

2006 : No. 05-04

## **James Neil Rodgers**

Creston, BC

Called to the bar: May 14, 1979

Undertook to cease practice: October 9, 2003

Voluntarily ceased membership: January 1, 2004

**Discipline hearing** : February 15 and April 28, 2005

**Panel** : David A. Zacks, QC, Chair, William Jackson and Terence E. LaLiberté, QC

**Report issued** : February 22, 2005 (indexed as 2005 LSBC 08) and October 20, 2005 (indexed as 2005 LSBC 42)

**Counsel** : Todd Follett, for the Law Society, and Michael Ranspot, for Mr. Rodgers

## **Facts**

In September 2003 Crown Counsel notified the Law Society that Mr. Rodgers had been charged with several weapons-related offences.

In October 2003 Mr. Rodgers gave his undertaking to the Law Society not to practise law until he had successfully completed a course of treatment satisfactory to the Discipline Committee or until completion of the hearing of a citation against him. He voluntarily ceased membership in the Law Society on January 1, 2004.

In August 2004 Mr. Rodgers pleaded guilty to the *Criminal Code* offences of pointing a firearm at another person without lawful excuse and uttering a threat. He received a conditional sentence of two years less a day, to be followed by three years probation as well as a mandatory firearms prohibition.

## **Decision**

Mr. Rodgers admitted, and the hearing panel found, that his conduct was contrary to Chapter 2, Rule 1 of the *Professional Conduct Handbook* and constituted conduct unbecoming a member.

Chapter 2, Rule 1 provides that a lawyer must not, in private life, extra-professional activities or professional practice, engage in dishonourable or questionable conduct that casts doubt on the lawyer's professional integrity or competence or that reflects adversely on the integrity of the legal profession or the administration of justice.

## **Penalty**

The hearing panel considered the various factors impacting on penalty. In this case, there were extraordinary circumstances. At the time of these offences, Mr. Rodgers was under extreme and significant pressures. He had agreed to testify against members of a criminal organization and, as a result, his life and possibly the lives of his family were in peril. He and his family were forced to relocate in an attempt to be out of harm's way. Mr. Rodgers sought relief from stress through the use of alcohol and drugs and he had thoughts of suicide. He sought treatment for these problems.

Had it not been for the extraordinary circumstances in which Mr. Rodgers found himself, the panel noted that he would have been disbarred for his conduct.

In these circumstances, however, he had not flagrantly abused his position as a lawyer or deceived the authorities. He had started out fulfilling his duty as a lawyer and a citizen by agreeing to testify against alleged criminals, at the risk of his life. Although one member of the panel would have ordered a suspension, a majority of the panel determined that a reprimand was sufficient. They took into account Mr. Rodgers' character prior to this incident, the fact that the circumstances of the case were sufficiently exculpatory and that he had already been punished by society for his actions. They also noted that Mr. Rodgers had not practised law for two years and would need to satisfy the Credentials Committee of his character and fitness before returning to practice.

The panel ordered that Mr. Rodgers be reprimanded.