

## **MARK STEPHEN DWOR**

Vancouver, BC

Called to the Bar: May 10, 1978

Discipline hearing: August 12, 1996

Panel: T.L. Brown, Q.C., Chair, B.D. Woolley and W.M. Trotter, Q.C.

Counsel: M. Baird for the Law Society, K. Campbell for Mr. Dwor

### **Summary**

Mr. Dwor breached Law Society Rule 510(2) by failing to notify the Law Society of unsatisfied judgments entered against him, of the surrounding circumstances and of his proposal to satisfy the judgments. He admitted that, in breaching the rule, he failed to meet a minimum standard of financial responsibility and that his conduct constituted professional misconduct.

### **FACTS**

Mr. Dwor breached Law Society Rule 510(2) by failing to notify the Law Society, within seven days, of unsatisfied judgments entered against him between October, 1993 and January, 1995:

- Following an uncontested fee review in October, 1993, a law firm entered a judgment against Mr. Dwor for \$2,300 for services rendered to him.
- In December, 1993 a judgment for \$14,750 was entered against Mr. Dwor, by consent, for a debt that Mr. Dwor had incurred in purchasing certain goods. In addition to the consent judgment, Mr. Dwor provided a security agreement, with the goods as collateral. He later surrendered the goods to the seller's estate. Since the goods were "consumer goods" under the *Personal Property Security Act*, Mr. Dwor took the position that the estate's acceptance of the surrender extinguished his liability under the judgment.
- In February, 1994 Mr. Dwor's bank entered a judgment for \$1,302.92, arising from a credit card debt incurred personally by Mr. Dwor.
- In June, 1994 the bank for Mr. Dwor's law practice entered a judgment for \$59,571.01 respecting a line of credit that Mr. Dwor used to finance his practice, secured by an assignment of Mr. Dwor's accounts receivable.
- In July, 1994 a realty company entered a judgment for \$7,843.60 against Mr. Dwor's management company for arrears of lease payments on premises previously used by Mr. Dwor's law practice. Mr. Dwor had personally guaranteed payment of the lease. The Law Society's investigation into the member's conduct and affairs was precipitated by a complaint by the landlord's solicitor.
- A law firm that had undertaken work on behalf of one of Mr. Dwor's clients billed Mr. Dwor \$1,154.79 for its services. Mr. Dwor's client did not pay Mr. Dwor for the work, and Mr. Dwor did not pay the law firm's bill. In January, 1995, after an uncontested fee review, the law firm took judgment.

Mr. Dwor was not aware of the requirement to report unsatisfied judgments to the Law Society under Rule 510(2) until September, 1994 when he was alerted to the rule in a Law Society discipline publication.

### **ADMISSION**

Mr. Dwor admitted, pursuant to Rule 469, that he had breached Law Society Rule 510(2) by failing to notify the Law Society of unsatisfied judgments against him, the surrounding circumstances and his proposal to satisfy those judgments. He admitted that, in breaching the rule, he had failed to meet a minimum standard of financial responsibility and that his conduct constituted professional misconduct.

### **PENALTY**

Several mitigating and aggravating factors relevant to penalty were identified for the Discipline Committee and discipline hearing panel.

At the time of the judgments, Mr. Dwor was under a considerable amount of stress as a result of personal and business difficulties and a prolonged dispute with Revenue Canada, which was resolved largely in his favour. Mr. Dwor experienced some “paralysis” in being unable to deal with his problems in a timely or productive manner, though he did seek counselling. Of the six judgments, three were by consent and two were entered because of Revenue Canada's collection policy.

Two or three of the judgments, however, related to debts of Mr. Dwor's law practice. One of the judgments was entered after Mr. Dwor became aware of his obligation to report under Rule 510(2), and he nevertheless failed to report that judgment or the earlier judgments to the Law Society upon becoming aware of the rule.

The Discipline Committee and discipline hearing panel accepted Mr. Dwor's admission and proposed disciplinary action, and the panel ordered that he:

1. be reprimanded;
2. pay \$1,000 toward costs of the discipline proceedings by January 15, 1997.

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