

2009 : No. 1 April

Trevors Bjurman

North Vancouver, BC

Called to the bar: May 14, 1976

Discipline hearing : November 20, 2008

Panel : Leon Getz, QC, Chair, Haydn Acheson and David Mossop, QC

Report issued : February 5, 2009 (2009 LSBC 05)

Counsel : Jaia Rai for the Law Society and Trevors Bjurman on his own behalf

Facts

On July 5, 2007 a citation was issued against Trevors Bjurman outlining three allegations of professional misconduct. The first and second allegations related to unauthorized disclosure of confidential client information without the client's consent, and the third concerned making a knowingly unfounded application to a judge to order the surrender of a party's passport. Bjurman admitted professional misconduct in connection with the first and third allegations and the Law Society elected not to proceed on the second allegation.

Disclosing client information without the client's consent

In August 2003, Bjurman was retained to represent property owner JP on a counterclaim filed by his tenants. The amount of the counterclaim exceeded the net equity in JP's property. In adjourning the trial of the counterclaim to January 2004, the judge made an Order respecting JP's property and the disposition of proceeds if the property was sold.

In July 2004, Bjurman was advised that JP was proceeding with the sale of his property and the funds would not be paid into Bjurman's trust account. This was in violation of the Order. Bjurman also became aware that no Certificate of Pending Litigation had been registered against the Property.

Bjurman submitted to the Land Title Office a caveat, dated August 11, 2004, for registration against JP's property. The caveat contained confidential information relating to JP, but his consent to disclosure of this information was not obtained. Bjurman stated that he filed the caveat to prevent JP from breaching the Order and being found in contempt, but acknowledged that it could also be perceived he was acting to protect his claim for legal fees.

JP terminated Bjurman's retainer on August 26, 2004.

Seeking an unsubstantiated order for the surrender of a passport

At a court hearing on October 4, 2004 in which Bjurman and his co-counsel applied to withdraw as counsel of record, Bjurman sought an order that JP surrender his passport on the basis that he was a potential flight risk. Bjurman did not, however, have any expectation that JP would leave the jurisdiction.

Admission and Penalty

Bjurman admitted that, in submitting the caveat for registration, he disclosed confidential information without consent and that suggesting an order for JP to surrender his passport, when he did not personally believe at the time that JP was a flight risk was, in each case, unprofessional conduct.

Pursuant to Law Society Rule 4-22, the hearing panel accepted Bjurman's admissions and ordered that he pay:

1. a fine of \$7,500; and

2. \$4,500 in costs.