

2008 : No. 2 May

Donald Eric Linge

Victoria, BC

Called to the bar: July 13, 1977

Discipline hearing : February 14, 2008

Panel : G. Glen Ridgway, QC, Chair, Robert Brun, QC and Thelma O'Grady

Report issued : March 10, 2008 (2008 LSBC 07) and Corrigendum issued April 10, 2008 (2008 LSBC 12)

Counsel : Maureen Boyd for the Law Society and James Carfra, QC for Donald Eric Linge

Facts

In approximately 2000, a vendor retained Donald Eric Linge to act in a real estate transaction involving lots with an easement registered against them. During the closing procedure, Linge accepted a trust cheque on May 9, 2000 on his undertaking to discharge the easement against two of the three lots.

On approximately May 17, 2000 Linge submitted an application to the Land Title Office to discharge the easement from the properties. About six days later the Land Title Office issued a notice declining to register the discharge. Sometime in between the application and the notice declining it, Linge released the funds from trust.

Linge explained in a letter to the Law Society dated June 28, 2007 that he had been undergoing a marriage breakdown and financial difficulties for some time in the 1990s and that by 2000 and 2001 his life was essentially in chaos. His marriage had broken down and relations with his wife were so disruptive that his then partners wrote her a letter insisting that she not come to the office. He was also undergoing serious financial problems. In addition, after returning from a vacation in September 2001, he was effectively dismissed from the partnership and locked out of the premises.

On October 29, 2002 the lawyer from firm Y, who had put Linge on the undertaking, wrote to Linge regarding the discharge of the easement and requested that Linge "attend to this matter without delay." Following the letter, Linge spoke to the lawyer on at least two occasions in 2002 and said he was taking steps to discharge the easement.

In January 2007 another lawyer at firm Y contacted Linge regarding the discharge. The following month she made a complaint to the Law Society regarding Linge's failure to comply with his undertaking made on May 9, 2000. In May 2007 the Discipline Committee directed Linge to undergo a Practice Review. In June 2007 Linge retained a lawyer, at his own expense, to ensure the easement is discharged.

Admission and Penalty

While fully admitting his disbursement of funds without fulfilling his undertaking is professional misconduct, Linge told the panel that his failure to discharge the easement caused no hardship to any of the parties involved in the transaction. Linge further admitted that between late 2002 and February 2007 he took no significant steps to discharge the easement and fulfill the undertaking.

Under Rule 4-22, the panel accepted Linge's admissions and proposed penalty and ordered that he pay:

1. a fine of \$3,000; and
2. costs in the amount of \$2,000 with both being payable at \$1,000 per month, beginning April 1, 2008.

