

2006 : No. 06-02

Hugh Braker, Q.C.

Port Alberni, BC

Called to the bar: May 10, 1984

Discipline hearing : December 15, 2005 and February 9, 2006

Panel : G. Glen Ridgway, QC, Chair, Gordon Turriff, QC and Robert C. Brun, QC

Report issued : January 12 (indexed as 2006 LSBC 02) and February 7, 2006 (indexed as 2006 LSBC 07)

Counsel : Brian McKinley for the Law Society, and Christopher Hinkson, QC for Mr. Braker

Facts

In 2005 the Law Society wrote to Mr. Braker respecting two complaints alleging that he had delayed on client files. The Society wrote to Mr. Braker about the first complaint on February 21, 2005 and sent follow-up letters on March 21, April 5 and April 18, 2005, but received no response to any of these. The Society initially wrote to Mr. Braker about the second complaint on January 12, 2004. He responded to that letter and exchanged correspondence with the Society for a period of time, but then failed to respond to letters of June 16, July 18, August 3 and August 12, 2005.

Verdict

Mr. Braker admitted and the hearing panel found that his failure to respond promptly to the Law Society was contrary to Chapter 13, Rule 3 of the *Professional Conduct Handbook* and amounted to professional misconduct.

In the hearing, Mr. Braker gave evidence that he was under significant stress beginning early in 2004. This stress was brought about by financial difficulties in his law firm and by deaths and health setbacks among his family members and friends which caused him great emotional stress.

Penalty

The hearing panel expressed sympathy for Mr. Braker and the difficulties he had faced. The panel also noted that he had taken steps to overcome his problem of delays on files and had adopted new office procedures to attend to Law Society correspondence. Moreover, a conduct review held earlier found that Mr. Braker needed no further corrective action. The panel took these factors into account, as well as submissions of his counsel flagging his explanation, cooperation, admissions and long history of contributions to the public and the Law Society.

The panel, however, also pointed to the importance of lawyers responding to communications from the Law Society for it to carry out its responsibilities as a self-governing profession. It is important that the public have confidence in the Law Society's ability to regulate lawyers, and lawyers accordingly must respond to the Society in a prompt and forthright fashion. A failure to do so undermines the Society's ability to regulate.

Taking into account the various circumstances and factors affecting penalty, the panel ordered that, within 60 days, Mr. Braker:

1. pay a \$1,500 fine; and
2. pay \$2,237.53 as costs.