

2011 : No. 4 Winter

Allan Edward Lester

Burnaby, BC

Called to the bar: July 12, 1983

Discipline hearing : July 28, 2011

Panel : Joost Blom, QC, Chair, Patricia Bond and Peter Lloyd

Report issued : September 14, 2011 (2011 LSBC 28)

Counsel : Carolyn Gulabsingh for the Law Society and no one appearing on behalf of Allan Edward Lester

Facts

Operating a trust account while insolvent

Allan Edward Lester made an assignment in bankruptcy in December 2008 and advised the Law Society by letter in April 2009. Law Society Rule 3-45 sets out the financial responsibilities of an insolvent lawyer. In this case, there was evidence of more than 200 transactions in Lester's pooled trust accounts between May 2009 and September 2010. All of the transactions were effected during his insolvency without the approval of the Law Society and without a second signatory, in contravention of the rule.

The Law Society communicated extensively with Lester concerning his obligations, including a direct discussion upon completion of an October 2010 compliance audit summary report. Lester acknowledged in correspondence with the Law Society that he operated a trust account while insolvent and he continued to do so after being specifically informed that it was in contravention of Law Society rules.

Operating a trust account while suspended

Lester was administratively suspended from practice for failure to file a trust report for the period ending December 31, 2009. He was served with notice of the suspension on June 1, 2010.

On June 8, 2010, Lester was advised by the Law Society that he could not practise law while suspended and was precluded from dealing with any trust funds. He was reinstated to membership on September 13, 2010.

While suspended from practice, Lester personally signed trust cheques on five occasions. He admitted to the Law Society that he signed trust cheques while he was not a practising lawyer, and the evidence showed that he was at all relevant times aware of the Law Society rules.

Determination

At the time of the hearing, Lester was suspended from practice for failing to file a trust report. On the morning of the hearing, he left a message that he was ill and would not be in attendance and requested a copy of the panel's decision.

The panel determined that a finding of professional misconduct was warranted because Lester's breaches

of the rules continued over an extended period of time during which he was repeatedly reminded of the rules.

Disciplinary Action

The panel ordered that Lester:

1. be reprimanded;
2. comply with Law Society Rules 3-45(4) and 3-56(2)(c);
3. provide monthly to the Law Society certain accounting records; and
4. pay \$1,500 in costs.