

2007 : No. 1 March

## **Leonard Thomas Denovan Hill**

Delta, BC

Called to the bar: July 13, 1982

**Discipline hearing** : December 19, 2006

**Panel** : Gordon Turriff, QC, Chair, Carol Hickman and Leon Getz, QC

**Report issued** : January 10, 2007 (indexed as 2007 LSBC 02)

**Counsel** : James Doyle for the Law Society and Christopher Hinkson, QC for Mr. Hill

### **Facts**

While acting for two borrowers in a mortgage refinancing transaction, Mr. Hill undertook to pay the outstanding taxes from mortgage proceeds in full upon receipt of the mortgage proceeds.

Mr. Hill received the mortgage proceeds in full on August 23, 2004, but failed to pay out the outstanding taxes. In December 2004 lawyer S, who was acting for the lender, wrote to Mr. Hill to inquire about the outstanding taxes and request immediate payment. Mr. Hill requested a one-month extension, which the lender agreed to grant with a final deadline of February 18, 2005. Lawyer S wrote to the Law Society on March 3, 2005 noting that payment of the outstanding taxes still had not been received.

In letters to the Law Society, Mr. Hill said that, at the time of the transaction, he was under the impression the taxes had already been paid and he did not realize this was incorrect until he received a letter from lawyer S. He said his client was refinancing the property and that the taxes would be paid as part of that transaction. In May 2005, Mr. Hill advised the Law Society that his client had paid the taxes and provided a copy of the receipt.

### **Admission and Penalty**

Mr. Hill admitted that he breached an undertaking to pay the outstanding taxes from the mortgage proceeds in full, and that this breach constituted professional misconduct. Pursuant to Law Society Rule 4-22, the hearing panel accepted Mr. Hill's admission and proposed penalty. The panel ordered Mr. Hill, within six months of December 19, 2006, to:

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

The hearing panel noted that lawyers who give undertakings must ensure they know what will be required to discharge the undertakings, including when they must do so, and that they will personally be able to do so. They further noted that lawyers can neither decide when they will discharge undertakings that are linked to a particular event or stated time nor put themselves in the position of hoping that someone else will do what they have undertaken to do themselves.