

2008 : No. 1 March

Michael Murph Ranspot

West Vancouver, BC

Called to the bar: August 1, 1985

Discipline hearing : March 6 (facts and verdict) and November 22, 2007 (penalty)

Panel : David Renwick, QC, Chair, Robert Brun, QC and Thelma O'Grady

Report issued : June 12 (2007 LSBC 32) and December 18, 2007 (2007 LSBC 56)

Counsel : Maureen Boyd for the Law Society and Michael Ranspot appearing on his own behalf at the discipline hearing and Terrence Robertson, QC for the respondent at the penalty hearing

Facts

JO retained Michael Murph Ranspot to administer an estate in August 1990. The Public Guardian and Trustee of BC had possession of the estate and provided Ranspot with the original will in March 1993.

On August 4, 1993 Ranspot submitted an application for Letters of Administration with Will Annexed to the Probate Registry of the BC Supreme Court. It was rejected in part because the affidavit of the administrator did not include the reason for the delay in filing. Ranspot redrafted the application in February 1994, but did not submit it.

On January 14, 1997 the Law Society suspended Ranspot for 18 months commencing February 14, 1997. Before he transferred his files prior to his suspension, Ranspot advised the Law Society on February 13, 1997 that he did not have any wills in his possession. Ranspot did not inform JO or anyone connected with the estate that he would not be practising law for the period of his suspension.

On January 1, 1998 Ranspot ceased to be a member of the Law Society. He applied to be reinstated on October 2, 1998. One of the conditions of his return to practice was a practice supervision agreement, which he entered into on December 15, 2000. It required him to provide a written summary of all his open files. He did not include the estate file in the summary. Ranspot was readmitted to the Law Society on February 1, 2001.

On June 21, 2004 Ranspot provided the Law Society with a progress report with respect to his practice, which did not include the estate file. Days later the Practice Standards Committee accepted the progress report and relieved Ranspot of his practice restriction, which required him to have a practice supervisor.

R, of the Public Guardian and Trustee of BC, contacted Ranspot on June 30, 2004 and requested documents so the estate could be settled. Ranspot acknowledged to R that he had the estate file, but he asserted a solicitor's lien over it and refused to release it without a payment of \$2,000 for fees and disbursements.

On November 23, 2004 a beneficiary of the estate filed a complaint with the Law Society. More than 14 months later Ranspot released the original will to the Office of the Public Guardian and Trustee, which did not advise Ranspot that it had been charging a monthly estate liaison administration fee amounting to \$2,700.

On November 22, 2007 Ranspot provided oral evidence to the hearing panel that he had forgotten he had custody of the estate file until he received the phone call from the Office of Public Guardian and Trustee on June 30, 2004.

Verdict

Ranspot admitted he failed to provide JO with the quality of service at least equal to that which would be expected of a competent lawyer in a similar situation. He further admitted that his failure to do the work in a prompt manner resulted in the diminution of the estate by at least \$2,700. Ranspot acknowledged his failure to provide any service to JO from 2001 onwards was contrary to Chapter 3, Rules 3 and 5 of the *Professional Conduct Handbook* and is professional misconduct.

Ranspot admitted he further committed professional misconduct when he breached the terms of his practice supervision agreement by omitting the estate file from his written summary and his progress report.

Penalty

The panel accepted Ranspot's evidence that he had forgotten about the existence of the estate file during the relevant period. The panel was mindful that Ranspot's 18-month suspension was, in part, as a consequence of problems resulting from alcohol abuse and depression in the mid-1990s and that he had been attempting to rebuild his practice ever since. The panel said it made no sense to conceal the existence of the estate file, which represented legal work Ranspot could have performed for a fee; thus, they concluded Ranspot's earlier problems in the mid-1990s provided at least a partial explanation as to why he had forgotten the estate file existed.

The Panel said if it had concluded Ranspot had intentionally concealed the existence of the estate file from the Law Society then a suspension would have been appropriate. However, given that it was an unintentional error, the panel ordered that by December 31, 2008 Ranspot must:

1. pay a fine of \$5,000; and
2. pay costs of \$8,300.

In addition, Ranspot made an unconditional undertaking to reimburse the estate the amount of \$2,700.