2014 : No. 03 Fall

Ronald Wayne Perrick

North Vancouver, BC
Called to the bar: May 17, 1971

Discipline hearing : October 21, 2013 (application concerning abuse of process), October 21, 22, 23, 24 and 25, 2013 and April 25, 2014
Panel : David Renwick, QC, Chair, John (Woody) Hayes and Bruce LeRose, QC
Decision issued : January 16 (2014 LSBC 01), January 23 (2014 LSBC 03) and June 12, 2014 (2014 LSBC 25)
Counsel : Alison Kirby for the Law Society; Ronald Wayne Perrick on his own behalf

FACTS

In April 2003, Ronald Wayne Perrick was retained by the shareholders of a company with respect to the sale of their property. The shareholders were a husband and wife, each of whom owned 50 per cent of the voting shares, together with their four children. Perrick knew that the parents were the sole officers, directors and voting shareholders of the company, and that the property represented all, or substantially all, of the assets of the company.

One of the parents died in December 2004 and the other died in October 2005. Perrick was aware of each of the deaths shortly after they occurred.

The property was sold for $5.75 million with a closing date of February 9, 2006. The sale proceeds were deposited into Perrick's law firm trust account. A dispute quickly arose as to when the money would be distributed and the amount of Perrick's fee.

The 11 allegations in this case are listed in five categories:

Improper use of expired powers of attorney

In 2006, Perrick prepared an Assignment of Shares and witnessed the signatures of two of the siblings, as attorneys for the parents, when he knew that the parents were deceased, and that the powers of attorney were no longer valid. He knew that the parents' wills directed that one son would receive the voting shares so he could continue on with the business, but that would only occur upon their deaths.

Perrick acknowledged that he had a significant self-interest in ensuring that the real estate transaction completed, as his fees were contingent upon the closing.

Backdating assignment of shares

When preparing the Assignment of Shares in 2006, Perrick backdated it to October 21, 2004. He knew that the company's corporate solicitor would be preparing documentation approving the property sale and the transfer of voting shares based on the backdated assignment. Perrick suggested that the end justified the means as all parties wanted the sale to complete and they wouldn't be concerned how it happened.

Failure to provide quality of service

Perrick did not keep his client reasonably informed of the handling of the disbursement of trust funds. On March 2, 2006, he provided the company with a spreadsheet showing his all-inclusive fee of $926,916.

The client was not advised of the basis for Perrick's fees. The company retained legal counsel who made numerous requests for an accounting from Perrick. After instructing their legal counsel to commence court action, Perrick rendered his statement of account on June 15, 2006. However, he only disclosed that the funds had been withdrawn from trust on November 28, 2006.

Perrick did not take reasonable steps to determine who was authorized to give instructions on behalf of the company. To facilitate the completion of the sale on February 9, 2006, Perrick prepared the backdated assignment, allowing one sibling to become the directing shareholder for the company. Until then, he was taking his directions on behalf of the company from another sibling. Perrick failed to recognize that there were competing interests among the siblings.

Failure to respond to communications from another lawyer

Perrick failed to respond promptly to communications from opposing counsel regarding the handling and disbursement of the trust funds. He tried to justify this by stating that he had provided the accounting to the company and did not need to respond to opposing counsel's communications.

Breach of rules

Perrick did not enter into a written contingent fee agreement with the company or any members of the family. However, it was conceded that he would not charge them anything if he did not complete the sale of the property, but if he was instrumental in selling the property, there would be some form of a fee. He arbitrarily and unilaterally fixed the fee calculation, took the monies from trust, and then tried to justify his actions by preparing a fee account.

He failed to account to his client for funds entrusted to him.

Perrick was careless and failed to properly instruct his staff to record trust transactions within seven days. His client trust ledger showed that the entries in the trust account were made haphazardly, out of time and out of sequence to events as they transpired.

Although Perrick was aware that legal counsel was retained by the company with respect to a dispute over his fees, he continued to withdraw monies from his trust account. He withdrew fees prior to the delivery of a bill to his client.

DETERMINATION

A judge determined that Perrick had removed the funds from trust without rendering a statement of account pursuant to the rules. As Perrick had not disclosed what he had done with the money, the court ordered judgment against him and the law firm for the sum of $926,916 plus interest. The court also determined that Perrick's misconduct precluded him from claiming fees.

The panel ruled that the Law Society was entitled to rely upon the judge's reasons and that those findings established a prima facie case against Perrick with respect to 10 of the 11 allegations. The panel further ordered that Perrick was prohibited from re-litigating those issues as it would result in an abuse of process.

The panel found that Perrick's actions in these allegations amounted to professional misconduct, with the exception of his failure to record trust transactions within seven days, which was a breach of the rules. The panel dismissed an allegation of failure to account to the client as it was duplicative of another allegation in which professional misconduct was established.

DISCIPLINARY ACTION

The panel considered significant aggravating factors. Perrick had engaged in multiple serious instances of professional misconduct in order to fulfill his client's goal of completing a commercial real estate transaction, and then his own goal of receiving a substantial legal fee for his services.

Perrick never admitted nor acknowledged any misconduct. In order to obtain an accounting of the trust funds and a proper legal bill for the services rendered, the victims had to retain new counsel and commence lengthy and onerous court proceedings.

The panel determined that the disciplinary action must send a strong message to Perrick that his management of this file was not only irresponsible, but also unethical and could not be condoned in the least. The panel felt that, ordinarily, a 90 day-suspension would be warranted in the case. However, given Perrick's age, his 43 years of practice with a clean discipline record and, particularly, the fact that the Law Society was not seeking a suspension, the panel imposed a fine of $15,000 for backdating and improper use of documents and an additional $10,000 for other misconduct and breaches of the rules.

The panel ordered that Perrick pay:

1. a $25,000 fine, and
2. $24,210 in costs.