

2013 : No. 02 Summer

William Ralph Southward

Victoria, BC

Called to the bar: September 13, 1973

Retired membership : December 31, 2011

Ceased membership : January 1, 2013

Admission accepted by Discipline Committee: May 9, 2013

Counsel : Carolyn Gulabsingh for the Law Society; Henry Wood, QC for William Ralph Southward

Facts

On December 17, 2010, William Ralph Southward was retained by a client to obtain a committee of the person of his mother. The mother and sister of Southward's client owned a condominium together in joint tenancy.

On March 11, 2011, Southward filed a petition seeking an order appointing his client as the committee of the person and the estate of his mother.

On April 4, Southward's assistant received a call from the client stating that he was not particularly interested in obtaining a committee of the person of his mother, but he understood he needed to obtain this to sell the condo. Southward later spoke to his client who agreed to pursue the application for committee of the person.

On May 24, Southward received a letter from the lawyer representing his client's sister setting out the terms under which the sister would consent to the committee application. Southward's client did not accept these terms.

On June 1, Southward wrote to the sister's lawyer and the Public Guardian and Trustee and advised that, because the mother had been admitted to hospital and her health was deteriorating, he would proceed with an application to have his client appointed as the committee of the person only.

The client's sister was opposed to her brother being appointed as committee of the estate of their mother, but was not opposed to him being appointed as committee of the person of their mother. On June 1, 2011, Southward stated in a letter to the sister's lawyer that he was applying for an order for committee of the person only. As a result, the sister instructed her lawyer not to attend the hearing.

On June 9, the court made an order for Southward's client to be appointed as committee of the person of his mother.

Southward drafted the order and submitted it for entry. The entered order contained ambiguous terms as one clause contained wording granting committee of the estate and person and a second clause adjourned generally the application for committee of the estate.

On June 28, Southward instructed his legal assistant to make an application to sever the joint tenancy of the condo and to submit a copy of the order with the application. The assistant expressed her concern in using the order to sever the joint tenancy because the order was for committee "of the person" and not for committee "of the estate." Southward instructed his assistant to proceed with the application, despite her concern.

On June 30, Southward wrote to the sister's lawyer in response to her settlement proposal but did not mention that the joint tenancy of the condo was being severed.

On July 4, the joint tenancy of the condo was severed.

On September 8, the client's mother passed away. On September 13, the sister applied to the Land Title Office to have the condo transferred to herself as sole owner and discovered that the joint tenancy had been severed. The sister then made a complaint to the Law Society.

In November, Southward attempted to rectify the situation; however, the Land Title Office refused to reverse the severance of the joint tenancy.

On December 30, Southward filed an application to the court to have the condo transferred into the sister's name. In support of the application, he swore an affidavit stating that he had applied to sever the joint tenancy in error.

On January 5, 2012, the court granted an order transferring the mother's interest in the condo to the sister by consent.

admission

Southward admitted that, in the course of representing his client regarding the committee'ship of his mother, he engaged in questionable conduct that cast doubt on his professional integrity and was in breach of the *Professional Conduct Handbook* rules.

Under Rule 4-21, the Discipline Committee accepted Southward's admission on his undertakings:

1. not to apply for reinstatement to the Law Society until released of this condition by the Discipline Committee;
2. not to apply for membership in any other law society without first advising the Law Society of BC; and
3. not to permit his name to appear on the letterhead of any lawyer or law firm or otherwise work in any capacity whatsoever for any lawyer or law firm in BC, without the prior written consent of the Law Society.