

Vancouver, B.C.

Called to the Bar: July 13, 1982

Discipline Hearing Committee: June 22, 1989

P.D. Leask, Q.C.

Summary

The member had an intimate relationship with the wife of Mr. C, a client of his firm. He did not disclose this relationship and on two occasions falsely denied it to Mr. C and to Mr. C's new lawyer. He took no steps to disengage himself or his firm from representing Mr. C's company. The member continued to be involved in the legal work of the company when he knew that, because of marital discord between Mr. and Mrs. C and his own relationship with Mrs. C, his actions could appear to be an attempt to favour Mrs. C. In February, 1988 the Standing Discipline Committee decided those actions did not constitute professional misconduct or conduct unbecoming a member of the Society. The Committee (differently constituted) reconsidered the matter, reached the contrary conclusion, and cited the member in March, 1989. The member admitted that he had conducted himself in a manner unbecoming a member of the Society.

Facts

Mr. C had been a client of the member's law firm. In 1984 the member met Mr. and Mrs. C and associated with them socially.

In December, 1985 Mr. C's numbered company purchased a retail store, S Ltd. The couple jointly invested \$40,000 toward the purchase and Mr. C obtained additional financing through a bank loan. Mr. C became president of S Ltd. and Mrs. C its manager.

In June, 1986 a company, CS Inc., sued S Ltd. and the member acted on the file. After a Defence was filed in July, the case was left in abeyance for a period of time.

In November, 1986 Mr. and Mrs. C were having matrimonial difficulties. By December the couple had separated and Mrs. C began a sexual relationship with the member which lasted a few days. In a telephone conversation with Mr. C a month later, the member falsely denied that relationship.

In February, 1987 CS Inc. applied for a summary trial in its 1986 action. The member took instructions from Mrs. C on behalf of S Ltd. and succeeded in his motion for judgment. Around this time, a Mr. H, who owed monthly payments to S Ltd. defaulted on his payments. Mr. H's default caused Mr. C's numbered company to default on its own loan respecting the share purchase of S Ltd. The member acted on this file until Mrs. C indicated he should transfer it. He did so, to another lawyer in his firm.

Mr. and Mrs. C's attempt to reconcile in the spring of 1987 failed. They separated in June, 1987 and were divorced in July, 1988. Mrs. C and the member began living together in August, 1988.

On May 26, 1987 the member again assumed control of the numbered company's loan default file with the consent of Mr. and Mrs. C and relinquished the file on June 9, 1987 when Mr. C asked him to do so. He continued, however, to assist the new lawyer on the file.

On June 9, 1987 when asked by Mr. C's lawyer whether he was simply involved in a platonic relationship with Mrs. C, the member falsely asserted that was the case.

Admissions and Disciplinary Action

In February, 1988 four members of the Standing Discipline Committee considered the member's actions and they decided those actions did not constitute professional misconduct or conduct unbecoming a member of the Society, and that the matter should proceed no further. They so advised the member and Mr. C in writing. In April, 1988 Mr. C's father complained in writing about that decision to the Chairman of the

Standing Discipline Committee. In March, 1989 the Committee (differently constituted) reconsidered the evidence which had been before it in 1988 and decided to issue a citation against the member.

The member admitted that, after engaging in an adulterous relationship with the wife of Mr. C (being generally a client of the member's firm and the sole shareholder and president of S Ltd.), he had conducted himself in a manner unbecoming a member of the Society in:

1. failing to disclose to Mr. C this personal relationship despite taking no steps to disengage his or his law firm's professional relationship with S Ltd.;
2. knowingly making false denials to Mr. C about this personal relationship;
3. knowingly making false denials to Mr. C's matrimonial lawyer about this personal relationship;
4. continuing to involve himself in legal work being conducted for S Ltd. knowing that, because of marital discord between Mr. and Mrs. C and his own relationship with Mrs. C, his continued conduct on the file might appear to be an attempt to favour Mrs. C.

The panel imposed the following disciplinary action:

1. a reprimand;
2. a fine of \$1,000, to be paid on or before October 31, 1989;
3. costs of the hearing, to be paid on or before October 31, 1989.

For the Law Society, J.D. Ziskrout

For the member, A.G. Henderson

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