

2009 : No. 3 Fall

Bradley Darryl Tak

Port Moody, BC

Called to the bar: February 15, 1991

Discipline hearing : July 21, 2009

Panel : Bruce LeRose QC, Chair, Dr. Maelor Vallance and Herman Van Ommen

Report issued : September 2, 2009 (2009 LSBC 25)

Counsel : Eric Wredenhagen for the Law Society and Bradley Tak on his own behalf

Facts

On August 19, 2008, the Law Society wrote to Bradley Darryl Tak inquiring about his failure to report certain judgments to the Law Society within seven days of the date of entry of those judgments. It appeared those judgments remained unsatisfied, contrary to Law Society Rule 3-44(1).

Tak left a voicemail message on September 2, 2008 asking for additional time to respond to the letter. The Law Society issued follow-up letters dated September 29, November 3 and December 3. The December 3 letter advised Tak that failure to respond would result in the matter being referred to the Professional Conduct department.

Receiving no response, the file was referred to Professional Conduct in January 2009. An investigator telephoned Tak on January 13, leaving a voicemail message asking him to respond. He did not respond to that voicemail and the investigator wrote to Tak on January 22, requesting a response by no later than February 5.

The investigator left a second voicemail message for Tak on February 6, and also wrote a letter that same day. In that letter, the investigator advised Tak that failure to respond by February 11 would result in the matter being referred to the Discipline Committee with a recommendation that a citation be issued.

Tak responded with a letter dated February 11, however he did not answer the investigator's questions completely and issues were raised that required follow-up. On February 12, the investigator wrote to Tak asking for clarification of specified matters and answers to additional questions by February 26.

After a further exchange of voicemails, Tak provided a second response on March 5. Again, his response was substantive, but left questions open that required follow-up.

The Law Society investigator wrote to Tak on March 19, asking additional follow-up questions. He did not respond, despite the issuance of a citation. As of the date of the hearing, Tak had still not provided answers to the questions raised by the investigator in the March 19 letter.

Tak admitted that he failed to respond to correspondence from the Law Society. He explained that time pressures brought on by his busy practice and health problems suffered by members of his family were the reasons for his failure. Tak did not suggest that these circumstances excused his conduct.

Verdict

Chapter 13, Rule 3 of the *Professional Conduct Handbook* obligates lawyers to reply promptly to any communication from the Law Society. A lawyer's failure to respond impairs the Society's ability to govern its members effectively. As such, failing to respond is a grave matter.

The panel found Tak guilty of professional misconduct for failing to respond to the Law Society

correspondence of March 19, 2009.

Penalty

The Panel ordered that Tak:

1. pay a fine of \$2,000 and costs of a further \$2,000 within four months of the date of the hearing;
2. provide a substantive response to the March 19, 2009 letter from the Law Society within 21 days of the hearing; and
3. provide a substantive response to any further communications with the Law Society arising out of the March 19, 2009 letter within 21 days of receiving them.