

Surrey, B.C.

Called to the Bar: September 16, 1974

**Discipline Hearing Committee:** July 9, 1991

R.E.C. Apps, Chair, D.A. Silversides, Q.C. and B. Trevino, Q.C.

### **Summary**

The member had a trust fund shortage resulting from inadequate bookkeeping and incomplete trust records, and he breached trust accounting requirements under the Law Society rules.

### **Facts**

#### **Innocent Misappropriation**

During the course of a Law Society audit, it was determined that, as of June 29, 1990, the member had \$295.81 in his pooled trust account. The amount which should have been in the trust account was \$2,270.47.

Trust records were not complete and the bookkeeping was clearly inadequate. Monies were paid to the Law Society in trust to remedy the shortage. An extensive audit was done and there was no indication of theft or intended misappropriation of funds by the member. The member had not operated a trust account since that time.

#### **Breaches of Accounting Rules**

Between January and December, 1990, the member breached Law Society accounting rules by failing to:

- maintain accounting records in proper and complete form;
- maintain adequate and up-to-date trust accounting records, including failing to complete monthly reconciliations for the pooled trust account;
- establish and maintain accounting records for a separate trust account;
- balance the cash synoptic records;
- limit the amount in the pooled trust account to \$200, as a result of making deposits in the pooled trust account on the member's own behalf;
- prepare and render proper bills, and maintain a fee file.

#### **Admission and Penalty**

Pursuant to Rule 469, the Standing Discipline Committee and the Hearing Committee accepted the member's admission that his conduct constituted professional misconduct. He consented to the Hearing Committee's order that he:

1. pay a fine of \$1,000;
2. pay \$1,974.66, the amount of the defalcation, from funds held in trust by the Law Society;
3. pay the cost of the audit in the amount of \$15,877.05 within one year of the date of the hearing; and
4. immediately notify the Secretary in writing on opening one or more trust accounts, and thereafter comply with any and all conditions imposed by the Secretary on the operation of those trust accounts.

G.A. Goyer, Q.C., for the Law Society  
R.W. Brewer, for the member

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