

2010 : No. 2 Summer

David William Blinkhorn

Richmond, BC

Called to the bar: May 19, 1989

Ceased membership: January 1, 2007

Disbarred: April 21, 2010

Discipline hearing : May 12, 2009 and April 12, 2010

Panel : Leon Getz, QC, Chair, Haydn Acheson and Herman Van Ommen

Report issued : August 12, 2009 (2009 LSBC 24) and April 21, 2010 (2010 LSBC 08)

Counsel : Jaia Rai for the Law Society; no one on behalf of David William Blinkhorn (facts and verdict) and David William Blinkhorn on his own behalf (penalty)

Facts

In two agreed statements of fact, David William Blinkhorn admitted that he:

- misappropriated trust funds;
- breached undertakings to hold funds in trust;
- misled a client on the status of her case;
- misled the Law Society by stating that he had paid the account of another lawyer when he had not done so; and
- breached a variety of Law Society rules relating to trust accounting records.

Between 1999 and 2006, Blinkhorn stole and lied repeatedly and did not keep any records of any kind. In giving evidence at his penalty hearing, he said that he did not know whether the misappropriated sums in the agreed statements of fact were accurate because the only records he had were retrospective reconstructions.

At the hearing, Blinkhorn candidly said several times that he was not currently capable of practising law. The central theme of his representations, both as a witness and as counsel on his own behalf, was that his conduct was the product of acute depression and melancholy that had caused him to make "very bad decisions." His explanations, however, amounted largely to a self-diagnosis, and he did not provide an independent professional opinion as evidence to support that he was under treatment.

Blinkhorn has not practised as a lawyer since May 2006 when he was suspended for failure to file a completed Trust Report for the period ending November 30, 2005.

Verdict

Blinkhorn admitted that his conduct constituted professional misconduct. The panel found that the conduct showed "a marked departure from the standard of conduct the Law Society expects of its members" and accepted the admission. The panel further found that he breached the Law Society Rules in failing to keep proper trust accounting records.

Penalty

The panel determined that Blinkhorn's explanations for his conduct did not meet the test of being compelling evidence of extraordinary mitigating circumstances sufficient to satisfy the panel that the protection of the public interest and reputation of the profession do not require disbarment. He admitted that he knew what he was doing when he did it and that he knew that it was wrong. The panel concluded that, by

any objective measure, his conduct was disgraceful and dishonourable.

The panel ordered that Blinkhorn:

1. be disbarred; and
2. pay \$37,000 in costs.