

*Requiring client to withdraw complaint*

**THOMAS EATON SPRAGUE**

Pitt Meadows, B.C.

Called to the Bar: June 30, 1976

In 1998 the member began representing Mr. H in a divorce action. After the divorce proceedings had been commenced, Mr. H's children were taken out of the country by Mrs. H, who then commenced legal proceedings in Florida seeking custody of the children. The member continued to represent Mr. H in British Columbia courts seeking to have the children returned to B.C. for a custody hearing. A Florida lawyer was retained to represent Mr. H's interests in that jurisdiction.

In late 1990, the file was transferred by the member to another lawyer. In mid-January Mr. H telephoned the member and the member's staff and inquired about the return of the balance of his retainer funds. The member initially refused to return the balance of the retainer funds since he had not rendered a final account for all his services. The member was of the view that this account, when rendered, would exhaust the balance of the retainer.

Mr. H then telephoned the member's staff on several occasions during the last week in January of 1991, demanding the return of the balance of his retainer. On February 1, 1991, Mr. H came to the member's office and demanded the return of the retainer balance. At one point Mr. H swept the top of the member's desk clear, knocking over photographs and thereby causing damage to the office premises. The member decided not to render any further account for his services and to return the retainer balance to Mr. H. The member wrote to Mr. H stating he would return the retainer balance of \$985.75 "only upon your assurance that at no time will you attend at this office, or in any way, attend up or contact the writer either directly or indirectly."

The member also stated in his letter to Mr. H that he required Mr. H to sign a statement in those terms and stating that the matter was settled and that the client would not send further correspondence to any party respecting the member's firm or alleged misconduct of the client's affairs. One portion of the statement read "further I agree to advise the Law Society of British Columbia that my affairs with you and your office have been conclusively finalized and accordingly I have not further complaints in that regard." Mr. H signed the statement on March 7, and the member released the funds.

A citation was issued against the member on December 16, 1991.

The member admitted that he had professionally misconducted himself by stipulating as a condition of returning the balance of retainer funds to Mr. H that Mr. H withdraw his complaint to the Law Society. The member explained that he had been frightened by Mr. H's actions at the firm and his intimidation of staff, and that those concerns prompted the member to send the release statement for signature by Mr. H.

The Standing Discipline Committee accepted the member's admission, rescinded the citation, and ordered that the admission be recorded on the member's professional conduct record.

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