

2006 LSBC 47

Report issued: December 6, 2006

Oral Reasons: November 16, 2006

Citation issued: September 11, 2006

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

**Jeffrey Francis Murray**

Respondent

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

Hearing date: November 16, 2006

Panel: Leond Getz, Q.C., Chair, William Sullivan, Q.C., Gerald Kambeitz, Q.C.

Counsel for the Law Society: Maureen Boyd

Counsel for the Respondent: James P. Taylor, Q.C.

## **Background**

[1] On September 11, 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 Corporate Secretary of the Law Society 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. Your conduct in receiving funds in the amount of \$2,000 from your client Mr. M. in trust and dealing with those funds contrary to the Law Society Rules, and in particular by:
  - (a) failing to deposit the funds in a pooled trust account, in breach of Rule 3-51(1);
  - (b) withdrawing the funds from trust without first preparing a bill for your fees and immediately delivering the bill to your client, in breach of Rule 3-57(1) and section 69(1) of the *Legal Profession Act*;
  - (c) failing to record the funds received and disbursed in breach of Rule 3-59(1);
  - (d) failing to record promptly each trust and general transaction in respect of these funds, in breach of Rule 3-63; and
  - (e) failing to account in writing to your client Mr. M. for the funds received on his behalf, in breach of Rule 3-48.

[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 misconduct himself and consented to the following disciplinary action:

1. a reprimand;
2. a fine in the amount of \$1,500; and
3. costs in the amount of \$2,000.

### **Statement of Agreed Facts**

[3] A Statement of Agreed Facts was filed as part of Exhibit 1 in these proceedings. The Statement of Agreed Facts provided as follows:

1. On September 2, 1994, the Respondent was admitted to the Bar of British Columbia. He was previously admitted to the Bar of New Brunswick on June 16, 1992.
2. Since his admission in British Columbia, the Respondent practised with Berge & Company for approximately four years to September of 1998, when he commenced practice as a sole practitioner operating as an apparent partnership under the name and style of Fraser Murray. From September 1, 2003 to date that apparent partnership has continued as Fraser Murray Huck.
3. In or about the summer of 2003, the Respondent was retained by A.M. and he represented A.M. in a number of matters over the following two-year period.
4. In particular, the Respondent represented A.M. in respect of legal matters arising from the seizure by the S.P.C.A. of animals owned by A.M. in the summer of 2003. These legal matters (the "Legal Matters" ) included a civil action by the S.P.C.A. for its expenses incurred in the seizure, criminal charges and an assignment in bankruptcy by A.M.
5. Between the summer of 2003 and February of 2004, the Respondent provided legal services to A.M. in respect of the Legal Matters.
6. In February 2004, the Respondent received from A.M. the sum of \$2,000.00 in cash (the "Funds" ) in respect of the Legal Matters. Upon receipt, the Respondent used the Funds for his personal use without first depositing them in trust and removing them from trust only as payment against a statement of account issued to A.M. The Respondent acknowledges that he did not handle the Funds in accordance with the *Legal Profession Act* and the Law Society Rules and in particular he did not:
  - (a) deposit the funds to his trust account as required by Rule 3-51(1) of the Law Society Rules;
  - (b) provide a statement of account to A.M. in respect of the services rendered as required by Rule 3-57(1) and section 69(1) of the *Legal Profession Act*;
  - (c) record the receipt and disbursement of the Funds as required by Rule 3-59;

(d) record the transactions related to the Funds in his trust and general accounts as required by Rule 3-63; and

(e) account in writing to his client A.M. for the Funds as required by Rule 3-48.

7. Further, at that time the Respondent did not remit any G.S.T. or P.S.T. in connection with the Funds in a timely manner.

8. A.M. filed a complaint with the Law Society in June of 2005.

9. At the time of receipt of the Funds, the Respondent had provided legal services to A.M. of a value of at least \$2,000.

10. On March 2, 2006, the Respondent rendered a statement of account to A.M. which included further legal services to July 9, 2004 and a balance outstanding of \$3,932.36. At or about that time, the Respondent deposited \$2,000 of his own funds to A.M.'s credit in trust and applied that \$2,000 to the statement of account.

11. On May 1, 2006, the Respondent reversed and wrote off the outstanding balance.

12. The Respondent has remitted the outstanding G.S.T. and P.S.T. on the Funds.

13. The Respondent admits that his conduct in dealing with the Funds in breach of the *Legal Profession Act* and Law Society Rules amounts to professional misconduct.

14. The Respondent admits that he was served with a true copy of the citation in accordance with Rule 4-15 of the Law Society Rules.

[4] After considering the circumstances set out in the Statement of Agreed Facts, and having heard the submissions of counsel, the Panel accepts the admission and finds that the Respondent professionally misconducted himself.

[5] It is accordingly ordered that the Respondent:

1. be reprimanded;
2. pay a fine in the amount of \$1,500; and
3. pay costs in the amount of \$2,000.

[6] The Executive Director is instructed to record the finding of professional misconduct on the Respondent's Professional Conduct Record, to impose the disciplinary action and to inform the complainant of the disposition.