

2006 LSBC 26

Report issued: June 21, 2006

Oral Reasons: June 9, 2006

Citation issued: January 24, 2006

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

## **Parmjit Singh Virk**

Respondent

### **Decision of the Hearing Panel**

Hearing date: June 9, 2006

Panel: Gordon Turriff, Q.C., Chair, Bruce LeRose, Gavin Hume, Q.C.

Counsel for the Law Society: James Doyle

Counsel for the Respondent: Jerome Ziskrout

## **Background**

[1] On January 24, 2006, a citation was issued against the Respondent pursuant to the *Legal Profession Act* and Rule 4-15 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. While acting for your client, G.H., you accepted an undertaking contained in a letter dated March 16, 2005 from another member, Mr. Rhodes, which read:

... I enclose herewith the transfer and Property Purchase Tax form which you provided us earlier and it has been duly executed by my client. These documents are sent to you upon your undertaking to provide us with your trust cheque in the amount of \$85,000.00 forthwith upon registration of the transfer made out to my firm in trust for the benefit of [Ms. H.] and in compliance with the terms of the order of Mr. Justice Crawford of March 14, 2005."

You breached your undertaking when you caused the Transfer to be registered on March 17, 2005 but failed to provide your trust cheque to Mr. Rhodes forthwith.

[2] This citation came before this Panel as a conditional admission of a disciplinary violation and consent to a specific disciplinary action pursuant to Rule 4-22 of the Law Society Rules. The Respondent admitted that he had professionally misconducted himself and consented to the following disciplinary action:

- (a) a fine in the amount of \$2,000; and
- (b) costs in the amount of \$2,000.

## Agreed Statement of Facts

[3] An Agreed Statement of Facts was filed as Exhibit 2 in these proceedings. The Agreed Statement of Facts provided as follows:

1. Mr. Parmjit S. Virk was called [to] the British Columbia Bar on November 14, 1997 and has been a member of the Law Society since then (the " Member" ).
2. The Member practices chiefly in the areas of family and general civil litigation. He has been with the law firm Sanghera Virk Sanghera ( " SVS Lawyers" ) since July 7, 2003.
3. The Member represented Mr. G.H. in matrimonial proceedings in 2004 and 2005. Another Member, Mr. R.R., acted for Mrs. C.H.

### Breach of Undertaking

4. Various interim applications came before the Honourable Mr. Justice Crawford, resulting in an interim Order dated March 14, 2005. In the proceedings, G.H. was the Defendant and C.H. was the Plaintiff.

5. Among the Orders made were:

" ...

2. The Defendant pay to the Plaintiff the sum of \$85,000.00 as an interim distribution from her share of the equity in the matrimonial home without prejudice to the Plaintiff to argue for a greater sum at trial or without prejudice to the Defendant to argue for a lesser sum at trial as due and payable to the Plaintiff for her share in the equity in the matrimonial home;

3. The Defendant to discharge the mortgage and Line of Credit and any other financial interests on the matrimonial home in return for the Plaintiff transferring her interests in the matrimonial home to the Defendant;

4. The Plaintiff to sign a Form A Transfer to transfer her interest in the matrimonial home to the Defendant;

..."

6. By letter dated March 16, 2005, R.R. wrote to the Member saying, in part:

" I enclose herewith the transfer and Property Purchase Tax form which you provided to us earlier and has been executed by my client. These documents are sent to you upon your undertaking to provide us with your trust cheque in the amount of \$85,000.00 forthwith upon registration of the transfer made out to my firm in trust for the benefit of [C.H.] and in compliance with the terms of the Order of Mr. Justice Crawford of March 14, 2005."

7. By letter dated March 21, 2005, R.R. responded to a March 19, 2005 letter from the Member, regarding a Certificate of Pending Litigation. He wrote, in part:

" I enclose our letter releasing our CPL. This also is sent to you upon your undertaking to provide us with the \$85,000.00 payable to [R.R.] Law Corporation in trust pursuant to the Order of Mr. Justice Crawford forthwith upon use of the release letter."

8. By letter dated March 24, 2005, R.R. wrote to the Member, saying:

" Please advise when we may expect the \$85,000.00 payment from your client.

If your client cannot get the financing then the house should be sold. Please advise if he is prepared to list it. If we hear nothing from you by 4:00 p.m. Tuesday, March 28, 2005, I will renew my motion for sale of the house."

9. By letter dated March 29, 2005, the Member wrote to R.R., saying, in part:

" We thank you for your letter of March 24, 2005 and we note the contents of same.

Please be advised that our client is in the process of arranging the financing on the matrimonial home and when we are in receipt of funds they will be provided to you for the benefit of your client.

..."

10. By letter dated May 9, 2005, R.R. wrote to the Member, saying:

" Please find enclosed a copy of our redrafted interim Order (it is the same as the one I forwarded to you earlier except I changed March 15, 2005 to March 1, 2005).

Also, we await receipt of the \$85,000.00 as set out in the Order. Please advise on when we may receive this, as soon as possible."

11. On May 13, 2005, R.R. caused a property search to be conducted in the New Westminster Land Title Office, which revealed that the Transfer was received for registration on March 17, 2005.

12. By letter dated May 13, 2005, R.R. wrote to the Member, saying:

" I enclose a copy of the search we did today on the [H] family home. As you are no doubt aware, the property was transferred on March 17, 2005 into your client's name alone. We provided you with the transfer and Property Purchase Tax Return with your undertaking to ' provide us with your trust cheque in the amount of \$85,000.00 forthwith upon registration of the Transfer, made out to our firm in trust for the benefit of [C.H.] and in compliance with the terms of the Order of Mr. Justice Crawford of March 14, 2005.

We have not received the \$85,000.00. Please provide us with that today. Have your secretary call

so that we may send a courier to pick up the cheque."

13. By letter dated May 13, 2005, R.R. wrote to the Law Society reporting the Member's breach of undertaking.

14. The Member provided the \$85,000.00 to R.R. on May 16, 2005.

15. By letter dated June 20, 2005, J.D., Staff Lawyer - Professional Conduct, of the Law Society (the " Staff Lawyer" ), wrote to the Member enclosing a copy of R.R.'s May 13, 2005 correspondence. He asked for an explanation.

16. In June, July, August and September 2005 there were telephone calls and correspondence between the Staff Lawyer and the Member.

17. By letter dated September 20, 2005, the Member wrote to the Staff Lawyer indicating, in part:

Let me say at the outset that I unequivocally recognize and acknowledge that I breached the undertaking contained in [R.R.'s] March 16, 2005 letter.

This has been a humiliating experience for me.

I am greatly embarrassed that I negligently lost control of my ability to honour the undertaking. When I allowed the registration of the Transfer, I was under the mistaken impression that upon registration my client would immediately obtain the financing funds which would be immediately provided to me which in turn would allow me to honour the undertaking.

I can assure you that it is my inflexible practice to be as alert as I can be to making sure that I never provide or agree to be bound by an undertaking without being confident that I have control over my performance of such undertaking.

I am sorry and regret this breach and I have learned a valuable lesson. As a result of this experience, I have resolved to more carefully consider whether my performance of an undertaking is clearly within my control and not agree to be bound without clearly establishing that to be so.

#### Admissions

18. The Member admits that his conduct, as set out in the proceeding paragraphs, amounts to professional misconduct. In particular he admits that:

(a) While acting for his client, G.H., he accepted an undertaking contained in a letter dated March 16, 2005 from another member, Mr. R., which read:

...I enclose herewith the transfer and Property Purchase Tax form which you provided us earlier and it has been executed by my client. These documents are sent to you upon your undertaking to provide us with your trust cheque in the amount of \$85,000.00 forthwith upon registration of the transfer made out to my firm in trust for the benefit of [Ms. H.] and in

compliance with the terms of the order of Mr. Justice Crawford of March 14, 2005.

(b) He breached his undertaking when he caused the Transfer to be registered on March 17, 2005 but failed to provide his trust cheque to Mr. R. forthwith.

[4] After considering the circumstances set out in the Statement of Facts and having heard the submissions of counsel, the Panel accepts the admission and finds the Respondent guilty of professional misconduct.

[5] The Panel did express some concern that the breach of undertaking in this case was very serious in that it represented a challenge to the efficiency and integrity of real estate practice in British Columbia. The efficient dispatch of real estate transactions depends on the confidence with which one solicitor can accept the undertaking of another. The fact that undertakings can confidently be relied on gives lawyers the capacity to provide prompt legal services in real estate transactions at a reasonable cost. This capacity, which is in the public interest, must be safeguarded. In this case, the Respondent acknowledged that he had little or no experience in real estate practice and told the Panel through his counsel that he would either refrain from doing this kind of work in the future or would seek the advice and assistance of a qualified practitioner as necessary.

[6] The Panel finds the penalty proposed by the Respondent, and recommended by the Discipline Committee, to be appropriate in all of the circumstances.

[7] It is accordingly ordered that the Respondent pay:

- (a) a fine in the amount of \$2,000; and
- (b) costs in the amount of \$2,000.

[8] The Executive Director is instructed to record the Respondent's admission on the Respondent's Professional Conduct Record, to impose the disciplinary action proposed by the Respondent and accepted by the Panel and to inform the Respondent and the complainant of the disposition.

[9] There will be publication of this decision in the normal course.