

2011 : No. 4 Winter

Douglas Warren Welder

Kelowna, BC

Called to the bar: May 12, 1981

**Disciplinary action hearing :** By written submissions

**Panel :** Leon Getz, QC, Chair, Robert Brun, QC and Alan Ross

**Report issued :** August 30, 2011 (2011 LSBC 25)

**Counsel :** Maureen Boyd for the Law Society and Douglas Warren Welder on his own behalf

## Background

In the decision of the hearing panel and the Benchers on review (facts and verdict: 2010 LSBC 05; Bencher review: 2011 LSBC 06; discipline digest: Spring 2011 Benchers' Bulletin), Douglas Warren Welder was found to have committed professional misconduct for: 1) failing to respond to questions from the Law Society, and 2) not responding to a Law Society request for details of trust and general accounts.

The Benchers referred the second matter back to the hearing panel to consider submissions on proposed disciplinary action from the Law Society and Welder. Welder provided his written submissions well after the date directed by the panel.

## Disciplinary Action

Welder contended that his conduct was serious and that, because he saw this incident as a "one-off" event, there was no need for any "remediation." The panel concluded that Welder did not acknowledge his own misconduct and noted that earlier attempts at remediation had been unsuccessful and there were no mitigating circumstances. This was but the latest in a continuing pattern of misconduct.

Welder submitted that the Law Society's proposed disciplinary action of a suspension would be very severe given the fact that he was a sole practitioner. The panel noted that Welder had been suspended twice in the past and that it was completely within his power to have cooperated with the Law Society's audit and investigation.

The panel found that Welder's grave conduct, both during the audit and the later investigation, demonstrated a deliberate and prolonged failure or refusal to cooperate with the Law Society's investigators. The Law Society was forced to expend significant resources pursuing an investigation instead of completing an audit that should have been straightforward.

The panel ordered that Welder:

1. be suspended for 45 days; and
2. pay \$3,000 in costs.