

Demanding on Threat of Prosecution

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Surrey, B.C.

Called to the Bar: July 13, 1977

The member represented a restaurant business that disputed accounts rendered by its catering truck operator on the basis of apparent discrepancies between credit sales claimed by the operator and actual credit extended to clients.

The member wrote a letter to the catering truck operator on April 15, 1988 setting out the problem and stating the following:

My client does not particularly wish to make things difficult for you but in my view the matter should be turned over the R.C.M.P. for investigation as to 'Theft by a Person Required to Account' (Section 290 of the *Criminal Code*). My client has indicated to me that if you were to contact him immediately and come in to clarify firstly the discrepancy... and secondly to spend a day or so in going round and finalizing these outstanding credit accounts... they would be content to let the matter rest... If you continue to fail or refuse to get the matter resolved... I will strongly recommend to my client that all books and other relevant materials be placed in the hands of an investigating officer and let the matter take its course from there.

The member, on review of his letter, agreed that he had violated Ruling E/5 in demanding or appearing to demand, on behalf of his client, that the operator rectify her account to avoid a prosecution being launched against her. The member admitted that his conduct constituted professional misconduct.

Discipline Digest — 1988: No. 2 October (Moss)