

Burnaby, B.C.

Called to the Bar: July 13, 1982

Discipline hearing panel: May 12, 1997

R.C.C. Peck, Q.C., Chair, R.D. Diebolt, Q.C. and E.M. Reid, Q.C.

H. Van Ommen, for the Law Society

R. Sugden, Q.C. and C. Dennis, for Mr. Aleksejev

Summary

In 1993, while serving as *locum tenens* for the practice of another lawyer (M) who was then under Law Society investigation, Mr. Aleksejev breached his undertaking to the Society by permitting M to have access to the law practice premises, files and records without supervision. When he later purchased M's practice, Mr. Aleksejev failed to disclose to the Law Society the complete circumstances of the purchase, specifically the continuing financial involvement of M. He then asked M to assist in retaining an associate for the practice and briefing the associate on the files, even though M was then suspended from practice. He also disbursed certain funds to clients, when this was not the purpose for which he had received the funds.

Facts

From June 3 to September 9, 1993, Mr. Aleksejev acted as *locum tenens* for the practice of another lawyer (M) who was under Law Society investigation.

In accepting the *locum*, Mr. Aleksejev undertook to the Law Society:

- not to allow M access to the law office unless Mr. Aleksejev or M's custodian was on the premises;
- not to allow M access to the files or records of the practice unless supervised by Mr. Aleksejev or the custodian.

In breach of those undertakings, Mr. Aleksejev did not take sufficient steps to prevent M from gaining access to the premises or the files and records.

During the *locum*, Mr. Aleksejev assumed conduct of three personal injury files resulting from a motor vehicle accident. He settled each of the claims with ICBC; as part of the settlement, ICBC agreed to pay a U.S. doctor's accounts for medical treatment. ICBC forwarded the settlement proceeds "on the understanding that you will ensure the doctors [sic] accounts are paid in full."

The doctor subsequently agreed to reduce his accounts in each case. On two of the three accounts, Mr. Aleksejev paid the reduced amounts from the settlement proceeds and forwarded to his clients the difference between the original and reduced accounts. On the third case, he informed ICBC about the reduction and paid back the difference to ICBC. Mr. Aleksejev did not repay ICBC the difference on the first two cases.

M resigned from membership in the Law Society on September 9, 1993 as a result of discipline proceedings. Mr. Aleksejev's *locum* came to an end.

Mr. Aleksejev agreed with M to purchase his law practice, other than payables and receivables. Following enquiries from the Law Society and M's custodian, Mr. Aleksejev confirmed the purchase and told the Law Society that he planned to rename the practice and retain an associate lawyer to operate it. He did not tell the Society that M remained responsible for the lease and for expenses of the practice, although he ought to have known these were material facts, given the Society's concerns about M's activities.

Mr. Aleksejev asked M to assist him with the new law practice in meeting with prospective associate lawyers and briefing the associate on the files.

Admission and penalty

Mr. Aleksejev admitted professional misconduct by:

- breaching his undertaking to the Law Society by permitting M access to the law office premises, files and records without supervision;
- failing to disclose to the Society the complete circumstances of his transaction with M; and
- requesting M to assist with Mr. Aleksejev's new law office while M was suspended from the practice of law, contrary to Chapter 13, Rule 5 of the *Professional Conduct Handbook*.

Mr. Aleksejev further admitted that, by disbursing funds that he had received from ICBC for a purpose other than that which he had received them, his conduct was unbecoming a member of the legal profession.

The Discipline Committee and the discipline hearing panel accepted Mr. Aleksejev's admissions and proposed penalty, and ordered that he:

- be suspended for two weeks, to be served before the end of August, 1997;
- be fined \$3,000, payable within 18 months; and
- pay \$3,000 as costs of the discipline proceedings within 18 months.

Discipline Case Digest — 1997: No. 6 September (Aleksejev)