

Misleading Clients, Neglecting Files

ROBERT JOHN CHAMUT

Sooke, B.C.

Called to the bar: September 14, 1976

The member was retained by Mr. and Mrs. H in January, 1986 to draw an Agreement for Sale of their home to Mr. and Mrs. W.

After one of the monthly payments under the Agreement for Sale was late, the member told his clients that he had written to the Ws to warn them of the consequences of non-payment.

From June to November, 1986 the Ws' monthly payments were late. When he did not receive the December cheque, Mr. H instructed the member to begin an action for cancellation of the Agreement for Sale.

A month later, the member told Mr. and Mrs. H that he had set down the action for a court hearing on April 3, 1987 and had sent a demand letter to the Ws. On or about April 3 the member reported that the Ws' lawyer had requested a postponement in anticipation of Mr. W receiving a substantial sum of money. The member strongly recommended that Mr. and Mrs. H accept the postponement.

Two weeks later, the member told Mr. H that he had been to court and had obtained an order for the Ws to make final payment in October, 1987.

Mr. H consulted another lawyer in June. In a telephone conversation with the new lawyer, the member admitted that he had not carried out his clients' instructions. He said that all the statements he had made to Mr. and Mrs. H respecting the April 3 court date, the demand letter, the proposed postponement and the court order were untrue and served only to cover up the fact that he had taken no action on the file.

An audit of the member's practice and accounting records, conducted in July, 1987, revealed that the member had failed to keep proper accounting records and to perform trust account reconciliations since his 1986 year-end. He had established no formal bring forward system and had neglected a number of client files. On several estate files the member had failed to do one or more of the following:

- apply for probate
- take inventory of the estate assets
- prepare tax returns
- open or read correspondence on the file
- pay estate bills or deposit cheques payable to the estate
- keep estate trust records

- invest estate monies to acquire interest

The member did not file his Form N Accountant's Report due Feb 9, 1988 until July 14, 1988, despite four reminder letters sent by the Law Society on January 18, February 10, March 9 and April 29, 1988.

The member failed to respond to the Law Society correspondence dated July 16, August 11, August 26 and November 12, 1987 and February 10, February 23 and March 8, 1988.

The member admitted that his conduct in these matters constituted professional misconduct. The Standing Discipline Committee accepted the member's undertakings to cease practice and to resign as a member of the Law Society by August 31, 1988 and to file a formal Accountant's Report on or before November 15.

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