

Langley, B.C.

Called to the Bar October 1, 1969

Discipline hearing panel: March 9 and November 21, 1992
R.C.C. Peck, Q.C., Chair, N. MacDonald and W.M. Trotter, Q.C.

Counsel for the Law Society: J. Whittow
The member, appearing on his own behalf

Summary

The member professionally misconducted himself by threatening to sell a company that he had incorporated for a client, unless the client paid his outstanding account.

Facts

The member was retained by K in December, 1988 to incorporate a company.

Relations between the member and K deteriorated and the client refused to pay the member's account of \$1,080 after the work was performed. On May 3, 1991 the member threatened to sell the company for which he remained the initial subscriber, but in which K had beneficial ownership, if the client failed to pay his outstanding account by May 31. K retained a new lawyer.

Decision

The member's conduct constitutes professional misconduct.

The hearing panel commented on the member's threat to sell K's asset, a company for which the member was in a trust position. He in fact threatened to do what he was not entitled to do, and the threat went to the heart of the interests of the client he was retained to protect. Had the client refused to pay his account after a fee review, the member could have applied for a court order to sell the company in satisfaction of the account. He chose not to avail himself of this avenue, but instead made an unqualified threat which amounts to professional misconduct.

Penalty

The hearing panel found it unfortunate that a poor relationship had developed between the member and his client, and also that the member lost his temper over the client's fee complaints.

The panel said the member must realize the Law Society is under significant scrutiny by the public, the media and clients, and must act responsibly. The member's conduct in these circumstances did nothing to lend the public any confidence in the conduct of lawyers and his inadequate conduct record compounded the problem.

The panel reprimanded the member and ordered that he:

1. pay a fine of \$1,000;
2. pay costs of the discipline proceedings totalling \$4,315.07 by November 21, 1993.

The panel stated that any further misconduct by the member would be unlikely to receive the same level of tolerance.