

2006 LSBC 33

Report issued: September 12, 2006

Oral Reasons: September 7, 2006

The Law Society of British Columbia
In the matter of the *Legal Profession Act*, SBC 1998, c.9
and a s. 39 proceeding concerning

Alan James Short

Respondent

Decision of Three Benchers

Proceeding date: September 7, 2006

Benchers: G. Glen Ridgway, QC, Chair, William Jackson, Dirk Sigalet, QC

Counsel for the Law Society: Jaia Rai

Counsel for the Respondent: James G. Carroll

[1] The Law Society seeks to have three Benchers suspend the Respondent. This is an application pursuant to section 39 of the *Legal Profession Act* and Rule 4-17(1) of the Law Society Rules.

[2] Rule 4-17(1) provides, in part:

If there has been a direction under Rule 4-13(1) to issue a citation, any three Benchers may do one or more of the following with or without notice to the respondent:

- (a) suspend the lawyer, if the three Benchers consider, on the balance of probabilities that the continued practice of the lawyer will be dangerous or harmful to the public or the lawyer's clients.

[3] The Respondent was called to the Bar in 1978. At the time of the conduct subject to this application, the Respondent was practising under an undertaking that he abstain from the consumption of alcohol.

[4] The complaint respecting the conduct of the Respondent relates to his appearance in Court under the influence of alcohol on June 27th, 2006.

[5] We heard evidence from Ms Gill, a Law Society staff member, the Respondent, and admitted an affidavit of Ms Fontaine. We admitted a Book of Documents but did not admit an affidavit of Sheriff Kearns included in that book, and admitted the Respondent's Professional Conduct Record.

[6] We heard and declined the Respondent's application for an adjournment.

[7] We further received submission from both counsel.

[8] The Respondent testified and admitted the breach of undertaking by the consumption of alcohol and his appearance in Court after drinking. While contesting the alleged symptomology in the excluded affidavit of Sheriff Kearns, the Respondent did admit similar alleged symptoms in the affidavit of Ms Fontaine, Crown Counsel.

[9] On the whole of the evidence, we agree that the Law Society has established, on the balance of probabilities, that allowing the Respondent to continue in the practice of law would be dangerous or harmful to the public or the Respondent's clients. Accordingly, we order the Respondent suspended, effective September 7th, 2006, until final disposition of the citation or further order pursuant to Rule 4-19.