

No. 03/24

## **Glenford Emerson Greene**

Smithers, BC

Called to the Bar: May 12, 1980

**Discipline hearing:** June 6 and November 21, 2003

**Panel:** G. Glen Ridgway, QC as a one-Bencher panel by consent

**Reports issued:** July 28 and November 27, 2003; indexed as [2003] LSBC 30

**Counsel:** Jessica S. Gossen, for the Law Society and Mr. Greene, on his own behalf

## **Summary**

Mr. Greene represented a client on a litigation matter, having assumed conduct of the file from another lawyer. At Mr. Greene's suggestion, that other lawyer reported to the Law Society potential irregularities in her own handling of the litigation file. In reviewing her conduct, the Law Society asked Mr. Greene to provide certain documents relating to the litigation file. Mr. Greene wrote to the Law Society on two occasions in 2002 to advise on when he could provide the documents. In those letters he also expressed criticisms of certain judges and of an opposing lawyer. He copied one of the letters to his client and to opposing counsel and copied the other letter to his client. On an earlier unrelated matter, Mr. Greene wrote a letter to opposing counsel, copied to his client, in which he also expressed criticism of a judge. The hearing panel found that his criticisms of the judiciary and of another lawyer were inappropriate and contrary to the Canons of Legal Ethics (Chapter 1 of the *Professional Conduct Handbook*). The panel stated that it is not in the best interests of the justice system, clients or the profession for lawyers to express themselves in a fashion that promotes acrimony or intensifies the stress and difficulty that people are under. Mr. Greene was ordered to pay a \$3,000 fine and \$3,500 as costs.

## **Facts**

In 2001 Mr. Greene began representing Mr. F in a matrimonial litigation, having assumed conduct of the file from another lawyer (Ms. G). At Mr. Greene's suggestion, Ms. G reported to the Law Society some potential irregularities in her own handling of the file.

In January, 2002 the Law Society contacted Mr. Greene to request certain documents relevant to the Society's review of Ms. G's conduct. On February 6, 2002 Mr. Greene wrote back stating that he was delayed but should be able to provide the documents in about a month. In his letter, Mr. Greene indicated that the Law Society was looking at the wrong lawyer in the situation and ought to be looking into the conduct of the opposing lawyer. He criticized the Law Society as exercising bad judgement by enquiring into Ms. G's handling of the file. His letter, which he copied to his client and to the opposing lawyer, included the following comments:

In fairness, I will say that if Mr. Justice X was going to make as ridiculous as a decision as he did at that late October Motion, then it is probably reasonable for . [the opposition lawyer] to "get away with

whatever she could." However, I recognize you can't control Judge X. If anybody should be "disbarred," he should. The only person who conducted himself worse on this matter was Mr. Justice Y who had all of the evidence before him and simply ignored it.

Mr. F and Ms. G did all they could to settle this matter in a fair and open fashion. Both of them have been abused by a liar, Ms. F, a law firm who was willing to "push the envelope" on propriety . and two of the dumbest Judges this side of an asylum. Fortunately, we have been able to obtain an early trial date - June, 2002. I don't think you should do anything on this file until that time when I can send you a transcript.

*(Ellipses and initials added)*

On March 7, 2002 Mr. Greene wrote another letter to the Law Society and copied the letter to his client. That letter criticized the opposing law firm in the F litigation and "two judges who simply refused to read the file in front of them and appeared to have guessed at the decisions that they should come to." He criticized a judge's decision in the matter as so appalling in the treatment of the evidence and argument and in his conduct of the hearing that Mr. Greene gave his client a letter discussing the merits of a complaint to the Judicial Council. He further stated that the judges in the matter did not read the files and that he was not expected to "kow-tow to someone who refuses to give the parties the courtesy of reading the evidence."

On November 13, 2002 Mr. Greene attended a conduct review with respect to the content of his letters of February 6 and March 7, 2002, as well as a letter he had written on May 5, 1998 in an unrelated matter. In the 1998 letter, sent to opposing counsel and copied to Mr. Greene's client, Mr. Greene stated that:

With reference to Judge Z's decision, I can tell you that neither my client nor I are paying much attention to it. Judge Z's decision was one of the most one-sided, unfair, biased decisions I have ever been confronted with. On the one hand, he prohibited me from leading any evidence with reference to the property issue, and then castigated me for not having led that property evidence, relating to the validity of Mr. W's claim, in his charge to the jury. If that is not hypocritical, I don't know what is. You will recollect that I objected to that in the charge, (although I confess that I phrased it a little more charmingly). In the event there had been a conviction, it was the number one ground of appeal. However, to the sound of trumpets in the background, the jury saw through the judge's evil conniving ways and a glorious victory was achieved anyway.

Following the conduct review of Mr. Greene, the Discipline Committee authorized a citation.

## Verdict

The hearing panel found that Mr. Greene's inappropriate criticism of the judiciary in his letters of May 5, 1998, February 6, 2002 and March 7, 2002 were contrary to section 2(1) of the Canons of Legal Ethics (Chapter 1 of the *Professional Conduct Handbook*) and that his inappropriate criticism of another lawyer was contrary to section 4(1) of the Canons. His conduct constituted professional misconduct.

The panel rejected Mr. Greene's explanation that the letters in question were casual, private communications between colleagues. In fact, the letters of February 6 and March 7, 2002 were sent to the Law Society; the first was also copied to Mr. Greene's client and to the opposing lawyer and the second was copied to Mr. Greene's client. Such distribution rendered them anything but private.

Mr. Greene's tirade about two members of the judiciary was neither an appropriate nor a rational response to the Law Society's request for documents. The panel found his statements in the February 6 letter simply

astounding and those in the March 7 letter less flamboyant but also egregious, as he stated to the Law Society and his client that there are members of the judiciary who do not read files and guess at decisions. The panel could not comprehend the purpose for Mr. Greene's insinuation that the opposing lawyer had acted improperly in light of his insistence that he did not wish to complain to the Law Society about that other lawyer's conduct.

The panel pointed out the substantial difference between kowtowing and saying a judge should be "disbarred" or calling judges "two of the dumbest judges this side of an asylum." This is particularly true for someone who knows there is a Judicial Council to deal with judicial conduct issues and a Court of Appeal to consider decisions with which one disagrees.

The panel noted that, while it was clear that the legal profession places high value on honesty and integrity, it is also important that lawyers exercise restraint in their commentary. Lawyers often deal with difficult people in difficult circumstances and emotions often run high. It is not in the best interests of the justice system, clients or the profession for lawyers to express themselves in a fashion that promotes acrimony or intensifies the stress and difficulty that people are under.

## Penalty

The hearing panel noted that Mr. Greene expressed remorse for his conduct and acknowledged that he had responded inappropriately out of his own frustration about another lawyer and certain judges.

In expressing this remorse, Mr. Greene had changed his approach. At the initial hearing, he stated that the proceedings were an attempt by zealous Law Society staff to control his life and an attempt to thwart lawyers in forcefully dealing with the judiciary.

The panel noted that Mr. Greene's client was ultimately successful in his court hearing and was restored to his original position. The process had cost him \$50,000 in legal fees, however, which frustrated Mr. Greene.

The panel reviewed the various factors affecting penalty, in particular the nature and gravity of Mr. Greene's remarks, his experience, his acknowledgement of wrongdoing at the penalty phase, the impact on him, the need for deterrents and the range of penalties in similar circumstances. The panel ordered that Mr. Greene:

1. pay a \$3,000 fine; and
2. pay \$3,500 as costs of the discipline proceedings.