

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

Danine Lorraine Geronazzo

Respondent

**Decision of the Hearing Panel
on Facts and Verdict**

Hearing date: September 6, 2005

Panel: Ralston S. Alexander, Q.C., Chair, G. Glen Ridgway, Q.C., William J. Sullivan, Q.C.

Counsel for the Law Society: Todd Follett

No one Appearing on Behalf of the Respondent

Background

[1] By citation dated February 1, 2005, this Hearing Panel was directed to inquire into the conduct of the Respondent with respect to matters set out in Amended Schedule to the Citation, which provided as follows:

"1. That you, contrary to Chapter 13, Ruling 3 of the *Professional Conduct Handbook*, failed to respond promptly, or at all, to the following communications from the Law Society:

- (a) a letter dated November 1, 2004, regarding a complaint from M.H.; and
- (b) a letter dated November 1, 2004, regarding a complaint from G.W.; and
- (c) a letter dated November 1, 2004, regarding a complaint from T.M.

2. That you, contrary to Chapter 13, Ruling 3 of the *Professional Conduct Handbook*, failed to respond promptly, or at all, to the following communications from the Law Society:

- (a) letters dated October 26, 2004, November 4, 2004, November 23, 2004, and December 1, 2004, regarding a complaint from P.G.T.

[2] The citation was entered as Exhibit #1 at the Hearing.

[3] Exhibit #2 was the Affidavit of Michelle Robertson respecting service of the citation and the covering letter from the Director of Professional Regulation, which Affidavit indicates service on February 4, 2005.

[4] Exhibit #3 was a letter from the Respondent to the Law Society, dated June 8, 2005, requesting an adjournment of the Hearing of the citation then set for June 13, 2005.

[5] Exhibit #4 was a Statutory Declaration of Dave Phillips, Process Server, in which he declares that he served the Respondent on June 7, 2005, with an Amended Schedule to the citation, an amended page three of the disclosure index, and a covering letter from the Law Society.

[6] Entered as Exhibit #5 was a copy of an e-mail from Patricia Schmit, Q.C. with respect to orders made by her at a pre-hearing conference held June 13, 2005, relating to this matter, which provides, *inter alia*, for an amendment of Count 2 of the citation and the setting of a new hearing date of September 6, 2005, at 9:30 a.m.

[7] Exhibit #6 was a Statutory Declaration of Dave Phillips, Process Server, in which he declares that he served the Respondent on June 21, 2005, with the Amended citation relating to this complaint and the covering letter from the Law Society.

[8] Counsel for the Law Society indicated that he attempted to contact the Respondent and had left a message on or about August 31, 2005, to determine the Respondent's intentions as to attendance at this Hearing.

[9] Upon being satisfied by the evidence presented to it that the Respondent had been served with the Citation, the Panel ordered that the Hearing proceed in the absence of the Respondent, as provided in s. 42 of the *Legal Profession Act*.

[10] After the commencement of the Hearing, Counsel for the Law Society alerted the Panel that he had just been advised a letter had been received by fax from the Respondent, and that letter was entered as Exhibit #7 at this Hearing. The letter was dated September 2, 2005, but appears to have been sent to the Law Society or received by the Law Society shortly after 7:00 a.m. on the date of the Hearing, namely, September 6, 2005. The purpose of the letter was to request a further adjournment of the Hearing, as the Respondent wished to have counsel and she said she had been unable to retain same, as she had not received a fee payment for a settlement achieved in July of 2005, which fee required the approval of the Public Guardian and Trustee.

[11] The Panel considered the request for a further adjournment but after a consideration of all of the circumstances, were not prepared to grant the same. The Panel directed that the Hearing continue.

[12] Evidence was provided on behalf of the Law Society by Kyong-ae Kim, a Staff Lawyer with the Law Society, and by Michelle Boren, an Assistant in the Professional Conduct Department of the Law Society.

[13] Ms. Kim was the Staff Lawyer having conduct of three complaints relating to the conduct of the Respondent, which comprised the first count of the citation. The complaint made by M.H. relates to a client of the Respondent who was unable to find out from the Respondent the status of a file, there being a delay in the completion of matters. The complaint of G.W. relates to his fee for expert evidence that had not as yet been paid by the Respondent. The complaint of T.M., a bank employee, relates to the Respondent's failure to respond and report to a bank with respect to services rendered relating to mortgage documentation.

[14] The second count relates to a complaint from the Public Guardian and Trustee's Office to the effect that the Respondent had not responded to requests from that office for information so that the Public Guardian and Trustee could make a determination relating to an infant settlement.

[15] What ultimately became Exhibit #8 at the Hearing (following identification of the contents by the witnesses) was a Book of Documents, which sets out the correspondence and contact between the Law Society and the Respondent. With respect to the three complaints encompassed in the first paragraph of the Amended Schedule to the citation, the correspondence is precisely similar. There was a letter written by Ms. Kim to the Respondent on November 1, 2004; a further letter of November 25, 2004; and finally, a letter of December 6, 2004, from the Director of Regulation. In addition - and on this point, Ms. Boren gave evidence - there was, on each of these matters, telephone contact with the Respondent's office by Ms. Boren on November 1, 2004, with a receptionist identifying herself as "Kim" .

[16] There has been no response received by the Law Society to any of the three letters dated November 1, 2004, which make up the first paragraph of the Amended Schedule to the citation.

[17] With respect to the second paragraph, Ms. Kim gave evidence that she wrote to the Respondent on October 26, 2004; November 4, 2004; November 23, 2004; and December 1, 2004. The purpose of those letters was to obtain for the complainant, the Office of the Public Guardian and Trustee, a submission with respect to a settlement so that the Public Guardian and Trustee could make a recommendation as to the acceptance of the settlement. While some information was obtained by the Public Guardian and Trustee from the Respondent, that information was incomplete.

[18] The evidence of Ms. Kim was that the Respondent did not respond to her letters of October 26, 2004; November 4, 2004; November 23, 2004; and December 1, 2004. The correspondence between the Law Society and the Respondent, as well as the memo relating to the telephone conversation with the Respondent's office, all formed part of Exhibit #8 at the Hearing.

[19] Counsel for the Law Society referred the Panel to the following authorities:

- (a) *Hammond*, [2003] LSBC 36;
- (b) *Hall*, [2003] LSBC 34;
- (c) *Hall*, [2003] LSBC 11; and
- (d) *Ashton*, [2003] LSBC 23.

[20] This Panel finds that the allegations in the citation have been made out, and that the Respondent is guilty of professional misconduct in failing to respond promptly, or at all, to the communications from the Law Society dated November 1, 2004, regarding the matter of M.H.; November 1, 2004, regarding the matter of G.W.; and November 1, 2004, regarding the matter of T.M.; and further, for failing to respond promptly, or at all, to the communications from the Law Society dated October 26, 2004; November 4, 2004; November 23, 2004; and December 1, 2004, respecting the complaint of P.G.T.

[21] Submissions on penalty and costs will be heard on a date to be fixed by the Hearing Administrator.