

2007 LSBC 28

Report issued: May 29, 2007

Oral Reasons: February 27, 2007

Citation issued: November 29, 2006

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

**John Keith Lowes**

Respondent

**Decision of the Hearing Panel  
on Facts and Verdict**

Hearing date: February 27, 2007

Panel: James Vilvang, Q.C., Chair, June Preston, David Renwick, Q.C.

Counsel for the Law Society: Jaia Rai

Counsel for the Respondent: Jerome Ziskrout

## Background

[1] On November 29, 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 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. Between approximately 1993 and 2005, you failed to register for the remittance of British Columbia Provincial Sales Tax, contrary to the provisions of the *Social Service Tax Act*, RSBC 1996, c. 431 and its predecessor, the *Social Service Tax Act*, RSBC 1979, c. 388.
2. Between approximately 1993 and 2005, you collected British Columbia Provincial Sales Tax from your clients but failed to remit funds due to the provincial government, contrary to the provisions of the *Social Service Tax Act*, RSBC 1996, c. 431 and its predecessor, the *Social Service Tax Act*, RSBC 1979, c. 388.
3. You misled your clients by collecting British Columbia Provincial Sales Tax from them between 1993 and 2005 and failing to remit funds due to the provincial government.

[2] The requirements for service of this citation upon the Respondent, pursuant to Rule 4-15, were admitted by the Respondent.

### Statement of Agreed Facts

[2] Counsel submitted a Statement of Agreed Facts, which was filed as an Exhibit in these

[2] Counsel submitted a Statement of Agreed Facts, which was filed as an exhibit in these proceedings. The Statement of Agreed Facts set out the following:

1. The Respondent was called to the Bar in British Columbia on May 15, 1970.
2. The Respondent is and was at all material times a practising lawyer.
3. Pursuant to Law Society Rule 3-72, practising lawyers are required to complete an annual Trust Report and submit it to the Law Society of British Columbia (the " Law Society" ).
4. The Respondent completed and submitted the Trust Report for the period ending April 30, 2005.
5. Question 8 of Section B of the Trust Report required the Respondent to answer yes or no to whether his practice has paid all payroll, Provincial Sales Tax (" PST" ) and Goods and Services Tax (" GST" ) remittances to Government when due. The Respondent answered " no" to that question.
6. As a result, the Law Society requested an explanation from the Respondent. The Respondent subsequently provided an explanation through his counsel in which he admitted:
  - (a) He has never remitted PST to the Government of British Columbia (the " Government" ).
  - (b) He has retained other counsel to resolve the outstanding PST issue with the Government.
  - (c) He failed to register with the Government to remit PST, dating back to approximately 1993.
  - (d) In the early 1990's when the Government imposed PST, he owed the Government a retroactive debt in the amount of \$10,000. He did not pay any of the tax owed to Government.
  - (e) Since then, he has billed his clients PST and collected PST from his clients. However, he never registered for or remitted PST to Government.
  - (f) His estimation of the amount owing to Government for PST is \$175,000.
7. The Respondent admits that, between approximately 1993 and 2005, he:
  - (a) failed to register for PST, contrary to the provisions of the *Social Services Tax Act* (the " Act" );
  - (b) collected PST from his clients but failed to remit funds due to Government contrary to the *Act*; and
  - (c) misled his clients by collecting PST and failing to remit funds due to Government.
8. The Respondent further admits that his conduct in doing so amounts to professional misconduct.

[4] The Panel accepts the admission by the Respondent that his conduct described in the citation amounted to professional misconduct.

[5] At the request of counsel, the Penalty phase of the hearing was put over to a date to be agreed between counsel.