

2006 LSBC 28

Report issued: June 29, 2006

Citation issued: January 6, 2006

The Law Society of British Columbia  
In the matter of the *Legal Profession Act*, SBC 1998, c.9  
and a hearing concerning

**John Wilson Dobbin**

Respondent

**Decision of the Hearing Panel  
on Facts and Verdict**

Hearing dates: April 5 and 27, 2006

Panel: Joost Blom, Q.C., Chair, Kathryn A. Berge, Q.C., Robert D. Punnett

Counsel for the Law Society: Brian McKinley

Appearing on his own behalf: John Dobbin

## Background

[1] On January 6, 2006, a citation was issued against the Respondent pursuant to the *Legal Profession Act* and Rule 4-13 of the Law Society Rules by the Executive Director of the Law Society of British Columbia pursuant to the direction of the Chair of the Discipline Committee. The citation directed that this Panel inquire into the Respondent's conduct as follows:

1. You provided an undertaking to the Practice Standards Committee of the Law Society of British Columbia on May 20, 2005, in which you undertook:

1. to provide Monthly Action Plans commencing June 1, 2005.

You breached that undertaking when you failed to provide Monthly Action Plans by June 1, July 1, August 1, September 1, and October 1, 2005.

2. You recommenced practice on or about March 28, 2003 subject to several conditions set by a Discipline Hearing Panel in their decision issued December 19, 2002. One of those conditions was:

(c) Continue to take treatment from his psychiatrist, with update reports to be provided to the Practice Standards Committee every three months for the first year of practice, after which he shall provide reports as directed by the Practice Standards Committee.

You failed to comply with condition (c) by failing to provide update reports to the Practice Standards Committee, as required.

[2] The citation came before this Panel and was heard on April 5 and April 27, 2006.

[3] The Respondent admitted that the citation was properly issued and served pursuant to the requirements of Law Society Rule 4-15.

[4] The Respondent admitted that he had professionally misconducted himself.

## Facts

[5] Counsel submitted an Agreed Statement of Facts which was filed as Exhibit 2. The Agreed Statement of Facts was as follows. (References in the original to appendices have been omitted and the paragraphs consequently renumbered.)

1. Mr. Dobbin was called to the Bar in British Columbia on September 13, 1973. From May 1978 to May 28, 2002, he practised on his own in association with other lawyers in Vancouver, British Columbia. He was suspended from practice by the Law Society on May 18, 2002 [sic], until he was reinstated on April 11, 2003. Since his reinstatement he has practised as a sole practitioner under a Practice Supervision Agreement.

2. Following a hearing on October 16, 2002, a hearing panel suspended Mr. Dobbin for 10 months commencing May 28, 2002. The hearing panel set a number of conditions which Mr. Dobbin had to meet prior to reinstatement including:

[18] In the meantime, the Respondent shall, prior to reinstatement:

1. Continue to see his psychiatrist and shall forward a report from his psychiatrist to the Practice Standards Committee by March 21, 2003.

2. Fulfill all the outstanding recommendations of the 1996 and 1997 Practice Review reports as set out in the Practice Review Report of May 21, 2002, and he shall obtain a report from the custodian to be provided to the Practice Standards Committee by March 21, 2003 confirming that those recommendations have been fulfilled; and

3. Provide a Practice Supervision Agreement that meets with the approval of the Practice Standards Committee by March 21, 2003.

3. The hearing panel imposed conditions on Mr. Dobbin's practice to be met following his reinstatement including:

(c) Continue to take treatment from his psychiatrist, with update reports to be provided to the Practice Standards Committee every three months for the first year of practice, after which he shall provide reports as directed by the Practice Standards Committee.

4. On March 14, 2003 Mr. Dobbin entered into a Practice Supervision Agreement with Glen Orris, Q.C.

5. A Practice Review was conducted by Kensi Gounden with Mr. Dobbin and his practice supervisor Glen Orris on June 15, 2004.

### **Monthly Action Plans**

6. The Practice Standards Committee considered the follow-up Practice Review Report on September 30, 2004, and resolved to write a letter to Mr. Dobbin and Mr. Orris requesting that Mr. Dobbin provide his response to the follow-up Practice Review and a letter from his physician by October 8, 2004, or the Committee may decide to refer him to the Discipline Committee. The Committee further required Mr. Dobbin and Mr. Orris to provide an action plan by October 15, 2004, regarding Mr. Dobbin's current open files.

7. Mr. Dobbin provided an action plan on November 4, 2004, through his practice supervisor.

8. A follow-up Practice Review was conducted on March 11, 2005 by Mr. Gounden and Mr. Sheppard.

9. On May 5, 2005, the Practice Standards Committee considered the follow-up Practice Review Report dated April 5, 2005. No response was received from Mr. Dobbin. The Practice Standards Committee accepted the recommendations in the Practice Review Report and resolved that:

1. There be a follow-up Practice Review after the receipt of the eighth quarterly Practice Supervision Report, approximately January 2006.

2. Mr. Dobbin is to provide monthly action plans. The first monthly action plan is due June 1, 2005.

3. Mr. Dobbin undertakes to provide the monthly action plans.

10. On May 20, 2005 Mr. Dobbin provided the Law Society with his signed undertaking to provide monthly action plans commencing June 1, 2005.

11. On June 28, 2005, Mr. Gounden left a message for Mr. Orris indicating that Mr. Dobbin had not provided his monthly action plan by June 1, 2005, and warning that Mr. Dobbin was now in breach of his undertaking.

12. On July 8, 2005, Mr. Gounden received a telephone message from Mr. Dobbin, which indicated that Mr. Dobbin had been working on a case, and just literally got out of court and he will " get report to you as soon as I can" .

13. Mr. Dobbin admits that he was bound by the undertaking of May 20, 2005, to provide monthly action plans to the Law Society commencing June 1, 2005. Mr. Dobbin further admits that he failed to provide monthly action plans by June 1, 2005, July 1, 2005, August 1, 2005, September 1, 2005, and October 1, 2005.

14. Mr. Dobbin admits that his failure to provide monthly action plans was a breach of his

undertaking to the Law Society and that it was professional misconduct.

### **Medical Reports**

15. Prior to his reinstatement Mr. Dobbin provided a letter dated March 24, 2003, with a copy of a letter from his psychiatrist, Dr. Levin.

16. By letter dated April 7, 2003, Mr. Dobbin was informed that the Practice Standards Committee had decided to allow his reinstatement to practice. In that letter Mr. Dobbin was reminded of the hearing panel condition that he continue to take treatment from his psychiatrist and provide quarterly update reports from the psychiatrist.

17. By letter dated November 5, 2003, Mr. Dobbin provided a copy of a letter from his psychiatrist to his personal physician dated October 29, 2003.

18. By letter dated December 19, 2003, Mr. Dobbin was reminded of the requirement of the hearing panel condition. That letter requested that Mr. Dobbin provide a quarterly report from his personal physician. By letters dated April 7, April 28, and May 20, 2004, Mr. Dobbin was reminded of the requirement to provide a report from his psychiatrist or his personal physician.

19. By letter dated August 25, 2004, Mr. Dobbin was again reminded of the requirement to provide a report from his physician.

20. By letter dated October 4, 2004, the Chair of the Practice Standards Committee wrote to Mr. Dobbin to remind him of his obligations including the requirement that he provide a report from his physician. The Chair of the Practice Standards Committee advised Mr. Dobbin that the Committee has directed that he is to provide his response to the follow-up Practice Review and a letter from his physician by October 8, 2004, or the Committee may decide to refer the matter to the Discipline Committee.

21. On October 28, 2004, the Practice Standards Committee agreed to extend the time for Mr. Dobbin to respond to the follow-up Practice Review Report to October 29, 2004, and also agreed to extend the time for Mr. Dobbin to provide a report from his doctor until November 5, 2004, and the Committee directed that if the doctor's report is not received by November 5, 2004, the matter was to be referred to the Discipline Committee for consideration.

22. By letter dated November 9, 2004, Mr. Dobbin confirmed that he had now obtained a referral from his family doctor back to his psychiatrist Dr. Levin. He indicated that he would arrange to meet Dr. Levin as soon as possible on his return from holidays on November 29, 2004.

23. By letter dated January 12, 2005, Mr. Gounden acknowledged Mr. Dobbin's voicemail message of January 5, 2005, advising that he had an appointment with Dr. Levin for 6:45 p.m. Mr. Gounden wrote that he was looking forward to receiving Dr. Levin's written report in the immediate future. Mr. Dobbin did not provide a report from Dr. Levin, and on September 8, 2005, the Practice Standards Committee referred the matter to the Discipline Committee. By letter dated September 15, 2005, Mr. Orris wrote to Mr. Gounden advising him of a plan to deal with Mr. Dobbin's files. In that letter Mr. Orris also indicated that Mr. Dobbin had discussed with Mr. Orris the doctor's report and that Mr. Dobbin indicated that he had it and would be forwarding it to the Law Society immediately.

24. By letter dated October 5, 2005, counsel for the Law Society wrote to Mr. Dobbin confirming that the Law Society had not received any doctor's report referred to in Mr. Orris' letter of September 16, 2005, and asking Mr. Dobbin to forward any medical report in his possession.

25. On October 13, 2005, the Discipline Committee resolved to recommend to the Chair of the Discipline Committee that there be a direction to issue a citation against Mr. Dobbin for his conduct in breaching an undertaking to the Practice Standards Committee to provide monthly actions plans and for failing to comply with the hearing panel condition requiring him to provide quarterly medical reports to the Law Society and the Chair so directed.

26. On January 6, 2006, a citation and attached schedule was issued. It was mailed by registered mail to Mr. Dobbin's last known address at 123 Main Street, Vancouver, BC. Mr. Dobbin admits that he received a copy of the citation.

27. Mr. Dobbin admits that he breached the condition set by the hearing panel of October 16, 2002, when he failed to continue to take treatment from his psychiatrist and ensure that update reports were provided to the Practice Standards Committee every three months for his first year of practice and then as directed by the Practice Standards Committee. He further admits that his failure to comply with that condition is professional misconduct.

[6] The Respondent appeared without counsel. The Respondent and his Practice Supervisor, Glen Orris, Q.C., both gave evidence supplementing the Agreed Statement of Facts.

[7] On count 1, the Respondent explained that his failure to provide monthly action plans for five specified months in 2005 stemmed from a lack of secretarial help, combined with his own reluctance, owing to his emotional state, to deal with even the simplest administrative tasks. As described in Mr. Orris's letter to the Law Society of September 15, 2005, (Tab15 of Exhibit 2), Mr. Clinton Bauman, a lawyer in Mr. Orris's office, was able for a time in the fall of 2005 to assist the Respondent in putting his files in order and preparing action plans. Mr. Orris testified that the Respondent, despite his inherent ability as a lawyer, was not able to carry out even simple tasks.

[8] The Respondent testified that he understood his duties as a member of the Law Society of British Columbia and the obligation that he undertook to provide the action plans described in count 1. In light of his inability to carry through on these duties, the Respondent, in consultation with Mr. Orris and Mr. Bauman, decided some time ago that he could not continue to practise. When Mr. Orris's firm moved to new premises, the Respondent remained at the old offices at 123 Main Street to close down his practice. He is in the process of advising his clients and moving his files to other lawyers, as directed by his clients. The Respondent expects to complete the wind-down of his practice by the end of June 2006, at the latest.

[9] On count 2, failure to provide update reports about treatment by his psychiatrist, the Respondent testified that he met with his psychiatrist, Dr. Levin, for most of the first half of 2005. In June or July 2005 he ceased meeting with the psychiatrist. At or about the end of the Respondent's treatment, Dr. Levin had given the Respondent a letter summarizing the treatment to forward to the Law Society. The Respondent has been unable to find the letter. He admitted there was no good reason for his having mislaid it.

[10] Mr. Orris testified that he has known the Respondent since the year they both articulated, and is a friend. He had not realized the emotional difficulties that the Respondent faced, which led to deterioration in the Respondent's ability to practise and culminated in the Respondent's suspension in October 2002. When the Respondent resumed practice Mr. Orris agreed to serve as Practice Supervisor. The

Respondent moved into Mr. Orris's offices. Mr. Orris was optimistic that the Respondent could return to practice once he had found his feet again. At first, the files were handled well but then problems started to appear.

[11] Mr. Orris said he did not realize at the time how profound the long-term effects of depression could be. He noted that one of the consequences of depression from which the Respondent suffered was the need to avoid stressful matters, which led the Respondent simply to avoid doing many of the routine things that his practice required. Monthly reports were not filed, despite Mr. Orris's urging. Letters confirming telephone calls from clients were not sent, bills were not issued. When it became clear that, even with Mr. Bauman's assistance, the Respondent could not practise effectively, the decision was made that the Respondent should terminate his practice.

[12] Mr. Orris agreed that closing the Respondent's practice would probably take no longer than the end of June 2006, and he indicated that he, Mr. Orris, was prepared to maintain his role as Practice Supervisor until that date if necessary.

## **Verdict**

[13] On the basis of the Agreed Statement of Facts, the oral evidence and the submissions of counsel for the Law Society and of the Respondent, the Panel finds that the Respondent failed on five occasions to provide the Practice Standards Committee with monthly Action Plans, as stated in count 1 of the schedule of citation, and failed to provide update reports on his treatment by his psychiatrist, as stated in count 2.

[14] We also find that the failures on both counts were professional misconduct, as they are a marked departure from the conduct that the Law Society expects of its members. Breaches of undertakings relating to practice supervision and to reporting to the Law Society were held to be professional misconduct both in *Law Society of BC v. Barton*, 2004 LSBC 20, and in *Law Society of BC v. Davies*, 2003 LSBC 41. It is manifestly in the public interest that a lawyer's undertakings to the Law Society must be performed.

[15] Therefore, in the Panel's view the Respondent's admission of professional conduct is justified, and the Panel accepts the admission of the member and finds the member guilty of professional misconduct.