

2007 : No. 5 December

## **Donald Craig King**

Nanaimo, BC

Called to the bar: May 17, 1996

**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 22) and November 22, 2007 (2007 LSBC 52)

**Counsel** : Jean Whittow, QC for the Law Society; no one appearing on behalf of Mr. King

*This digest should be read with the digest of the Shane Sidney Dennison discipline and penalty decisions (2007 LSBC 23 and 2007 LSBC 51)*

### **Facts**

In 1995 the Nanaimo law firm of 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 1996, Donald Craig King joined ABC as an employee or contractor. In February 1998 King was approved to perform legal work under the DOJ contract.

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. King continued as an employee 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 King's. In June 2004, P took his discovery to C, a senior partner of CDE, who filed a complaint with the Law Society.

Forensic document examination identified King's handwriting on 26 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.

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

The panel determined there was no evidence that King received direct financial benefit from the time sheet alterations, and no evidence indicating King's motive or purpose for participating in the alteration scheme. "Why Mr. King took part in this fraud is a question that cries out for explanation, yet Mr. King has chosen to remain silent," the panel said.

## **Verdict**

The panel found King guilty of professional misconduct, concluding the forensic evidence was “clear and convincing” that King knew or ought to have known the altered time sheets were being submitted to the DOJ for wrongful payment.

## **Penalty**

The panel described the conduct in this case 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 King be disbarred and pay costs of \$52,879.59.