

2006 LSBC 49

Report issued: December 8, 2006

Oral Reasons: November 23, 2006

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

Ramona MacLeod

Applicant

**Decision of the Hearing Panel
on Application for Enrolment**

Hearing date: November 21, 22, 23, 2006

Panel: James Vilvang, Q.C., Chair, Jan Lindsay, Art Vertlieb, Q.C.

Counsel for the Law Society: Maureen Boyd

Counsel for the Applicant: Mark M. Skorah

Background

[1] This is a credentials hearing ordered pursuant to Section 19(2)(c) and conducted pursuant to Section 22 of the *Legal Profession Act*.

[2] The Applicant carries the burden of demonstrating that she meets the requirements set out in Section 19(1) of the *Legal Profession Act*. It states:

No person may be enrolled as an articled student, called and admitted or reinstated as a member unless the benchers are satisfied that the person is of good character and repute and is fit to become a barrister and solicitor of the Supreme Court.

[3] The requirement that the Applicant be of "good character" creates an obligation on the Panel to consider good character in the specific context of fitness to practise law. In *Re: An Applicant*, hearing report dated June 12, 1992, fitness to practise law was described as follows:

The demands placed upon a lawyer by the calling of barrister and solicitor are numerous and weighty and "fitness" implies possession of those qualities of character to deal with the demands properly. The qualities cannot be exhaustively listed but among them must be found a commitment to speak the truth no matter what the personal cost, resolve to place the client's interest first and to never expose the client to risk of avoidable loss and trustworthiness in handling the money of a client.

[4] The duty of the Law Society to ensure that its members are of the highest character is not to be taken lightly. If we fail in that duty, we will surely lose the right to be a self-governing profession. The reputation of the profession is built or destroyed one lawyer at a time.

Facts

[5] The Applicant was involved in matrimonial proceedings in the Supreme Court of British Columbia, which have been described as a " high conflict" matter.

[6] On September 15, 2000, Master Bolton ordered the Applicant's husband to pay spousal and child maintenance in an amount of approximately \$5,100.00 per month. Almost immediately, the husband's payments went into arrears.

[7] The Applicant controlled certain family assets that were to be held pending division of assets. Certain incursions on the assets were authorized.

[8] Starting on November 22, 2001, and approximately monthly thereafter until July 2, 2002, the Applicant withdrew funds approximately equal to the unpaid maintenance, even though she knew that by doing so she was in direct contravention of Master Bolton's order. The total amount withdrawn was approximately \$41,000.00, which was roughly equal to the amount of maintenance that was unpaid during the period.

[9] The Applicant said she needed the money for living expenses for herself and her children. She said that she believed that the withdrawals would all be accounted for in the future. There was no evidence to show deception or dishonesty by the Applicant in this regard. In fact, she produced documents in the litigation that showed the withdrawals.

[10] These events all took place before the Applicant started law school.

Analysis

[11] In Law Society counsel's very fair and able submissions, she forthrightly advised the Panel that, based on previous decisions, it would be exceptional for the Panel to refuse enrolment.

[12] The Panel concludes that the Applicant has met the onus upon her to satisfy us that she is of good character and repute and is fit to be enrolled as an articulated student.

[13] The Panel has considered all of the evidence presented in reaching this conclusion and puts particular weight on the following:

1. The fact that there is no evidence of dishonesty or deceit;
2. Mr. D., the Applicant's counsel during the matrimonial proceedings and a senior and respected member of the matrimonial Bar, described the proceedings as " high conflict" . While not condoning her behaviour, he was not critical of her actions in the circumstances. Mr. D. was in a good position to observe the Applicant through a long and trying time;
3. The Applicant's prospective principal, Ms. Glaister, also gave evidence. The Applicant has now worked for Ms. Glaister in a position equivalent to a paralegal for seven months, giving Ms. Glaister a good opportunity to judge her fitness. Ms. Glaister has been impressed by the Applicant's character and is wholly supportive of her application;
4. The Applicant's disobedience occurred before she had even started law school. The Panel regards a breach of a Court order as a very serious matter but recognizes that a layperson, without the benefit of a legal education and who had never taken the Barrister's and Solicitors' oath,

might not be as conscious of the significance of this;

5. The reasons for judgment of Madam Justice Satanove in the matrimonial trial contained comments that did not reflect favourably upon the Applicant. The Panel weighed the comments but concluded that, in the context of all the other evidence presented at this hearing, they did not raise questions as to the Applicant's character and repute to such an extent that it would be a bar to enrolment as an articulated student.

[14] The Panel sees no need to impose conditions or limitations on the Applicant's activities as an articulated student.

Costs

[15] The Panel concludes that it was necessary and appropriate for this application to be brought before a Hearing Panel. Some costs should appropriately be borne by the Applicant in these circumstances, but not to the same extent as would have been ordered if the application were without merit. The Panel therefore directs that the Applicant should pay costs in the amount of \$3,000.00.

[16] The Applicant posted \$8,000 security for costs. The Panel directs that \$3,000 be deducted from that amount to pay costs and that the remaining \$5,000 be returned to the Applicant forthwith.

[17] The Panel would like to thank Mr. Skorah for doing the case on a pro bono basis in the best traditions of the Bar. We also commend both counsel for the manner in which the case was conducted. Finally, we thank the witnesses for taking time from their lives and practices to assist in the process.