

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

Ragbir Singh Basi

Respondent

**Decision of the Hearing Panel
on Facts and Verdict**

Hearing date: September 8, 2005

Panel: Ralston S. Alexander, Q.C., Chair, Robert C. Brun, Q.C., Richard S. Margetts, Q.C.

Counsel for the Law Society: Todd Follett

No-one Appearing on behalf of the Respondent:

[1] The citation alleges, inter alia, that the Respondent has professionally misconducted himself by failing to respond promptly to letters from the Law Society of British Columbia. The Schedule to the citation sets out, with some particularity, correspondence forwarded to the Respondent between November, 2004, and April, 2005, respecting two client complaints and enquiring into a third matter that had come to the Law Society's attention during the course of its investigation into matters arising out of the Respondent's practice.

[2] The citation was issued June 29, 2005, and delivered by registered mail to [address], Victoria. The Panel first considered whether the Respondent had been properly served. Rule 4-15(1) of the Law Society Rules provides:

4-15 (1) A citation must be served on the respondent

(a) personally, or by mailing it by registered mail to the respondent's last known address,

(b) not more than 90 days after the direction that it be issued, unless the Discipline Committee otherwise directs, and

(c) not less than 30 days before the date set for the hearing, unless the respondent consents in writing to a shorter period.

[3] Michelle Robertson, the Hearing Administrator, was called to give evidence with respect to the issue of service.

[4] She testified that [address], Victoria, B.C. was the last known (and home) address for the Respondent. She advised that at some point she had received a note from Ms. Jean Whittow, Q.C. to the effect that Mr. Basi should be contacted care of his home address. Further, we note that, to the extent that the Respondent has responded to correspondence from the Law Society with respect to the citation, a letter sent by him to the Law Society on or about the 17 th of February, 2005, showed his address at [address], Victoria, B.C.

[5] Ms. Robertson gave evidence to the effect that [address], Victoria, B.C. was the last known address of

the Respondent to the knowledge of the Law Society. The Panel accepted Ms. Robertson's evidence and has concluded that service was effected within the parameters of Rule 4-15(1).

[6] After an initial adjournment to permit the Respondent additional time to appear, and noting that the Respondent had not appeared, the Panel determined that as it was satisfied that the Respondent had been served with the Citation and was aware of the hearing date, that it would proceed to hear the matter in the absence of the Respondent as is permitted by Section 42(2) of the *Legal Profession Act*.

[7] The evidence of Jim Dent, a member of the Law Society's Professional Conduct Department, was to the effect that he had written the Respondent on numerous occasions with respect to the three matters previously identified. Over that period of time, Mr. Dent had written approximately ten letters to the Respondent requesting a substantive response to the various complaints into which the Law Society was inquiring into. While the Respondent had responded by way of letter in December, 2004, and February, 2005, those responses were not responsive and either requested additional time within which to make a reply to the Law Society's concerns or advised that he was in the process of preparing a response.

[8] Despite the foregoing, and Mr. Dent's repeated requests thereafter, no such reply has been forthcoming from the Respondent.

[9] The Panel had the benefit of reviewing a number of decisions respecting similar conduct. We believe we need go no further than to set out part of the decision of the Benchers in *Re: John Wilson Dobbin*, Discipline Case Digest 00/7, wherein the majority said:

"The duty to reply to communications from the Law Society is in yet another category. While it is true that the duty to reply is only found explicitly set out in Chapter 13, Rule 3 of the Professional Conduct Handbook, it is a cornerstone of our independent, self-governing profession. If the Law Society cannot count on prompt, candid and complete replies by Members to its communications, it will be unable to uphold and protect the public interest, which is the Law Society's paramount duty. The duty to reply to communications from the Law Society is at the heart of the Law Society's regulation of the practice of law and it is essential to the Law Society's mandate to uphold and protect the interests of its members. If members could ignore communications from the Law Society, the profession would not be governed, but would be in a state of anarchy."

[10] We fully and wholeheartedly endorse that statement.

[11] The Panel is satisfied that abundant opportunity was provided the Respondent to respond to the Law Society's correspondence.

[12] The Panel notes that neither of the Respondent's responses to the Law Society addressed the substantive concerns raised by the Law Society in their letters to him. A reply to Law Society communications must be responsive and address the issues and concerns raised. In other words, the response of a member to a Law Society communication must be complete and candid. It is clear that the Respondent has failed to communicate with the Law Society in any responsive or appropriately professional manner.

[13] In *Dobbin*, the Benchers went on to hold that the failure to respond to a communication from the Law Society amounted to professional misconduct.

[14] We note that as a result of the Respondent's failure to attend the hearing no evidence was tendered to provide an explanation for his failure to respond in a responsive and timely fashion to the concerns raised by the Complaints Officer. We do not understand there to be any substantive explanation for the

Respondent's failure to respond. Accordingly, in the circumstances, the Panel holds that the Respondent is guilty of professional misconduct in respect of the various counts particularized in the citation to this matter.