

2007 : No. 3 July

Douglas Warren Welder

Kelowna, BC

Called to the bar: May 12, 1981

Bench Review: January 19, 2007

Benchers: James D. Vilvang QC, Chair, Terrance E. La Liberté, QC, Jan Lindsay, Ken Dobell, Joost Blom, QC, Ronald S. Tindale, Kathryn Berge, QC, Dirk J. Sigalet QC and Leon Getz, QC

Report issued : June 8, 2007 (2007 LSBC 29)

Counsel : Brian McKinley for the Law Society and Alan R. Perry for Douglas Warren Welder

Background

In 2002, Douglas Warren Welder was found guilty of professional misconduct for failing to remit GST, PST and source deductions. The panel in that case fined him \$2,500 and ordered that he provide proof on a quarterly basis that he had remitted all GST, PST and source deductions. He provided the reports but indicated he had not made all the required payments. As a result of his failure to pay, in 2005 Welder was again found guilty of professional misconduct and suspended for one year (report issued November 16, 2005: 2005 LSBC 49).

Decision

On an application for review of penalty, the Benchers concluded that the hearing panel erred by not taking into consideration Welder's acknowledgement of his misconduct and the impact of the penalty, which would likely prevent him from resuming practice. Given the nature of the misconduct and the fact that it was the second such offence committed by Welder, the Benchers concluded that a suspension was warranted, but the one-year sentence imposed by the hearing panel was unduly harsh. They ordered that Welder be reprimanded; suspended for a period of three months to begin July 3; and pay costs of \$2,450. They also ordered Welder be subject to the following conditions on his return to practice:

- he must provide evidence, on a monthly basis, that he has remitted GST, PST and employee source deductions; and
- he must provide information, as required by the Discipline Committee, to determine and ensure that the continued practice by the applicant poses no danger to the public interest.

Both of these conditions will continue until the Discipline Committee decides to remove them.