

2007 : No. 5 December

Shane Sidney Dennison

Nanaimo, BC

Called to the bar: May 20, 1994

Discipline hearings : January 15 and 16 (Facts and verdict) and November 1, 2007 (Penalty)

Panel : James Vilvang, QC, Chair, Richard Stewart, QC and Robert Brun, QC

Reports issued : April 23 (2007 LSBC 23) and November 22, 2007 (2007 LSBC 51)

Counsel : Jean Whittow, QC and Paula Ramsay for the Law Society; no one appearing on behalf of Mr. Dennison at either hearing

This digest should be read with the digest of Donald Craig King discipline and penalty decisions (2007 LSBC 22 and 2007 LSBC 52)

Facts

In 1995 the Nanaimo law firm ABC entered a contract with the federal Department of Justice, to provide legal services in litigation and criminal matters. ABC also provided legal services in Courtenay — under the DOJ contract and otherwise — through the work of three local lawyers under an arrangement calling for them to be paid for their work on DOJ matters at one-half of ABC's hourly billing rate to the DOJ, with ABC retaining the balance.

Following his call to the bar in May 1994, Shane Sidney Dennison joined ABC — first as an employee or contractor and later as a partner. In May 1997 Dennison was approved to perform legal work under the DOJ contract. From about November 2002, Dennison was responsible for administration and management of ABC's DOJ account, splitting the profit earned on DOJ matters equally with C, a senior partner of ABC.

The ABC partnership dissolved in the fall of 2002, with its principals continuing to work together as an "association" of lawyers called ABC until the summer of 2003, when the new firm of CDE was formed. Dennison continued as a partner of CDE, and the DOJ entered a new contract with CDE on the same terms.

In early 2003, ABC offered P, a junior lawyer in its Nanaimo office, the opportunity to do DOJ work on terms similar to those applicable to the Courtenay lawyers. When P examined the Courtenay lawyers' time sheets in the course of assessing that offer, he discovered significant irregularities and alterations, many made in handwriting P recognized as Dennison's.

In June 2004 P confronted Dennison with his discovery, suggesting that the conduct he had uncovered was "effectively fraud." P later testified that Dennison replied, "You are effectively right." P then took the information on time sheet irregularities to C, who filed a complaint with the Law Society.

Forensic document examination identified Dennison's handwriting on many of the altered time sheets and confirmed that the effect of the alterations was to increase the amount of time recorded or to add entries for files that had not been recorded at all on the time sheets as submitted by the Courtenay lawyers.

Forensic accounting investigation determined that as a result of alterations to the Courtenay lawyers' time sheets between September 1, 2002 and November 30, 2003, ABC and later CDE over-billed the DOJ by \$277,000. Dennison received one-half of the profit earned on those billings, according to the testimony of C.

Dennison did not testify and was unrepresented at both the discipline and penalty hearings.

Verdict

The panel found Dennison guilty of professional misconduct. The panel stressed that on the facts of this case, it was not necessary to rely upon Dennison's failure to provide an explanation. The panel concluded the forensic evidence was "clear and convincing" that Dennison altered the Courtenay lawyers' time sheets upon which the false accounts to the DOJ were based, that he caused the false accounts to be submitted to the DOJ, and that he profited directly from the result.

Penalty

The panel described the conduct in this as being among the most serious types of breach that can be committed by a lawyer. The panel also stressed this case involved deliberate dishonesty, involving large sums of money over an extended period of time, without evidence of mitigating circumstances.

The panel ordered that Dennison be disbarred and pay costs of \$65,868.84.