

MICHAEL GRANT GAYMAN 95/8

Vancouver, B.C.

Called to the Bar: May 12, 1980

Discipline hearing panel: March 2 and April 6, 1995

W.T. Wilson, Q.C., Chair, H.R. Berge and E. Reid, Q.C.

J. Whittow, for the Law Society

Mr. Gayman, on his own behalf

### **Summary**

Mr. Gayman delayed for more than two years in providing a substantive response to enquiries by the Law Society respecting a complaint against him.

### **Facts**

On December 18, 1992 a lawyer complained to the Law Society about the conduct of Mr. Gayman as trustee of investment funds for a company and its subscribers under the federal scientific research tax credit program.

On January 14, 1993 a Law Society staff lawyer wrote to Mr. Gayman for his response to the complaint. On January 21 the lawyer wrote to acknowledge Mr. Gayman's request that the Discipline Committee hold the complaint in abeyance pending litigation of the dispute. He asked Mr. Gayman to provide an undertaking to accompany this request, for consideration by the Discipline Committee.

On February 4, February 23 and March 18 the staff lawyer wrote to Mr. Gayman for a response to his January 21 letter.

Mr. Gayman wrote to the Law Society on March 19. He took the position that the Society did not have jurisdiction over his conduct as a trustee. Alternatively, he submitted that the Discipline Committee should defer further investigation of the complaint pending the outcome of the litigation. The same day he wrote a separate letter describing personal circumstances to explain his delay in replying to correspondence.

On May 6, 1993 the Discipline Committee considered Mr. Gayman's request that the complaint be held in abeyance. The Committee resolved to give Mr. Gayman an opportunity to explain what prejudice, if any, he would suffer if his request were denied. On July 8, after considering a further submission from Mr. Gayman, the Committee denied his request.

On July 27 another Law Society staff lawyer relayed the Committee's decision to Mr. Gayman and asked for his response to the complaint. The staff lawyer sent follow-up letters on August 25 and October 4.

On October 8 Mr. Gayman wrote to restate his view that the Law Society did not have jurisdiction over his conduct. On November 4 the Discipline Committee affirmed that it had jurisdiction, and the Law Society staff lawyer advised Mr. Gayman of this.

Law Society staff investigated the complaint further in late 1993 and early 1994, at the direction of the Discipline Committee. Having still received no response from Mr. Gayman in May, 1994, the Discipline Committee authorized a citation against him for failing to respond to the Society. The citation was issued in November, 1994.

In January, 1995 Mr. Gayman told the Law Society he no longer contested its jurisdiction to review his - conduct. The hearing panel granted his request for a one-month adjournment of the hearing to provide a response, but he did not do so until April 5, 1995.

### **Decision**

Mr. Gayman's conduct in failing to provide a substantive response to communications from the Law Society constitutes professional misconduct.

## **Penalty**

The hearing panel noted that this was one of the most serious cases of delay considered by the Law Society in recent years.

Mr. Gayman attributed his early delays to his misguided perception that the Society lacked jurisdiction to review his conduct in the circumstances and his later delays to the financial stress he faced.

The hearing panel ordered that Mr. Gayman:

1. be reprimanded;
2. pay a \$3,000 fine; and
3. pay \$1,750 as costs toward the discipline proceedings.

The panel ordered that Mr. Gayman pay \$1,000 of his fine and costs by June 30, 1995, a further \$1,000 by September 30, 1995 and the balance of \$2,750 by December 31, 1995.

The panel further encouraged Mr. Gayman to seek guidance from a senior lawyer or other person to help him handle his future dealings with the Law Society.

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