

2021 LSBC 52
Hearing File No.: HE20210002
Decision Issued: December 14, 2021
Citation Issued: February 8, 2021

Hearing File No.: HE20200089
Citation Issued: October 22, 2020
Citation Amended: December 14, 2021

THE LAW SOCIETY OF BRITISH COLUMBIA

IN THE MATTER OF THE *LEGAL PROFESSION ACT*, SBC 1998, c. 9

BETWEEN:

THE LAW SOCIETY OF BRITISH COLUMBIA

AND:

ROSARIO CATENO DI BELLA

RESPONDENT

**RULE 4-29 ADMISSION AND FINDING OF MISCONDUCT
AND UNDERTAKING TO THE DISCIPLINE COMMITTEE**

Overview

1. On January 27, 2022, the Discipline Committee of the Law Society of British Columbia (“Law Society”) considered and accepted a proposal submitted by Rosario Cateno Di Bella (“Respondent”), pursuant to Rule 4-29 of the Law Society Rules (“Rules”).
2. The Respondent is a former member of the Law Society.
3. The Respondent was found by a hearing panel, in a decision indexed as 2021 LSBC 5 (“Decision”), to have committed professional misconduct in respect of the allegation in the citation issued on February 8, 2021 (“Citation 1”). Pursuant to the proposal, the Respondent admitted professional misconduct in respect of all allegations in the citation issued on October 22, 2020 (and amended on December 14, 2021) (“Citation 2”) (collectively, “Citations”).

4. Under the proposal, the Respondent undertook to the Chair of the Discipline Committee of the Law Society, that for a period of five (5) years from January 27, 2022, he will:
 - (i) not apply for re-instatement to the Law Society;
 - (ii) not apply for membership in any other law society (or like governing body regulating the practice of law) without first advising in writing the Law Society;
 - (iii) not engage in the practice of law in British Columbia with or without the expectation of a fee, gain or reward, whether direct or indirect, until such time as he may again become a member in good standing of the Law Society of British Columbia; and
 - (iv) not permit his name to appear on the letterhead of, or otherwise work in any capacity whatsoever for, any lawyer or law firm in British Columbia, without obtaining the prior written consent of the Discipline Committee of the Law Society.
5. In deciding to accept the Respondent's proposal, the Discipline Committee considered the Decision in respect of Citation 1, dated December 14, 2021, a Notice to Admit for Citation 2, and a letter to the Chair of the Discipline Committee in which the Respondent admitted to the misconduct and the facts contained in that Notice to Admit. The Committee also considered the Respondent's professional conduct record, which included two previous citation decisions, the Law Society's custodianship of the Respondent's practice, a conduct review, limitation on practice and administrative suspensions.
6. The Citations are resolved, and the findings in respect of Citation 1 and the Respondent's admissions of professional misconduct in respect of Citation 2, will be recorded on his professional conduct record.
7. The Respondent has acknowledged that pursuant to Rule 4-29(5) of the Rules, his undertaking not to practise law means that he is a person who has ceased to be a member of the Law Society as a result of disciplinary proceedings, and that section 15(3) of the *Legal Profession Act* ("Act") applies to him.
8. The finding of professional misconduct in the Decision (Citation 1) and the admitted facts set out in the Notice to Admit (Citation 2), are summarized below.

Member Background

9. The Respondent was called and admitted as a member of the Law Society on September 10, 1980.

10. The Respondent's practice was in Victoria, British Columbia.
11. The Respondent established R C Di Bella Law Corporation in January 2018, operating under Di Bella – Fort Street Lawyers.
12. The Respondent practiced as a sole practitioner.
13. Throughout his career, the Respondent's practice has been primarily in the area of wills, estates and trust law.

Factual Background

Citation 1

14. A hearing panel, in the Decision, determined that the Respondent committed professional misconduct, pursuant to s. 38(4) of the *Act*, in his repeated failure to respond to correspondence from the Law Society between July 23, 2020 and December 9, 2020.

Citation 2

15. The Respondent made the following admissions in respect of Citation 2:

Allegation 1

The Respondent admitted that, between approximately December 2018 and July 2019, in the course of representing his client, PB in an estate matter, he failed to provide the quality of service required of a competent lawyer, contrary to rule 3.2-1 of the *Code of Professional Conduct for British Columbia* (“*Code*”), by failing to do one or more of the following:

- (a) ensure that court ordered monthly reports received by him from his client on or about February 5, 2018, February 28, 2019, March 29, 2019, May 1, 2019, May 31, 2019, and June 29, 2019, were forwarded to the opposing parties;
- (b) ensure that the Order of Mr. Justice Meiklem made December 10, 2018 was settled or submitted for entry in a timely manner;
- (c) ensure that he had applied for probate of the estate on behalf of his client in a timely manner;
- (d) inform his client that opposing counsel was considering a court application for his client's failure to deliver monthly reports and apply for probate;
- (e) provide a substantive response to his client's emails dated February 5, 2019, February 28, 2019, March 29, 2019, May 1, 2019, May 31, 2019, June 8, 2019, June 10, 2019,

June 12, 2019, June 13, 2019, June 14, 2019, June 18, 2019, June 25, 2019, June 26, 2019, June 28, 2019, June 29, 2019, July 3, 2019, July 4, 2019, and July 10, 2019;

(f) keep his client reasonably informed about the status of his file; and

(g) answer reasonable requests from his client for information.

The Respondent admitted that this conduct constitutes professional misconduct, pursuant to s. 38(4) of the *Act*.

Allegation 2

The Respondent admitted that, between approximately March 2019 and June 2020, in connection with his client or former client PB, he failed to answer with reasonable promptness one or more of the following communications from other lawyers that required a response, contrary to rule 7.2-5 of the *Code*:

(a) letter from lawyer Glenford Green dated March 29, 2019; and

(b) letters and emails from lawyer Victoria Pitt dated December 4, 2019, February 6, 2020, April 1, 2020, and May 7, 2020.

The Respondent admitted that this conduct constitutes professional misconduct, pursuant to s. 38(4) of the *Act*.

Allegation 3

The Respondent admitted that, between approximately June 2019 and June 2020, he failed to cooperate in the Law Society's investigation of complaint file number CO20190465, contrary to one or more of Rules 3-5(7) and 3-5(11) of the Law Society Rules and rule 7.1-1 of the *Code*, by failing to respond fully and substantively by the date set, or at all, to a letter dated March 11, 2020.

The Respondent admitted that this conduct constitutes professional misconduct, pursuant to s. 38(4) of the *Act*.

Allegation 4

The Respondent admitted that, between approximately May 2017 and September 2020, in the course of acting in connection with the Estate of GY, the Estate of AY and the AY and GY Joint Spousal Trust, he failed to provide the quality of service required of a competent lawyer, contrary to rule 3.2-1 of the *Code*, by failing to do one or more of the following:

(a) ensure that the tax returns for the estates and spousal trust were prepared and filed in a timely manner;

- (b) inform the beneficiaries that death benefit cheques were available for pick up;
- (c) keep his client or the beneficiaries reasonably informed about the status of his administration of the spousal trusts and estates;
- (d) prepare and deliver his accounts to the beneficiaries;
- (e) respond fully and substantively to communication from his client or the beneficiaries, including one or more of the following:
 - (i) emails from JY dated November 29, 2017, January 2, 2018, January 3, 2018, January 10, 2018, February 5, 2018, February 13, 2018, February 28, 2018, April 16, 2018, June 27, 2018, July 19, 2018, March 28, 2019;
 - (ii) 53 telephone calls from JY between June 2018 and August 2019; and
 - (iii) Emails from CY dated June 12, 2018, June 27, 2018, July 16, 2018, and December 16, 2019;
- (f) keep his client or the beneficiaries reasonably informed about the status of the file(s); and
- (g) answer reasonable requests for information from his client or the beneficiaries.

The Respondent admitted that this conduct constitutes professional misconduct pursuant to s. 38(4) of the *Act*.

Allegation 5

The Respondent admitted that, between approximately November 2019 and June 2020, he failed to cooperate in the Law Society's investigation of complaint file numbers CO20190700 and CO20200153, contrary to one or more of Rules 3-5(7) and 3-5(11) of the Rules and rule 7.1-1 of the *Code* by failing to respond fully and substantively by the date set, or at all, to requests in one or more letters dated November 8, 2019, February 6, 2020, February 26, 2020, May 14, 2020, and August 6, 2020.

The Respondent admitted that this conduct constitutes professional misconduct pursuant to s. 38(4) of the *Act*.

Allegation 6

The Respondent admitted that, between approximately January 2019 and June 2020, he failed to cooperate in the Law Society's investigation of complaint file number CO20181128, contrary to one or more of Rules 3-5(7) and 3-5(11) of the Rules and rule 7.1-1 of the *Code*,

by failing to respond fully and substantively by the date set, or at all, to requests in one or more letters or emails dated January 29, 2019, September 27, 2019, November 28, 2019, December 2, 2019, February 25, 2020, March 6, 2020, and May 14, 2020.

The Respondent admitted that this conduct constitutes professional misconduct pursuant to s. 38(4) of the *Act*.