

James Lindsay Harris

Vancouver, BC

Called to the Bar: December 19, 1985

Discipline hearing: October 5, 2004

Panel: Patricia Schmit, Q.C., as a single Benchers panel by consent

Report issued: October 6, 2004, indexed as 2004 LSBC 38

Counsel: Gerald Cuttler, for the Law Society, and William Smart, Q.C. for Mr. Harris

Summary

Mr. Harris charged and billed two clients approximately \$75 of his own personal expenses. He did so believing this represented a fair set-off for disbursements that he had paid personally on behalf of those clients. At the time, Mr. Harris believed he would avoid the administrative difficulty of trying to charge and recover disbursements he had paid for these clients while he was working at home and also avoid difficulties he faced in attempting to reimburse his law firm for certain personal expenses he incurred while working at the office. He erred in his set-off and consequently overbilled these clients by approximately \$25. He later reimbursed the clients for the full \$75. Mr. Harris admitted that his conduct constituted professional misconduct. The Discipline Committee and discipline hearing panel accepted Mr. Harris' admission and his proposed disciplinary action, and accordingly ordered that he be reprimanded, pay a \$1,000 fine and pay \$4,300 as costs.

Facts

After practising securities law as a sole practitioner for six years, Mr. Harris joined a new law firm in late 1999.

Mr. Harris was concerned that the disbursements charged by the new firm were higher than he had previously charged to clients and higher than those charged by many of his competitors. He expressed these concerns to his firm, but he ultimately understood that he needed to charge his clients the same as other lawyers in the firm charged theirs.

In his securities practice, Mr. Harris frequently worked from home on weekends or in the early mornings or evenings. He often needed to make long-distance calls or send faxes for clients, and he found cumbersome the administrative procedures at his new firm for seeking reimbursement of these costs. He also found it difficult to adjust to the procedures for charging personal expenses while working at the office. Such personal expenses were charged as office expenses and, approximately once a month, staff would seek an explanation from the lawyers.

Photocopying was a disbursement that Mr. Harris was reluctant to charge to clients at the law firm rate. He decided he would personally pay for at least part of the copying. During his time at the firm, he used the dormant file of a client (T) to charge some of the photocopying for his clients as well as some personal photocopying. He never intended the charges to this file to be paid by clients and, when he left the firm after six months, he did pay the total charges of \$1,300.

On two active client files, Mr. Harris did intentionally charge certain personal fax and long-distance

expenses: \$40 to client F and \$35 to client S. He believed that these disbursements represented a fair set-off for the telephone calls and faxes he had sent from home on their behalf. He was, in fact, in error. While he had personally paid other disbursements for other clients without seeking compensation, he had underestimated by approximately \$25 the total disbursements he had personally paid for F and S. In March, 2003, when he left the firm, he repaid the full \$75 for the personal disbursement charged to these clients.

After work was completed on the file of client S, the file was virtually dormant. Mr. Harris used this file for a period of time in the same manner he had used the file of client T — for the convenience of charging disbursements that he intended to pay (and did pay) personally.

Admission and penalty

Mr. Harris admitted that his conduct constituted professional misconduct.

Pursuant to Law Society Rule 4-22, the Discipline Committee and discipline hearing panel accepted Mr. Harris' admission and his proposed disciplinary action, and the panel accordingly ordered that he:

1. be reprimanded;
2. pay a \$1,000 fine; and
3. pay \$4,300 as costs within 30 days, as agreed by counsel.

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Mr. Harris applied to the panel for anonymous publication of this decision, but he subsequently withdrew his application.