

2005 LSBC 32

Report issued: July 27, 2005

Oral Reasons: May 17, 2005

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

George Edward Davis

Applicant

**Decision of the Hearing Panel
on Application for Reinstatement**

Hearing date: May 17, 2005

Panel: Anne Wallace, Q.C., Single Bencher Panel

Counsel for the Law Society: Henry Wood

Counsel for the Respondent: Derek Brindle, Q.C.

[1] This hearing was convened following the Applicant's failure to renew his practice certificate in 2004 and a subsequent referral from the Credentials Committee when it reviewed the reinstatement application. In 2004 when payment of his fees was due, there was an open investigation regarding a matter in which the Applicant was named as a Defendant. Subsequently, the Applicant was found by the court to have committed a fraudulent conveyance (*Chan and Chan v Stanwood, Stanwood, Davis et al.*, 2001 BCSC 378) That finding was upheld in the Court of Appeal (2002 BCCA 474).

[2] The Applicant is 64 years of age and has two children. Prior to the lapse of his practicing certificate, he had practiced in British Columbia for well over thirty years. He became an expert in the area of bankruptcy and insolvency law and became much sought after as a panelist and presenter at numerous educational and business sessions. He was a consultant to the Federal Government on occasion.

[3] The Panel heard a great deal of evidence about the matter in which the Applicant was a defendant. This is a very complex and discreet area of law and the Applicant's actions have already been the subject of two judgments. The Panel does not feel it necessary to reconsider those facts. The sole question for this Panel is whether the Applicant is, in considering not just that fact pattern but on all the evidence presented, qualified to be reinstated to Law Society of British Columbia. The substantive issues of law are not the primary issue here. I accept counsel's submission that the " correctness" of the Applicant's actions is secondary to the issue of his honesty and integrity.

[4] The onus is on the Applicant at this hearing to satisfy the Panel, on the balance of probabilities, that he is of good character and repute and fit to be a member of the Law Society of British Columbia, pursuant to section 19(1) of the *Legal Profession Act*. In his book of authorities and materials, the Applicant included the often-quoted article written by Mary Southin, Q.C. (as she then was) in the Advocate in 1997, Volume 35, found at Tab 4, as well as many cases which consider the criteria for admission. Essentially all of the cases state that it is the Applicant's honesty, integrity and moral fibre which must be assessed.

[5] The Applicant filed a book of seven impressive letters of reference written by senior members of the bar, all leading B.C. counsel in the area in which the Applicant practiced. They have all had considerable experience dealing with the Applicant, professionally and personally, over many years.

[6] With respect to fitness to practice, these lawyers described the Applicant as an extremely capable and admired lawyer in this area of the law. With regard to his character, all of them spoke glowingly of the Applicant, variously describing him as "honourable", "a person of integrity and honesty", "honest, forthright and displaying the ethics one would expect of a member of the profession", "intellectually honest, trustworthy and ethical" "forthright and without guile" and "a legal practitioner with the highest integrity, ethical standards and character . . . (who he) unhesitatingly and unreservedly supports". One reference addressed at some length the mentoring role that the Applicant had fulfilled for him and indicated that he hoped that he in turn would be able to provide the same positive modeling for others that he had experienced from the Applicant. The Panel has no doubt that the reputation of the applicant exceeds the threshold test.

[7] Mr. Davis testified on his own behalf. He spent a great deal of time and effort explaining why he took the actions he did with respect to his clients. He did so in an open and honest manner. He told the Panel that the decision in the *Stanwood* case came as a great surprise to him. He had practiced in this manner for many years without complaint. In turn, Counsel for the Law Society, indicated that the actions the Applicant took in this case were not unprecedented. Furthermore, there was nothing in the reasons for Judgment of the Court that finds that the Applicant was dishonest or untruthful.

[8] Mr. Davis testified that having his ability to practice law was a matter of pride for him. He indicated he would like to practice some law on a pro bono basis and feels he can contribute to the law in the future. The Panel accepts that the Applicant is being honest in these statements and as such, is a person who is an asset to the legal community and the community at large.

[9] On the basis of all these factors, the Panel holds that the Applicant is of good character and repute and fit to be a barrister and solicitor in British Columbia. Accordingly, his application for reinstatement is granted, however with the following restrictions:

1. The undertaking previously given by Mr. Davis shall remain in effect, which is that if Mr. Davis intends to set up a private practice, he undertakes to first get the approval of the Law Society of B.C.
2. Mr. Davis will not advise on any insolvency or estate planning matters except to his direct family or for companies or corporations in which he is a Director unless he gets the prior approval of the Law Society.
3. He shall pay the reinstatement fee.
4. He shall pay the costs of this hearing at the amount agreed upon between Counsel for the Law Society and the Applicant, provided that if the parties can not agree, a hearing may be convened to establish that amount.