

2007 : No. 4 October

Vance King Goulding

Vancouver, BC

Called to the bar: May 20, 1994

Ceased membership: January 1, 2007

Disbarred: August 31, 2007

Discipline hearing : March 14 and 15, 2007 and July 26, 2007

Panel : Glen Ridgway, QC, Chair, William Jackson and Bruce LeRose, QC

Reports issued : April 4 (2007 LSBC 16) and August 31, 2007 (2007 LSBC 39)

Counsel : Maureen Boyd for the Law Society; no one appearing on behalf of Vance King Goulding

Facts

In July 2004, HR retained Vance King Goulding to assist her with an application to sponsor her husband's immigration from Iran to Canada.

Between July and December 2004, HR paid \$3,050 to Goulding, \$550 of which was to cover filing fees charged by the federal immigration authorities. Goulding never deposited HR's funds into his trust account, never paid the federal filing fees and never issued a bill to HR, although he did provide her with a receipt on his firm letterhead. The reverse side of two HR cheques payable to Goulding for \$1,550 and \$1,500 confirmed the cheques had been cashed at a Money Mart outlet.

In January 2005, HR obtained, completed and forwarded the sponsorship documents to Goulding by Express Post. In August 2006 the Express Post packet was found unopened in Goulding's HR client file, in the course of the custodianship of his practice.

Despite her repeated subsequent attempts, HR's last communication with Goulding was on December 28, 2004.

Between November 9, 2005 and April 6, 2006, the Law Society attempted to contact Goulding by 11 letters, three emails and numerous telephone messages, with little success. By an email dated March 2, 2006, Goulding advised that he would contact the Society the following week to schedule a conduct review. He did not do so. By another email dated March 6, 2006, Goulding requested adjournment of a practice review set for March 8. After Goulding failed to contact the Law Society to reschedule, the society sent him a letter dated March 13, 2006 to confirm rescheduling of the practice review to March 22, 2006 at Goulding's office. Goulding did not attend at his office on March 22 for the practice review.

By a citation issued on June 28, 2006, the Law Society charged Goulding with six counts of professional misconduct.

The first three counts concerned Goulding's failure to respond to the Law Society over a five-month period regarding a complaint by Goulding's client, HR, the scheduling of a conduct review, and the conduct of a practice review.

Counts 4 to 6 in the citation charged Goulding with failure to serve his client in a conscientious, diligent and efficient manner, misappropriation of client funds, and failure to handle client funds in the manner required by the Law Society Rules.

Verdict

No one appeared on behalf of Goulding at the facts and verdict hearing, despite service of the citation, notice of the hearing and all other disclosure.

The panel found that Goulding committed professional misconduct under all six counts of the citation. The panel applied the reasoning set out in *Law Society of BC v. Harder*, 2005 LSBC 48:

Knowing misappropriation consists simply of a lawyer taking a client's money entrusted to him, knowing that it is the client's money and knowing that the client has not authorized the taking.

Penalty

Goulding did not appear at the penalty hearing. The panel concluded Goulding had been properly served with notice and expressed its disappointment that he chose not to participate. As a result, no evidence was presented regarding any exceptional circumstances that might warrant a penalty other than disbarment.

The panel concluded that disbarment is the appropriate penalty to protect the public in cases of misappropriation, even if the possibility of recurrence is remote. The panel cited general deterrence and the need to protect the public's confidence in the integrity of the profession as reasons for its decision.

The panel ordered that Goulding:

1. be disbarred; and
2. pay costs in the amount of \$25,516.58.