

2008 : No. 1 March

Rodney John Strandberg

Fort St. John, BC

Called to the bar: June 12, 1987

Discipline hearing : January 22-24 (facts and verdict) and November 30, 2007 (penalty)

Panel : Bruce LeRose, QC, Chair, Gavin Hume, QC and Gerald Lecovin, QC

Report issued : April 11, 2007 (2007 LSBC 19) and January 28, 2008 (2008 LSBC 04)

Counsel : Gerald Cuttler for the Law Society and Jerome Ziskrout for the respondent

Facts

In 2006 the Law Society issued two citations against Rodney John Strandberg, charging him with a total of 11 counts of professional misconduct. The charges included failure to provide clients with competent service, failure to respond to a client's reasonable request for information, failure to do the work in hand in a prompt manner, misleading other lawyers and the Law Society (by misrepresentation and by forgery) and breach of an undertaking to the Law Society.

After Strandberg admitted nine of the charges, the panel heard evidence and submissions on the two remaining charges - breach of undertaking to the Law Society and misleading another lawyer.

Breach of undertaking to the Law Society

In October 2000 the Law Society conducted a practice review of Strandberg's legal practice, as ordered by the Practice Standards Committee under Rule 3-13. During that practice review, Strandberg agreed never to take another file in the areas of wills, estates and conveyancing. On March 1, 2001, Strandberg sent a fax to the Law Society, which stated, "I have no difficulty in undertaking not to practise in the areas of wills, estates and conveyancing."

Late in 2003 Strandberg represented B in negotiating a separation agreement with her husband, and in the sale of their home to a third party. Strandberg witnessed B's execution of a freehold transfer document, a direction to pay addressed to the purchaser's lawyer, and the vendor's statement of adjustments. Strandberg also exchanged letters with the purchaser's lawyer - forwarding executed copies of transfer documents and receiving cash to close - on the usual undertakings.

Strandberg acknowledged to the hearing panel that he had acted for B in a conveyance, but said he had not been practising law when he did so. Strandberg told the panel that while he charged his client B a fee for negotiating a separation agreement with her husband, he did not charge her a fee in the conveyancing matter. Strandberg testified, "I thought that if I didn't charge her and didn't expect to receive anything, it was almost like pro bono except I got money from her on the family side of things, that I wasn't engaged in the practice of law and that is why I did that."

Strandberg's counsel pointed out that the *Legal Profession Act* excludes from its definition of the "practice of law" "... any of those acts if not performed for or in the expectation of a fee, gain or reward, direct or indirect, from the person for whom the acts are performed."

Misleading another lawyer

On October 4, 2004, Strandberg served as duty counsel before the Fort St. John Provincial Court, representing L in a Controlled Drugs and Substances Act sentencing matter. Strandberg discussed plea and

sentencing issues with R (representing the provincial Crown) before the hearing. R said he thought a jail sentence of 21 to 30 days was appropriate. Strandberg asked R to consider an intermittent sentence on two grounds: first, because L would be able to retain his employment and, second, because "the federal Crown is only asking for a fine." R advised Strandberg that on that basis, the provincial Crown would not oppose an intermittent sentence.

Just before the L matter was called, C (acting for the federal Crown) informed R that there had been no agreement - or even discussion - between C and Strandberg regarding the federal Crown's sentencing position. Verdict

Verdict

On the charge of breach of undertaking, the panel noted B's evidence that, while she did not have the money to pay Strandberg's fees before selling her home, she would have the money when the home was sold. The panel determined that Strandberg had done B's conveyance in his own office - rather than referring the matter to an outside lawyer - to ensure he would retain control of the proceeds of the sale, and would therefore be able to pay his fees for negotiating the separation agreement from those proceeds.

The panel found that Strandberg's handling of B's conveyance provided him with a "gain" within the *Legal Profession Act's* definition of "practice of law," breached his undertaking to the Law Society and constituted professional misconduct.

On the charge of misleading another lawyer, the panel concluded that Strandberg was either "reckless" or "wilfully blind" in his conduct, and accordingly found him guilty.

Penalty

Counsel jointly submitted that the panel should penalize Strandberg in accord with his resignation and undertakings provided to the Law Society in a letter dated November 26, 2007, wherein he resigned as a member and undertook not to apply for reinstatement for a period of at least seven years from the date of the letter. Strandberg further undertook that any such application for reinstatement must be accompanied by a psychiatric report:

- confirming the counselling he has taken;
- providing an opinion that he is then fit to practise law; and
- stating any conditions that should be imposed on his practice if he is readmitted.

The panel accepted the joint submission of counsel and ordered that:

1. Strandberg pay costs of \$36,000; and
2. the panel's decision be published pursuant to Rule 4-38.