

2011 : No. 3 Fall

Edward Earle Bowes

Vancouver, BC

Called to the bar: May 14, 1976

**Discipline hearing** : March 23, 2011

**Panel** : David Renwick, QC, Chair, David Crossin, QC and Gregory Petrisor

**Report issued** : June 6, 2011 (2011 LSBC 15)

**Counsel** : Lindsay MacDonald, QC for the Law Society and Henry Wood, QC for Edward Earle Bowes

## Facts

Edward Earle Bowes acted on a part-time basis as in-house corporate counsel for a group of companies. A dispute between the majority shareholder and the minority shareholder in those companies led to an oppression proceeding commenced by the minority shareholder in the Supreme Court of BC against the corporations and the majority shareholder.

Bowes entered an initial appearance to the action on behalf of “all corporate respondents” in the oppression action. The minority shareholder’s counsel served a notice of motion seeking a declaration that Bowes be disqualified and cease to be solicitor of record for the corporate respondents.

Although Bowes denied that he was in a conflict of interest, he agreed to withdraw. He provided the undertaking that “neither I nor anyone in my firm will act on behalf of any of the parties in this proceeding.” However, Bowes continued to provide legal services and advice related to the litigation to the corporate defendants and the majority shareholder, including preparing affidavits and engaging in discussions regarding settlement proposals.

## Admission and disciplinary action

In Bowes’ mind at the time, there was a difference between simply acting for the majority shareholder and the corporations, and acting “in the proceeding” as counsel. The panel found that such a misunderstanding was troubling, given that, clearly, the motion that was filed and the undertaking were intended to avoid Bowes acting in a conflict of interest situation. By continuing to act, even if not as counsel of record, and even if “behind the scenes” in essence, Bowes illustrated a profound lack of appreciation of the basis upon which the undertaking was sought, and of the gravity of adhering to his undertaking.

Of further concern to the panel was the fact that the breach of undertaking was an ongoing breach that occurred over a period of time, rather than a single isolated error in judgment.

Upon reflection, Bowes admitted that he breached his undertaking and that his actions constituted professional misconduct.

The panel accepted Bowes’ admission and ordered that he pay:

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

