

Lorne Irving Smiley

Vancouver, BC

Called to the bar: May 15, 1972

Discipline hearing : July 26, 2006

Panel : Leon Getz, QC, Chair, Kathryn A. Berge, QC and Michael J. Falkins

Report issued : August 9, 2006 (indexed as 2006 LSBC 31)

Counsel : Maureen Boyd for the Law Society; Jerome Ziskrout for Mr. Smiley

Facts

In February 2003, WG retained Mr. Smiley to file a Canada Revenue Agency form to report non-resident income for tax purposes following the sale of a property. When asked by WG whether he had filed the form, Mr. Smiley advised that he had, when in fact he had not.

Approximately six months after the sale of the property, WG contacted the Canada Revenue Agency, which advised him the form had not been filed. Mr. Smiley then filed the necessary forms, a clearance certificate was provided and WG received the sale proceeds in October 2003.

WG complained about Mr. Smiley's conduct in September 2004. The Law Society wrote to Mr. Smiley on four occasions requesting a response to the complaint. Mr. Smiley did not respond.

In September 2005, Mr. Smiley wrote to WG and acknowledged he delayed in filing the tax form. He further admitted he falsely indicated to WG that he had filed it when he had not. He also acknowledged he tried to shift the blame for his failure to file the form by accusing WG of failing to provide sufficient documentation.

Admission and penalty

Mr. Smiley admitted his conduct in failing to carry out the instructions of WG and failing to provide him with the quality of service at least equal to that which would be provided by a competent lawyer in a similar situation constituted professional misconduct, as did misleading his client, WG. He further admitted he committed professional misconduct when he failed to respond promptly to letters from the Law Society.

Under Rule 4-22, the Discipline Committee and the discipline hearing panel accepted Mr. Smiley's admission and his proposed penalty. The hearing panel accordingly ordered that he:

1. be suspended for one month, commencing October 1, 2006; and
2. pay costs in the amount of \$2,000.