

2011 LSBC 20

Report issued: July 26, 2011

Citation issued: July 20, 2010

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

Christopher John Van Twest

Respondent

**Decision of the Hearing Panel
on Disciplinary Action**

Written Submissions

Panel: G. Glen Ridgway, QC, Chair, Alan Ross, Kenneth Walker

Counsel for the Law Society: Maureen Boyd

Counsel for the Respondent: Ian Aikenhead, QC

Background

[1] The facts and determination are set out in our decision issued March 10, 2011 (2011 LSBC 09).

[2] The Respondent was found to have breached the Law Society Rules in relation to two allegations set out in the citation. Specifically, the Respondent accepted cash in an amount of \$7,500 or more in relation to one client matter or transaction. Further, in his Trust Report for the period ending December 31, 2008, he represented to the Law Society that his practice had not received, in respect of a client matter or transaction, an aggregate amount of \$7,500 or more.

SUBMISSIONS OF THE PARTIES

[3] Counsel for the Law Society submits that the appropriate disciplinary action in respect of the Respondent's actions would be a fine in the amount of \$3,000 plus costs in the amount of \$1,000.

[4] The Respondent submits that the appropriate disciplinary action would be a fine in the amount of \$2,000 plus costs in the amount of \$1,000.

DECISION ON DISCIPLINARY ACTION

[5] The difference in submissions between the Law Society and the Respondent is not significant. We have decided that the appropriate disciplinary action will be a fine in the amount of \$2,000, payable on or before October 31, 2011, plus costs in the amount of \$1,000 payable on or before October 31, 2011.

REASONING

[6] We have taken into account the generally accepted factors to be considered in assessing penalty as set

out in *Law Society of BC v. Ogilvie*, [1999] LSBC 17.

[7] As discussed in our decision on Facts and Determination, there was no intent to breach either of the Rules, nor an attempt to skirt the administrative processes of the Law Society by the Respondent. Having said that, the No-Cash Rule and the Trust Reporting requirements upon lawyers are extremely important in order for the Law Society to continue to regulate the legal profession in the public interest. As a result, we believe the fine is warranted.

ORDER

[8] We order that the Respondent pay on or before October 31, 2011:

- (a) a fine in the amount of \$2,000; and
- (b) costs of \$1,000.