

Vancouver, B.C.

Called to the Bar: August 1, 1986

Ceased membership: December 31, 1993

**Discipline hearing panel:** May 16, 1994

B.B. Trevino, Q.C., Chair, S.A. Moore and P.D. Warner

J.S. Mackoff, for the Law Society

The member appearing on his own behalf

### **Summary**

The member misappropriated \$2,800 of trust funds that were provided to him by a client to incorporate a company for her. The member's conduct constitutes professional misconduct, and the hearing panel ordered that he be disbarred.

### **Facts**

In October, 1990, the member was retained to incorporate a company.

The member received from the client payments of \$200 and \$1,000 in November, 1990, \$350 in March, 1991, \$300 on May 22, 1991 and \$300 on June 28, 1991. The client gave these funds to the member in trust to be used as a retainer for services and for disbursements on the incorporation.

The member did not deposit any of this money into his trust account. He deposited at least some payments to his personal account, and he put all the money to personal use.

The member took instructions for incorporation of the client's company, but he did not submit any documents to the Registrar of Companies and disbursed no funds for the incorporation.

From time to time, the client asked the member for a progress report and the reasons for the delay. The member knowingly misled the client to believe that he had submitted documents and disbursed funds for the incorporation. He also misled the client into believing that the Registrar of Companies was responsible for the delay. The member misled the client so as to:

- conceal the fact that he had not disbursed funds for the incorporation, but had put these to his personal use;
- conceal the fact that funds given to him as a retainer for services had been put to his personal use though he had not performed the services; and
- induce the client to provide further funds, which the member represented would be used to make a fresh application for incorporation, purportedly necessary because of the Registrar's delay.

In July, 1991, the member received \$650 from the client as a retainer for services and for disbursements to make a fresh application. From August, 1991 through April, 1992, the member again misled the client into believing the Registrar was responsible for delaying the incorporation. He did so to conceal the fact he had not performed any services or made any disbursements for the incorporation, but had put the money to his personal use.

The member's procrastination and active deception had serious financial and social consequences for the client. In April, 1992, she formally discharged the member.

The member never repaid the \$2,800 of trust money that he had taken from the client. Following the discipline hearing, the Law Society advised the client of her right to apply for compensation from the Special Compensation Fund.

On a different complaint, the member failed to reply to various communications sent by the Law Society - between April 30, 1993 and September, 1993.

\* \* \*

Mr. Currie voluntarily ceased membership in the Law Society at the end of 1993.

**Decision**

The hearing panel found, and the member admitted, that his conduct constitutes professional misconduct.

**Penalty**

The panel ordered that the member:

1. be disbarred;
2. pay \$2,500 as costs of the discipline proceeding.

*Discipline Case Digest — 1994: No. 9 September (Currie)*