

Victoria, B.C.

Called to the Bar: May 10, 1984

Discipline Hearing Panel: November 13, 1990

J.M. Hogg, Q.C., Chair, B.J. Wallace, Q.C. and S. Hansen

Discipline Committee: December 7, 1991

J.D. Ziskrout, for the Law Society

The member appearing on his own behalf

Summary

The member breached numerous Law Society accounting rules.

Facts

From 1988 to 1989 the member negligently breached Law Society accounting rules by:

- withdrawing more money from trust than was held to the credit of a client;
- failing to make good trust account shortages promptly;
- transferring funds from the trust account to the general account, or depositing funds directly to the general account without first preparing or delivering a bill;
- transferring funds from trust before the work was completed;
- not maintaining a file of billings in chronological, alphabetical or numerical order;
- not maintaining proper books and records, not adding and balancing such books and not recording trust and non-trust transactions promptly;
- not preparing monthly trust account reconciliations within the prescribed period.

Decision

The member breached Law Society accounting rules.

Penalty

The discipline hearing panel ordered that the member:

1. be reprimanded;
2. pay a \$1,000 fine by December 31, 1991;
3. pay \$2,850 as costs of the discipline proceeding by December 31, 1991;
4. practise only as a partner or employee of another lawyer until relieved of that condition by the Law Society.

The panel said the member's breaches were serious misconduct and might have warranted a larger fine or a suspension in other circumstances.

The panel, however, accepted the evidence of an accountant and a lawyer practitioner who had reviewed the member's practice and concluded that the member's misconduct arose from his inexperience in managing a law practice, stress and personal problems, and not from any dishonesty on his part. He had in fact taken steps to remedy his difficulties prior to investigation by the Law Society and had cooperated fully with the Society.

On December 7, 1991 the Discipline Committee granted the member's request for an extension of the time to pay the fine and costs, by payment of \$1,000 by December 31, 1991 and the balance by September 15, 1992 through monthly payments of \$300. The member completed his payments as scheduled.

Discipline Case Digest — 1993: No. 3 March (Ashton)