

2009 : No. 3 Fall

Harold Garrett Power

Vancouver, BC

Called to the bar: November 19, 1999

Ceased membership: May 19, 2009

Disbarred: July 15, 2009

Discipline hearing : July 15, 2009

Panel : Glen Ridgway, QC, Chair, Leon Getz, QC and Herman Van Ommen

Oral decision on facts and verdict : July 15, 2009

Report issued : July 24, 2009 (2009 LSBC 23)

Counsel : Maureen Boyd for the Law Society and no one on behalf of Harold Garrett Power

Facts

A citation was issued on May 14, 2009 alleging Harold Garrett Power submitted false information on his Application for Enrolment in the Law Society Admission Program.

Power's legal name at birth was Harold Garrett Power. He was adopted and given the name Gary Joseph McGory; however, his adoptive parents did not change his name legally. Power learned of his true name in his 30s and subsequently used the name Power for some purposes and McGory for other purposes.

In May 1994, Power was arrested in Toronto under the name of Gary Joseph McGory and charged with five counts of obtaining, for consideration, the sexual services of a person under 18 years. He was committed to trial on three of those counts and was acquitted in 1998. At that time, he did not advise the police or Crown Counsel that his legal name was Harold Garrett Power.

In 1997, Power obtained his law degree at the University of Toronto and in 1998, applied to the Law Society of BC's admission program under the name Harold Garrett Power. On his application for enrolment, Power failed to disclose that he had previously used the name Gary Joseph McGory and that he had been charged in Ontario with criminal offences .

In 2007, Power was charged in BC with sexual exploitation of a minor under s. 153(1)(a) of the *Criminal Code*. As a result of those charges, the Law Society became aware that Power had previously used the name McGory and had previously been charged with criminal offences.

The Law Society wrote to Power asking to explain his failure to disclose the Ontario criminal charges and his prior use of the name McGory. After several exchanges of emails, Power stated that he had never been charged or convicted, nor had he used any other name.

In giving evidence at his trial in March 2009, Power admitted that he lied on the Law Society application form when he denied using any other name and when he declared he had never been charged or convicted of any offences under the *Criminal Code*.

Shortly after his conviction on the BC criminal charges, Power wrote to the Law Society to advise that effective immediately he was withdrawing as a member of the Law Society and ceasing the practice of law. On June 5, 2009 Power informed the Law Society that he did not intend to contest the citation and stated that, since he had already resigned from the Law Society, he didn't see the point of any hearings.

Power did not appear at the scheduled hearing on July 15, 2009; however, the panel decided to proceed in his absence.

Verdict

The panel found that Power knowingly and intentionally failed to disclose information about his past. Power further aggravated the situation by lying to the Law Society on three occasions during its 2008 investigation into the 1994 criminal charges and Power's previous use of another name. These facts, coupled with his lack of remorse, led the hearing panel to find Power guilty of conduct unbecoming of a lawyer.

Penalty

Although it may appear odd that a panel may suspend or disbar a non-member, the *Legal Profession Act* requires that it be done if that is the appropriate penalty. The panel decided to impose the penalty that would be appropriate if Power were still a member.

Power lied in order to conceal his true identity, which prevented the Law Society from conducting a background check with respect to character, especially a criminal records check. The panel had no evidence that Power understood and acknowledged his wrongful conduct and, as a result, that he could rehabilitate himself such that there would likely be no reoccurrence of dishonest conduct. Additionally, the aggravating factor of Power lying to the Law Society on three separate occasions about his initial falsehood was significant.

The panel ordered that Power:

1. be disbarred; and
2. pay costs of \$5,000.