

2005: No. 02 July-August

Robert Gordon Milne

Victoria, BC

Called to the bar: June 26, 1975

Discipline hearing: May 20, 2004

Panel: Margaret Ostrowski, QC, Chair, Carol W. Hickman and Arthur E. Vertlieb, QC

Report issued: June 16, 2004 (indexed as 2004 LSBC 19)

Bench review (on publication) : April 8, 2005

Benchers: (*Majority reasons*) Patricia L. Schmit, QC, Chair, Joost Blom, QC, Gavin H.G. Hume, QC, Bruce A. LeRose, Gregory M. Rideout, Grant C. Taylor, QC, June Preston, Terence E. La Liberte, QC, Darrell J. O’Byrne, QC, Lilian To and Dr. Maelor Vallance; (*Separate reasons*) Gordon Turriff, QC and David A. Zacks, QC; (*Minority reasons*) James D. Vilvang, QC and Robert C. Brun, QC

Report issued: April 28, 2005 (indexed as 2005 LSBC 14)

Counsel: Todd R. Follett for the Law Society and Jerome D. Ziskrout for Mr. Milne

Facts

While representing a development company on a project in 2003, Mr. Milne forwarded for execution a *Land Title Act* Form C to a lawyer representing the provincial Crown. The Form C was intended to register a statutory right of way and priority agreement in favour of the Province over other financial charges. The right of way was needed to allow the Crown opportunity to inspect elevators in the development before an occupancy permit could be granted.

After the Crown had executed the Form C, Mr. Milne realized that references in the document to priority agreements were incorrect because the mortgagees had not yet signed these agreements. Mr. Milne told the panel that he was aware at the time that there had already been delays, the purchasers were ready to complete the purchase and occupy the premises and he was under pressure to have all documents registered at the same time and not to jeopardize the occupancy of the suite. In the end, he altered several paragraphs of the executed Form C to remove references to the priority agreements, after the document had been executed by the Crown, and he then registered the altered document in the Land Title Office. He said he intended to file the priority agreements later.

Verdict

Mr. Milne admitted and the hearing panel found that his conduct constituted professional misconduct. The panel said that it must be made very clear to lawyers that an executed document cannot be altered without authority and that the integrity of a signed document is fundamental to the practice of law and the preservation of the rule of law.

Penalty

The panel ordered that Mr. Milne:

1. pay a \$3,500 fine; and
2. pay costs.

The panel ordered anonymous publication of its decision, noting that Mr. Milne had felt great emotional anguish over his conduct, had admitted his wrongdoing, was contrite, had caused no harm and was not motivated by self-gain. The panel ordered that the decision be published without naming Mr. Milne. The Discipline Committee appealed that order and Mr. Milne subsequently withdrew his objection to publication. The Benchers proceeded with the appeal and found it was appropriate to set aside the order for anonymous publication.