

Courtenay, B.C.

Called to the Bar September 14, 1972

Discipline Hearing Committee: February 14, 1992

R.E.C. Apps

Summary

The member professionally misconducted himself in allowing his secretary to handle wills files without adequate supervision, contrary to Ruling G/11 of the *Professional Conduct Handbook*.

Facts

Between 1980 and 1990 the member permitted his secretary to handle most of his 1,100 wills files without adequate supervision. In many instances, the secretary met with clients to take instructions, prepared wills without supervision, gave legal advice, and attended on the execution of wills without reference to the member, all contrary to Ruling G/11 of the *Professional Conduct Handbook*.

Following a practice review conducted by the Law Society, the member was cited in October, 1990.

In late 1990 the member proposed to the Standing Discipline Committee that, as a condition of practice, he review all his wills files to ensure that they contain adequate client instructions, that the wills conform to client instructions, and that the wills are properly drafted. The member agreed that, where appropriate, he would call in clients, take fresh instructions and redraft wills at his own expense. He further agreed to make all wills files available to the Law Society for inspection.

In April, 1991 an experienced wills practitioner retained by the Society reviewed the member's wills files and found that he had taken appropriate steps to correct problems on the files.

Decision

The Hearing Committee found that the member's conduct in breaching Ruling G/11 constituted professional misconduct.

Penalty

The Committee ordered that the member:

1. complete at his own expense a wills drafting course administered by the Competency Committee; and
2. pay costs of the Law Society practice reviews and the hearing totalling \$6,130.70, to be paid in two equal instalments, the first on or before March 14, 1992 and the second on or before May 1, 1992.

The Committee declined to impose any further penalty on the member, taking into account the hearing costs imposed, and the considerable expense the member had already assumed in reviewing the wills in his practice and in making needed changes.

J. Whittow, for the Law Society

D. Roberts, Q.C., for the member