

2008 : No. 4 - October

Jeffery-Emanuel Wittmann

Vancouver, BC

Called to the bar: December 15, 1995 (previously called in Ontario in 1992)

Discipline hearing : July 30, 2008

Panel : James Vilvang, QC, Chair, Joost Blom, QC, Leon Getz, QC

Report issued : August 6, 2008 (2008 LSBC 24)

Counsel : Maureen Boyd for the Law Society and Patrick Lewis for Jeffery-Emanuel Wittmann

Facts

In April 2001 Jeffery-Emanuel Wittmann was employed as an independent contractor for Company B. He provided legal services in exchange for a salary of at least \$4,000 per month. He issued bills to B that included GST and PST.

B paid Wittmann regularly for his services, including defined amounts of GST and PST until March 31, 2003 when he stopped working for B because of a change in company ownership. During that same period between 2001 and 2003 Wittmann was also providing services to other clients through Wittmann Law Corporation.

Sometime during 2002, Wittmann began experiencing personal financial difficulties and advised the Law Society that he declared bankruptcy on November 18, 2003. He applied for discharge two years later and was granted a conditional discharge from bankruptcy in November 2005.

On February 23, 2004 Wittmann filed a GST return for a period from January to November 2003 and remitted net tax owing in the amount he calculated as \$972.93. He failed to remit GST due to the Canada Revenue Agency in the total amount of \$21,528.28 and instead used those funds for his own purposes.

In May 2003 the CRA served a garnishing order upon Wittmann's then employer, but no funds were remitted because of the firm's view that the order was defective. Thus, the unpaid GST was subsumed as a debt within Wittmann's bankruptcy.

During that same timeframe that Wittmann worked for Company B he collected \$13,467.31 in PST from his clients, but failed to remit funds due to the provincial government. The unpaid PST debt was subsumed within Wittmann's bankruptcy.

Admission and Penalty

Wittmann admits that between April 2001 and March 2003 he collected GST and PST from his clients but failed to remit the funds due to the CRA and provincial government, as required by law. He further admits those failures are professional misconduct and are contrary to Chapter 2, Rule 2 of the *Professional Conduct Handbook*.

The panel accepted Wittmann's admission and proposed penalty under Rule 4-22, and ordered that by January 31, 2010 he pay:

1. a \$3,000 fine; and
2. costs of \$1,500.

