

Resignation for conflicting interests

KIM TRAVERS PULLEN

Vancouver, B.C.

Called to the Bar: May 10, 1984

Resigned: January 19, 1993

While a partner in a medium-size Vancouver law firm, Mr. Pullen represented E, the principal and sole shareholder of P. Ltd.. In 1988 E asked Mr. Pullen to act on his behalf in selling his shares of P. Ltd. Mr. Pullen introduced E to the principals of A. Corporation, a company trading on the Vancouver Stock Exchange.

A. Corporation purchased the P. Ltd shares from E on April 30, 1988, by payment of \$1 million on closing, \$350,000 worth of A. Corporation shares and \$150,000 by way of a promissory note from A. Corporation, due April 30, 1989.

Mr. Pullen's law firm charged E for legal services on the share purchase. Mr. Pullen also requested and received from E a finder's fee of \$100,000 in the transaction. He did not disclose the finder's fee to his law partners. Mr. Pullen knew that his non-disclosure violated his obligations to his partners.

Mr. Pullen also accepted from A. Corporation, at that company's request, a non-transferrable share purchase warrant for 137,724 company shares, issued in the name of Mr. Pullen's wife. A. Corporation issued the warrant to assist the company in raising funds necessary to pay E for the P. Ltd. shares. Mr. Pullen agreed to execute the warrant and transfer the shares only on the direction and for the sole benefit of A. Corporation. The warrant was never exercised and it expired. Mr. Pullen did not disclose the existence of, or the reason for, the share purchase warrant to E.

In April, 1989 E contacted the principals of A. Corporation to enforce payment of the \$150,000 promissory note. He then asked Mr. Pullen for assistance. Mr. Pullen proposed, and E agreed, that the promissory note would be satisfied by immediate payment of \$50,000, payment of \$40,000 on January 1, 1990 and lease payments to the landlord of E's business up until June 1, 1990 a total of \$112,000. Under this arrangement, repayment was to be made by A.P. Corporation. Mr. Pullen failed to disclose to E that, at the time of these negotiation, he intended to acquire an interest in A.P. Corporation.

A.P. Corporation changed its name to G. Corporation, and Mr. Pullen became president of the company. As such he made payment to E in satisfaction of the re-negotiated promissory note. While E had been entitled to \$150,000 under the original promissory note, he received only \$112,000, as the note was re-negotiated by Mr. Pullen. G. Corporation took an assignment of the promissory note from E, but cancelled it without

any payment being made to it by A. Corporation or any other party. As a result of these transactions, Mr. Pullen paid more than he received.

Mr. Pullen did not disclose to E his interest in A.P. Corporation (or later G. Corporation), although he knew the financial interests of the company conflicted with those of his client. Mr. Pullen did not ensure or recommend that E receive independent legal advice.

Mr. Pullen admitted that he had professionally misconducted himself by:

- receiving a finder's fee from E, a client of his law firm, without disclosing this to his partners, and without their knowledge or approval;
- receiving as a finder's fee a shares purchase warrant from A. Corporation to facilitate the company's acquisition of P. Ltd., and failing to disclose the existence of, or the reason for, the finder's fee to E;
- acting for E in the re-negotiation of a promissory note from A. Corporation, while at the same time acquiring an interest in A.P. Corporation, a company that would take over payment of the promissory note to E, and failing to so advise E; and
- failing to ensure or recommend that E obtain independent legal advice.

On January 19, 1993 the Discipline Committee accepted Mr. Pullen's admission and his immediate resignation from the profession. Mr. Pullen undertook:

1. not to apply for reinstatement to the Law Society of B.C. for two years;
2. not to apply for membership in any other law society or bar association without first advising the Law Society;
3. not to allow his name to appear on the letterhead of a lawyer or law firm without the consent of the Law Society;
4. to pay \$2,500 as costs of the discipline proceedings on or before March 1, 1993.