

Kamloops, B.C.

Called to the bar: January 10, 1978

Practice restricted to civil litigation and criminal law as of May, 1997 (*see March-April, 1997 Benchers' Bulletin and penalty section below*)

Discipline hearing panel: July 31 and August 1, 1995 and January 13, 1997 (*hearing report February, 1998*)

D.A. Silversides, Q.C., R.C.C. Peck, Q.C. and R.S. Tretiak

J.P. Whittow and T.R. Follett, for the Law Society

W.B. Smart, Q.C., for Mr. Coutlee

Summary

Prior to having restrictions placed on his areas of practice and entering into an agreement with a practice supervisor, Mr. Coutlee incompetently maintained his practice in relation to office and file management, file documentation, client communications and in the conduct of personal injury cases. He also failed to comply with Law Society accounting rules. In one instance, Mr. Coutlee failed to ensure that a client received independent legal advice on a loan in circumstances in which Mr. Coutlee had a personal interest in the loan.

Facts

Failure to properly maintain practice and accounts

A 1996 practice review revealed that Mr. Coutlee faced various competency problems in relation to office and file management, file documentation, client communications and in the conduct of personal injury cases.

In one instance Mr. Coutlee recovered \$5,000 for a client on a personal injury matter. He paid his own account for fees and disbursements and issued a trust cheque to his client for the balance of \$3,015. The client endorsed the cheque back to Mr. Coutlee, who failed to deposit it to his trust account and failed to account to his client for the handling of the funds. After the client complained to the Law Society, Mr. Coutlee sent him a \$1,650 payment.

Failure to ensure client received independent legal advice

Mr. Coutlee arranged for a client (Ms. G) to lend \$3,000 to another of his clients (Mr. H) to help fund Mr. H's appeal of a personal injury claim. Mr. Coutlee had a personal

interest in the loan, as it enabled him to pay for disbursements that he had already incurred and that, under his contingency agreement with Mr. H, Mr. Coutlee himself was liable to pay.

Mr. Coutlee recommended but failed to ensure that Ms. G received independent legal advice on the loan.

Decision

Mr. Coutlee admitted and the discipline hearing panel found that he was incompetent in failing to maintain his practice in relation to office and file management, file documentation, client communications and in the conduct of personal injury cases and in his failure to comply with Law Society accounting rules.

Mr. Coutlee's conduct in failing to ensure a client received independent legal advice in advancing funds when he had a personal interest in the funds constituted professional misconduct.

Penalty

For Mr. Coutlee's failure to properly maintain his practice and accounts, the hearing panel ordered in 1997 that:

1. Mr. Coutlee's practice be restricted to personal injury and criminal cases and that he be permitted to practise personal injury law only so long as he has a practice supervisor suitable to the panel or the Competency Committee (*See the March-April, 1997 Benchers' Bulletin referencing this condition. Mr. Coutlee did enter into an agreement with a practice supervisor for this purpose, in May, 1997*).
2. The written agreement between Mr. Coutlee and the practice supervisor must provide that they meet on a regular basis and not less than twice a month, that the supervisor review all new writs and statements of claim and that the supervisor report quarterly to the Competency Committee;
3. Mr. Coutlee must complete additional work on the civil litigation remedial course as well as other remedial work;
4. Mr. Coutlee must continue to provide monthly trust reconciliations to the Law Society, implement a voucher system to enable him to demonstrate that his disbursements are appropriate and employ a receipt book to record and monitor cash advances; and
5. Mr. Coutlee will permit the Law Society to review his accounting practices on request.

For Mr. Coutlee's failure to ensure a client received independent legal advice, the panel also ordered that he:

1. be reprimanded;
2. repay his client \$3,000.

Discipline Case Digest — 1998: No. 22 October (Coutlee)