

Burnaby, B.C.

Called to the Bar September 10, 1982

Discipline Hearing Panel: December 13, 1991

R.T.C. Johnston, Q.C., Chair, G.D. Burnyeat and W.M. Trotter, Q.C.

Summary

The member overcharged the Legal Services Society on various legal aid files, not intentionally but through incompetency, particularly her failure to keep proper records of the legal services she had performed and the disbursements she had incurred on behalf of clients. She admitted to the Discipline Hearing Committee she had professionally misconducted herself, and the Committee accepted her admission and proposed disciplinary action.

Facts

From 1988 through 1990 the member billed the Legal Services Society for more than the value of the legal services she actually performed, or the disbursements she actually incurred on various legal aid files. She did not overcharge intentionally, but through her own incompetence in failing to maintain proper documentation and office procedures.

In particular, the member failed to keep proper receipts and records in support of courier deliveries, photocopies, process service, and other disbursements. Instead, she relied on the advice of her secretarial staff as to what disbursements had likely been incurred on the files. The member also failed to keep records of the legal services she had performed. She prepared billings based on her own estimation, and that of her secretary, which resulted in excess fees charged to various files. In some cases she charged the maximum fees allowable for court preparation under the legal aid tariff, when on a more careful review she should have realized the maximum charges were unwarranted.

Following a review of her practice by the Law Society, the member introduced a system to record time spent on files and to track disbursements, and she hired an experienced bookkeeper.

Admission and Disciplinary Action

The member was cited on July 15, 1991. On December 12 she admitted to the Standing Discipline Committee that she had professionally misconducted herself by incompetently failing to maintain proper records of legal services performed and disbursements incurred in legal aid files, and in overcharging the Legal Services Society.

On December 13, 1991, the Hearing Panel accepted the member's admission and proposed disciplinary action, pursuant to Rule 469, and ordered that she:

1. be suspended for two months from December 20, 1991 to February 20, 1992;
2. reduce her accounts rendered to the Legal Services Society prior to January 1, 1991 by the amount of \$13,757.91, without prejudice to any further claim which the Legal Services Society may make;
3. submit to a review of her practice under the direction of the Competency Committee, and follow the recommendations that Committee makes, at her cost; and
4. pay costs not exceeding \$5,000 toward the Law Society's audit, investigation and review of her practice, by December 20, 1995.

G. Fitzpatrick, for the Law Society

B. Gibson, for the member

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