

THE LAW SOCIETY OF BRITISH COLUMBIA

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

AND

MICHAEL SAUL MENKES

(a member of The Law Society of British Columbia)

RULE 3-7.1 CONSENT AGREEMENT SUMMARY

1. On June 2, 2026, the Chair of the Discipline Committee approved a consent agreement proposal submitted by Michael Saul Menkes (the “Lawyer”) under Rule 3-7.1 of the Law Society Rules (“Rules”).
2. Under the proposal, the Lawyer admitted that he committed the following misconduct, and that it constitutes professional misconduct pursuant to s. 38(4) of the *Legal Profession Act*:
 - (a) on or about February 14, 2024, in the course of representing the borrowers in a real estate matter concerning two properties (the “Properties”), he failed to honour a trust condition imposed by the lender’s lawyer and accepted by him on or about February 13, 2024, when he filed two mortgage discharges in relation to the Properties with the Land Title and Survey Authority of British Columbia (the “LTSA”) prior to receiving the net proceeds of sale for the Properties, contrary to one or both of rules 2.1-4(b) and 7.2-11 of the *Code of Professional Conduct for British Columbia* (the “Code”); and
 - (b) between approximately February 14, 2024 and February 21, 2024, in the course of representing the borrowers in a real estate matter, he did one or both of the following, contrary to one or both of rules 2.2-1 and 7.2-1 of the *Code*:

- (i) represented to the lender's lawyer on or about February 14, 2024 that the mortgage discharges filed by him with the LTSA had been withdrawn (the "Representation"), when he did not know and had not verified whether the Representation was true; and
 - (ii) failed to correct the Representation, when on or about February 21, 2024 he learned that the mortgage discharges had not been withdrawn and had been registered on or about February 16, 2024.
3. Under the proposal, the Lawyer will be suspended for six weeks, and will undertake to not practise law in the area of real estate law.
4. In making its decision, the Chair of the Discipline Committee considered an Agreed Statement of Facts dated May 27, 2026, and a letter to the Chair of the Discipline Committee.
5. This consent agreement will now form part of the Lawyer's professional conduct record.
6. Pursuant to Rule 3-7.1(5) of the Rules, and subject to Rule 3-7.2 of the Rules, the Law Society is bound by an effective consent agreement, and no further action may be taken on the complaint that gave rise to the agreement.
7. The admitted facts set out in the Agreed Statement of Facts have been summarized below.

Summary of Facts

Member Background

8. The Lawyer was called and admitted as a member of the Law Society of British Columbia (the "Law Society") on May 17, 1996.
9. Since June 1996, the Lawyer has practised as a sole practitioner in New Westminster, BC.
10. The Lawyer's practice consists primarily of criminal law and civil litigation, with a small amount of real estate and wills and estates work.

Background Facts

11. In or about August 2023, the Lawyer was retained to represent the borrowers in relation to two properties located in North Vancouver and West Vancouver, BC (the “Properties”).
12. The Lawyer was retained to assist the borrowers with the sale of the Properties and to discharge and repay a private loan to the lenders (the “Loan”).
13. The Complainant represented the lenders.
14. The Loan was secured by two mortgages registered against the Properties.
15. The borrowers entered into contracts for the sale of the Properties with expected completion dates of February 20, 2024 and February 29, 2024, respectively.
16. Prior to the completion dates, the borrowers and the lenders disputed the amount owing under the Loan, which was to be repaid from the net proceeds of the sale of the Properties.
17. On or about January 27, 2024 the Lawyer sent the Complainant a proposed Discharge and Dispute Resolution Agreement (the “Agreement”). The Agreement contemplated that the lenders would provide discharges of the mortgages, provided that the borrowers arranged for the net sale proceeds to be paid to the Complainant and to be held in in trust pending resolution of the dispute by further agreement or by order of an arbitrator.
18. On February 13, 2024, following negotiations, the lenders signed the Agreement and executed the Form C mortgage discharges for the Properties (the “Form Cs”).
19. By email dated February 13, 2024 the Complainant delivered the signed Agreement and Form Cs to the Lawyer, subject to several trust conditions, including a trust condition for the Lawyer to not use the Form Cs unless he had received the net sale proceeds of the closing for each property (the “Trust Condition”).
20. The Lawyer accepted the Trust Condition.
21. On February 14, 2024, the Lawyer did not yet have the proceeds in trust from the sale of either property, but nonetheless digitally signed and electronically filed the Form Cs through the LTSA online portal, contrary to the Trust Condition.
22. On February 14, 2024 the Lawyer advised the Complainant by email that he had filed the Form Cs.

23. The Complainant expressed concern that the Form Cs had been filed prior to the Lawyer's receipt of the sale proceeds, contrary to the Trust Condition. The Complainant requested that the Lawyer immediately withdraw the Form Cs, and confirm that this had been done.
24. After receiving the Complainant's request, the Lawyer accessed the document package containing the Form Cs on the LTSA portal. The Lawyer was unfamiliar with the process for submitting a withdrawal request.
25. On the LTSA document package page, the Lawyer clicked the "withdraw" button, which he had previously noticed but not used. He believed that in doing so, he withdrew the Form Cs.
26. The Lawyer received no information from LTSA regarding the withdrawal request, and has no recollection or documentation of any confirmation notice.
27. After clicking the "withdraw" button, the Lawyer believed that the withdrawal request had been completed and emailed the Complainant to advise that the registrations were withdrawn.
28. The Lawyer never received notification from the LTSA that the Form Cs had been withdrawn.
29. On February 16, 2024, the LTSA registered the Form Cs.
30. On February 21, 2024, the Lawyer accessed the LTSA portal and discovered that the Form Cs had been registered on February 16, 2024.
31. The Lawyer did not correct his February 14, 2024 representation to the Complainant that the Form Cs had been withdrawn, either on February 21, 2024 or at any time thereafter.

Mitigating Factors

32. The Lawyer acknowledges that he should have taken greater care with the Trust Condition and his subsequent errors.
33. The Lawyer suffers from a medical condition which, at the material time, was exacerbated by Lawyer's stress and anxiety in relation to this matter, and which contributed to general fatigue and inattention.
34. The Lawyer has attempted to mitigate the effects of his medical condition and improve service to his clients, by reducing his in-office hours, making space in his schedule for anticipated tasks, and reducing his overall workload significantly.

Aggravating Factors

35. At the time of the misconduct, the Lawyer had been practising law in British Columbia for 28 years and was a senior member of the bar.
36. The Lawyer has a significant prior professional conduct record including a previous conduct review relating to a breach of undertaking.
37. In approving the consent agreement proposal, the Chair of the Discipline Committee also considered that the proposed suspension and prohibition on practising real estate law was consistent with the outcome in prior, similar matters.