

2014 : No. 01 Spring

Jeffrey Robert Arndt

Duncan, BC

Called to the bar: May 14, 1979

**Discipline hearing** : May 28, 2013

**Panel** : Gregory Petrisor, Chair, Carol Hickman, QC and Graeme Roberts

**Decision issued** : December 20, 2013 (2013 LSBC 38)

**Counsel** : Alison Kirby for the Law Society; Richard Margetts, QC for Jeffrey Robert Arndt

## Facts

Jeffrey Robert Arndt failed to file income tax returns for the years 1996 through 2002. The Canada Customs and Revenue Agency (CCRA) estimated that Arndt owed \$360,000 to \$500,000 in unpaid taxes. Arndt was charged in October 2001 with eight counts of failing to comply with the Income Tax Act, and his personal and law corporation's general bank accounts were garnished between 2001 and 2004.

In March 2002, Arndt was retained by a client in criminal proceedings. Arndt agreed to provide legal services and receive payment in cash as an "off the books" transaction. This would avoid any PST and GST owed for the services, including the amount in income on Arndt's personal or law corporation's income tax filings, and collection proceedings brought by the CCRA.

In early November 2002, Arndt accepted \$2,500 in cash from the client. He acknowledged receipt of the funds on the back of a business card. He did not deposit the funds into a pooled trust account, but placed the cash in a desk drawer. He did not record the transaction in his trust account records, on a separate client trust ledger, or in his general account records.

On November 8, 2002, Arndt attended a preliminary inquiry on behalf of the client and billed the client \$2,500. The statement of account acknowledged the \$2,500 as paid. Arndt maintained it was only after he rendered his bill that he used the funds to pay personal and business expenses. He did not bill, collect or remit GST or PST and did not report the \$2,500 as income for tax purposes.

On January 16, 2003, Arndt pleaded guilty to two of the CCRA charges against him. In May 2003, he was served with a writ of seizure and sale for assets of his law corporation and was also served with attachment orders for bank accounts of his law corporation. That same month, Arndt informed the Law Society of his financial difficulties.

In May 2003, Arndt and his client negotiated a flat fee of \$10,000 for services in connection with a criminal trial and sentencing.

On May 31, Arndt filed for bankruptcy. In August, he filed estimated income tax returns for the years 1996 to 2002.

On October 23, Arndt accepted \$10,000 cash from the client in the same manner as the \$2,500 cash payment.

On October 27, Arndt negotiated a plea bargain on behalf of the client. On October 28, Arndt billed the client a flat fee of \$10,000 for services rendered. The statement of account acknowledged the \$10,000 as having been paid and, again, he did not bill, collect or remit GST or PST and did not report the \$10,000 as income

for tax purposes.

In December 2003, Arndt made a proposal of insolvency to CCRA, which was approved by the court. In April 2004, Arndt pleaded guilty to the remaining six charges brought against him under the *Income Tax Act*.

From May 2004 to May 2009, Arndt provided various legal services to his client in six separate matters without rendering a bill to the client to avoid a review of the “off the books” transactions from 2002 and 2003.

In October 2011, Arndt’s client made a complaint to the Law Society. In the course of the investigation, Arndt raised the “off the books” transactions, which would not have otherwise come to the attention of the Law Society.

## Admission and disciplinary action

Arndt failed to follow the rules regarding the handling of funds and the recording of transactions. By participating in “off the books” transactions to avoid tax consequences and collection efforts, he also engaged in dishonourable conduct that cast doubt on his integrity. Arndt admitted that his conduct amounted to professional misconduct.

The panel considered some aggravating factors. Arndt is a senior lawyer. His misconduct occurred in two separate transactions and involved multiple breaches of tax laws and Law Society rules. He engaged in the misconduct for personal gain, to avoid tax reporting and payment as well as to avoid collection efforts.

Arndt’s misconduct did not harm his client. He brought his misconduct to the attention of the Law Society. The misconduct happened more than 10 years ago, and there was no suggestion that Arndt had any professional conduct history arising from his actions since. These were all considered as mitigating factors.

The panel accepted Arndt’s admission of professional misconduct and ordered that he pay:

1. a \$7,500 fine; and
2. \$2,000 in costs.

The panel also made an order to prevent disclosure of certain information contained in the agreed statement of facts and the hearing transcript.