

Vancouver, B.C.

Called to the Bar: May 11, 1982

Discipline hearing panel: September 29 and 30, 1997

D. Gibbons, Q.C., Chair, W. Wilson, Q.C. and G. Lecovin

G. Cuttler, for the Law Society

T. LaLiberté, Q.C., for Mr. Bjorkman

Summary

Mr. Bjorkman misappropriated to his own personal use \$26,669.11 of client funds he was holding in trust and he later misled the court and the Law Society by falsely asserting that there was an agreement for him to receive these funds. In other instances, he withdrew funds from trust in breach of his undertaking, failed to promptly account to a client for funds held in trust and breached several Law Society accounting rules.

Facts

Misappropriation of trust funds

Mr. Bjorkman represented Mrs. R in a matrimonial proceeding. When the matrimonial home was sold, he handled the conveyance. After receiving the proceeds of sale and discharging the mortgage, he held \$61,583.82 in trust on behalf of Mr. and Mrs. R.

In May, 1994, Mr. and Mrs. R agreed they would each receive \$5,000 from the money Mr. Bjorkman held in trust. In July they agreed that they would each receive a further \$9,000. On each occasion, Mr. Bjorkman disbursed the agreed-upon amounts to Mr. and Mrs. R. There was no court order concerning disposition of the balance of funds held in trust.

On 16 separate occasions between March 29, 1994 and January 16, 1995, Mr. Bjorkman made withdrawals totalling \$26,669.11 from the funds he held in trust for Mr. and Mrs. R. He misappropriated and wrongfully converted these funds for his own personal use.

Mr. Bjorkman did not advise Mr. R or his lawyer of these withdrawals, and he did not repay Mr. or Mrs. R any of the money.*

Mr. Bjorkman misled the Law Society and the court by falsely asserting that he had reached an agreement that allowed him to receive these funds.

Breach of undertaking

In March, 1994 Mr. Bjorkman represented the vendor in a real property transaction. He gave his undertaking to another lawyer that he would hold \$5,000 in trust pending the satisfaction of several outstanding obligations relating to the sale. Three months later, when Mr. Bjorkman asked to be released from this undertaking, the other lawyer did not agree to do so. Mr. Bjorkman subsequently withdrew \$1,710 and \$1,140 from his trust account, in breach of his undertaking.

Breach of accounting rules

Mr. Bjorkman admitted to the discipline hearing panel that he breached Law Society Rules 841, 844 and 860(1) by failing to properly maintain the books, records and accounts of his practice, failing to record trust transactions within seven days and failing to maintain monthly trust reconciliations.

* * *

In the course of the discipline hearing, Mr. Bjorkman tendered his resignation as a member of the Law Society.

Decision

The discipline hearing panel found that Mr. Bjorkman's conduct constituted professional misconduct.

Penalty

The panel ordered that Mr. Bjorkman:

- be disbarred; and
- pay \$15,339.34 towards costs of the discipline proceedings.

* On November 24, 1997 the Special Compensation Fund Committee authorized payment to Mr. and Mrs. R to reimburse them for the funds misappropriated by Mr. Bjorkman.

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