

2010 : No. 2 Summer

Fiesal Ebrahim

Vancouver, BC

Called to the bar: May 21, 2003

Discipline hearing : March 25, 2010

Panel : Gavin Hume, QC, Chair, Bruce LeRose, QC and Thelma O'Grady

Report issued : May 18, 2010 (2010 LSBC 14)

Counsel : Eric Wredenhagen for the Law Society and Richard Fernyhough for Fiesal Ebrahim

Facts

In April 2008, Fiesal Ebrahim, a sole practitioner, acted for two clients with respect to their purchase of three residential strata lots that were being developed. The clients purchased one of these lots as an investment property, which they were planning to "flip." When the developer went into receivership, the clients decided to assign their right to purchase this investment property lot to a third party, a person who was well known to them.

The third party was unrepresented and, between June and October 2008, paid deposits totalling \$280,500 to Ebrahim's trust account. Two days before the scheduled closing in November 2008, the receiver granted the clients an extension of the completion date for all three lots on the condition that the deposit on each lot would be increased.

The clients instructed Ebrahim to take the additional deposit for their two lots out of the funds in the trust account. At that time, his clients did not have funds in trust. On advice from one of his clients, he believed that the third party was agreeable to his funds being used in this manner. The third party, however, was unaware that his trust funds were being paid out to the receiver to the credit of Ebrahim's clients.

Ebrahim failed to advise the third party, an unrepresented person, that he was not protecting his interests in the transaction. He also committed a breach of trust by improperly applying trust funds provided to him by the third party for the benefit of his clients' purchase of the two lots in which the third party had no interest.

The panel found no evidence that Ebrahim acted with dishonest intent with respect to the trust funds, nor any suggestion that he benefited or stood to benefit personally from any of the breaches that occurred. The panel took into consideration that he had only practised law for five years and had no prior discipline record. When he realized his mistakes, he took immediate steps to rectify them and reported himself to the Law Society. He has since taken a conflicts course and the Sole Practitioner course, upgraded his software, and arranged for a senior practitioner to mentor him.

Admission and Penalty

Ebrahim admitted that his conduct amounted to professional misconduct. The panel accepted his admission and ordered that he pay:

1. a \$3,000 fine; and
2. \$1,500 in costs.