Supreme Court awarded costs to Mr. E against Mr. Pierce's former law partnership. Mr. Pierce had been a partner in the firm at the time Mr. E had been a client.

Mr. Pierce received an unfiled copy of a certificate of costs for \$2,950.52, as assessed by the Registrar. The Registrar had ordered that these costs not be delayed pending taxation of bills from Mr. Pierce's former firm to Mr. E.

The certificate of costs was filed on March 7, 1997 in the B.C. Supreme Court Registry. Counsel for Mr. E forwarded a copy of the filed certificate to Mr. Pierce on March 24 requesting payment.

On March 27 Mr. Pierce wrote back to counsel enclosing a filed Notice of Appeal of the Registrar's decision. Mr. Pierce took the position that the Registrar was incorrect in not allowing a delay in payment of costs pending taxation of Mr. Pierce's bill to Mr. E.

On April 1 Mr. E's counsel replied to Mr. Pierce and noted that the appeal did not act as a stay of judgment. The same day counsel wrote a letter to the Law Society to complain of Mr. Pierce's conduct and enclosed with that letter a copy of the certificate of costs.

The Law Society wrote to Mr. Pierce on April 14 requesting his explanation. Mr. Pierce wrote back on May 14. He said that he assumed that Law Society Rule 510(2) (now Rule

3-44(1)) did not apply since the certificate of costs was not a monetary judgment against him personally, but against his firm.

Rule 510(2) read:

A member against whom a monetary judgment is entered and who does not satisfy the judgment within 7 days after the date of entry has failed to meet a minimum standard of financial responsibility and shall forthwith notify the Secretary in writing of:

(a) the circumstances of the judgment, including whether the judgment creditor is a client or former client of the member, and

(b) his or her proposal for satisfying the judgment,

whether or not an appeal respecting the judgment has been commenced.

Mr. Pierce satisfied the judgment on June 26, 1997.

## **Decision**

Mr. Pierce contravened Rule 510(2) in failing to notify the Law Society of the circumstances of an unsatisfied judgment against him and of his proposal for satisfying the judgment.

The panel found that Rule 510 required a lawyer to provide a proposal for settlement of a judgment in a timely manner, which is essential to allowing the Law Society to determine at an early date the ability of the lawyer to meet his or her financial obligations. Mr. Pierce, in delaying six weeks to communicate with the Society in this regard, did not comply with the Rule.

The hearing panel disagreed with Mr. Pierce's position that he need not comply with Rule 510(2) because the judgment was against his firm rather than against him personally. The panel found that a partner in a law firm is jointly and, in some cases, severally liable for partnership debts. A lawyer serves as agent for his or her partners and may report to the Society as required by Rule 510(2). The panel further found that Rule 510 did not draw a distinction between personal and practice debts.

## **Penalty**

The hearing panel ordered that Mr. Pierce pay:

1. a \$3,000 fine; and
2. \$1,631 as costs of the disciplinary proceedings.

*Discipline Case Digest — 1999: No. 12 April (Pierce)*