

John Owen Richardson

Vancouver, BC

Called to the bar: May 15, 1972

Bench Review : October 17, 2008

Benchers : Glen Ridgway, QC, Chair, Joost Blom, QC, Kathryn Berge, QC, Leon Getz, QC, William Jackson, Barbara Levesque and Dr. Maelor Vallance

Report issued : February 11, 2009 (2009 LSBC 07)

Counsel : Maureen Boyd for the Law Society and Terrence Robertson, QC for John Owen Richardson

Background

In the decision of the hearing panel (reported in the March 2008 *Benchers' Bulletin*), John Owen Richardson was found guilty of professional misconduct for failing to honour the terms of an undertaking from opposing counsel in a matrimonial matter on behalf of their clients. The hearing panel ordered that Richardson pay a fine in the amount of \$2,500 and pay hearing panel costs in the amount of \$4,500.

On review, Richardson was seeking a reconsideration of some of the Facts found by the hearing panel, as well as its finding of professional misconduct. He did not seek a reconsideration of the Penalty imposed by the hearing panel, and no submissions were made on this subject. Richardson was adamant that in over 30 years of practising law, he had never breached any undertakings and that, in this case, opposing counsel had imposed an improper undertaking. It was suggested by Richardson that the hearing panel found that every breach of an undertaking constituted professional misconduct; the review panel disagrees that this can be concluded from that panel's decision.

Decision

The review panel stated that acceptance of Richardson's argument would mean that he was free to decide whether the undertaking was lawful by virtue of his own interpretation of his client's contractual rights. It was noted that Richardson did not attempt to resolve the issue regarding the trust funds or propose an amendment to the undertaking. The fact that a consequence of Richardson's breach of the trust condition was that he was able to pay his own account due from his client adds to the seriousness of the misconduct as it adds an element of conflict of interest.

The review panel confirmed that the hearing panel's decision was correct in fact and in law and ordered Richardson to pay:

1. a fine in the amount of \$2,500;
2. hearing costs in the amount of \$4,500; and
3. hearing review costs in an amount to be determined.