

SUMMARY: The member's conduct in attempting to induce the withdrawal of a criminal charge against him by threatening to report and pursue a fraud charge against another person, and by offering to forgive that person's debt, constituted conduct unbecoming a member of the Society.

HERBERT WILLIAM CHAMBERS

87/5

Squamish, B.C.

Called to the Bar May 10, 1984

Discipline Hearing Committee: June 16, 1987

R.P. Beckmann, Chairman, P.D. Leask and P.A. Murray, Q.C.

FACTS:

In August 1986 the member and his wife provided room and board to a young man H on the agreement that H would pay \$250 per month and perform certain household duties.

On August 25 H received a \$258 cheque from Forest Services for several days of fire-fighting work he had done. The member knew that H was receiving social assistance and that he did not intend to notify the Ministry of Human Resources of his earnings. The member told H that he was committing a fraud, but did not pursue the matter.

In mid-September the member and H had an argument which culminated in the member telling H to move out of the house immediately. H did so, but left behind some personal belongings, including a bed and a \$600 bicycle.

The member withheld the bicycle as security in a dispute over payment of the September rent. H reported the member's retention of the bicycle to the police on September 26. The member told H that if charges were laid, the member would report to the Ministry of Human Resources H's fraud in failing to disclose his Forest Service earnings.

Later that evening, the member informed the police that he intended to put H's belongings in the street. The stepfather of H telephoned the member to dissuade him from that course of action. During the conversation, the member said that he knew the local Provincial Court judge quite well, and was familiar with the type of sentences he handed down in fraud cases.

On September 30 the member notified the Ministry of Human Resources about H's failure to report his earnings. A MHR representative agreed to conduct an investigation but noted that the filing of charges was unlikely.

The next day, the member called H's stepfather to say that he would return the bicycle, forego payment of the September rent, and drop the fraud charge if H did not pursue his charge of theft.

H's parents consulted a lawyer, who spoke to the member about this matter. The member restated his position, adding that if the theft charge were not dropped, he would pursue every avenue open to have H charged with fraud.

Five days later, the member told the parents' lawyer that he did not want to give the impression that he was blackmailing H or that he could influence the outcome of the fraud charge.

The parents' lawyer wrote to the Law Society respecting the member's conduct. The Discipline Committee cited the member on April 9 for attempting to induce the withdrawal of a criminal charge by threatening to report and pursue a fraud charge, and by offering to forgive a debt.

DECISION:

The member's conduct constitutes conduct unbecoming a member of the Society.

PENALTY:

The Hearing Committee ordered that the member pay:

1. a fine of \$1500; and
2. costs of the hearing totalling \$1,467.75, payable by July 31, 1987.

J.D. Ziskrout, for the Law Society

E.D. Crossin, for the member