

2007 : No. 4 October

Brian Peter Grant Kaminski

Coquitlam, BC

Called to the bar: May 14, 1993

Discipline hearing : February 9, 2007

Panel : John Hunter, QC, Chair, Gordon Turriff, QC and Thelma O'Grady

Report issued : July 18, 2007 (2007 LSBC 37)

Counsel : Maureen Boyd for the Law Society and Brian Kaminski appearing on his own behalf.

Facts

Brian Kaminski represented the vendors and S, a notary public, represented the purchasers in the 2005 sale of strata lot 2 of a residential duplex. Strata lot 1 was also owned by Kaminski's clients, and was sold at about the same time.

Kaminski wrote S on March 15, 2005, setting out the usual closing conditions for a property sale and undertaking to provide S with the mortgage payout documents within five business days, and to obtain a discharge of the vendors' mortgage within a reasonable time. On March 21, Kaminski sent the vendors' bank the mortgage payout funds along with the discharge.

On June 21, S sent a fax to Kaminski requesting a copy of the registered discharge. S sent follow-up faxes on August 4, 10 and 24, and on December 22, 2005 his assistant telephoned Kaminski's office to follow up on the discharge, all without response.

On February 6, 2006 S complained to the Law Society that he had not received the mortgage discharge or any related documentation. The Law Society advised Kaminski of the complaint on February 28.

Kaminski then determined the discharge he sent to the vendors' bank on March 21, 2005 referred to strata lot 1, rather than strata lot 2. On February 28, 2006 Kaminski sent the vendors' bank the correct discharge. On March 15, 2006 - 12 months to the day after the closing of the sale - Kaminski provided S with a copy of the mortgage discharge.

Admission and Penalty

Kaminski admitted he breached the undertakings he gave to S on March 15, 2005, and that his breach constituted professional misconduct. Pursuant to Rule 4-22, the hearing panel accepted Kaminski's admission and proposed penalty. The panel ordered that he:

1. pay a fine in the amount of \$7,500; and
2. pay costs in the amount of \$2,000.