

Victoria, B.C.

Called to the bar: August 5, 1987

Discipline hearing panel: May 28, 1998

R.W. Gourlay, Q.C., Chair, M. Martin and R.D. Tunnicliffe

T.R. Follett, for the Law Society

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

Summary

Mr. Turner failed to serve two clients in a conscientious, diligent and efficient manner, and he lied to those clients to conceal his inactivity on their legal matters.

Facts

Client A

Beginning in 1993 Mr. Turner represented a teacher (Mr. A) on several matters arising out of Mr. A's dismissal from a teaching position. Mr. A initiated two civil actions over his dismissal and also faced a disciplinary proceeding brought by the B.C. College of Teachers.

Following a College disciplinary hearing, Mr. A was suspended from teaching for two years. In the summer of 1993 he instructed Mr. Turner to file and conduct an appeal. Mr. Turner filed the notice of appeal and ordered transcripts. To obtain a date for the appeal hearing, Mr. Turner was obliged to file an outline of argument, but he failed to do so.

In early 1994, when he received the transcripts, Mr. Turner paid the \$4,983 invoice for these personally. Around this time, Mr. A asked about the date of the appeal. Mr. Turner lied by telling Mr. A that the appeal had been set for April, 1994 in Vancouver. The client travelled to Vancouver to attend the appeal, but Mr. Turner then told him the appeal had been bumped as there was inadequate court time available. He said the appeal was reset for June 20, although he knew this was untrue.

On June 20 Mr. Turner told the client that, because of a knee injury, he could not go to court and the appeal could not proceed. This was untrue.

Mr. Turner then said that he and opposing counsel had agreed on September 8 as a hearing date for the appeal, but the date was not yet set with the court. On September 8

Mr. Turner met Mr. A at the courthouse and told him the appeal had been bumped. This was untrue.

Mr. A then complained to the court registry staff who said that the file showed no hearing dates set. The registry set the appeal for November 20.

Mr. Turner met with Mr. A and began to prepare the argument, but he did not complete it. On November 19 Mr. Turner went to Mr. A's house and said the appeal could not proceed because the argument was still not ready. He admitted that the delays were his fault.

On November 21 Mr. A met with the managing partner and complained that Mr. Turner had lied to him, which Mr. Turner then admitted to the managing partner. At the law firm's request, Mr. Turner resigned as an associate, effective December 31, 1994.

Client S

While acting for Mr. S in pursuing a civil claim, Mr. Turner failed to proceed with the client's claim in a diligent fashion. To conceal his inactivity, he told the client in December, 1994 that the court had ordered the defendant to pay \$10,000 as an advance. This was untrue.

Mr. Turner provided a personal cheque for \$10,000 to Mr. S. To avoid suspicion, Mr. Turner told Mr. S that the defendant's cheque had arrived in the office too late in the day to be processed, so he provided his own cheque instead and planned to take care of the paperwork later.

At the time of these events, Mr. Turner was facing personal problems and depression, which contributed to his problems in practice.

Decision

Mr. Turner admitted that he had failed to serve his clients in a conscientious, diligent and efficient fashion and that his conduct in lying to these clients constituted professional misconduct.

Penalty

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

1. be suspended for three weeks, effective July 6, 1998;
2. pay \$1,500 as costs of the discipline hearing, over a six-month period.

Discipline Case Digest — 1998: No. 16 October (Turner)