

2015 : No. 04

Gary Russell Vlug

Vancouver, BC

Called to the bar: August 28, 1992

**Discipline hearing** : June 3-5, 2013 and April 28, 2014

**Panel** : Tony Wilson, Chair, Clayton Shultz and Gary Weatherill, QC

**Decision issued** : February 26 (2014 LSBC 09) and September 5, 2014 (2014 LSBC 40)

**Counsel** : Carolyn Gulabsingh for the Law Society; Gary Russell Vlug on his own behalf

## Facts

The Law Society issued a citation against Gary Russell Vlug that contained 11 allegations that relate to three family law matters.

Six of the allegations are related to Vlug's conduct in 2009 while representing a client in a child custody matter. A Supreme Court judge ordered that a Views of the Child Report be prepared by a doctor. The judge's ruling provided that the doctor should see all of the materials that were before the court to enable him to write his report. The judge did not order who was to provide those materials to the doctor.

Opposing counsel subsequently wrote the doctor, and copied Vlug, advising that he would deliver copies of his client's materials and suggesting Vlug do the same on behalf of his client.

It was later revealed in court that the doctor had only been provided information from opposing counsel and had not been provided with any documentation by Vlug. Vlug represented to the court that he was led to believe, in a telephone conversation, that opposing counsel had provided Vlug's client documents to the doctor. There was no such telephone conversation between the Vlug and opposing counsel.

Vlug prepared and commissioned two affidavits sworn by his client that represented to the BC Supreme Court and to the Court of Appeal that there was an active attempt by opposing counsel to deprive the doctor of Vlug's materials. Vlug knew or ought to have known that the representation was untrue or that the affidavit was not competently drafted.

Vlug represented to the Court of Appeal that he had not received a letter sent by opposing counsel advising that he was to provide his client's documents to the doctor when he knew or ought to have known that the statement was untrue.

He made discourteous and unfounded statements about opposing counsel to the Court of Appeal when he said that opposing counsel had "duped" him.

Vlug made a misrepresentation to the Law Society by claiming that the Court of Appeal had an "off record" discussion with opposing counsel respecting opposing counsel's apparent failure to deliver his client's affidavits and other materials to the doctor.

Three of the allegations in the citation related to Vlug's conduct concerning the representation of a client in a divorce proceeding.

On October 30, 2008, Vlug filed a Writ and Claim in the New Westminster Registry of the BC Supreme Court. The plaintiff in both was identified by his Canadian name and a copy of his marriage certificate was included in this filing. The only relief sought was "divorce."

On February 5, 2010, Vlug filed another Writ and Claim, but this time with the Vancouver Registry. The plaintiff was identified by his Chinese name. The relief sought in this filing was expanded to “divorce,” “division of the family assets” and “other relief.” The marriage certificate was not included in this filing. Vlug asserted to the court, on behalf of his clients, that it was impossible to obtain a certificate of the marriage.

There is no plausible excuse for Vlug filing in Vancouver without the marriage certificate and under a wrong name. He misrepresented the existence of the then-active New Westminster proceeding and also made an untrue statement to the court about the marriage certificate.

The remaining two allegations in the citation related to Vlug’s conduct while representing another client in a family law matter in 2009. Vlug added documents to a previously prepared and sworn financial statement and prepared and commissioned an affidavit on behalf of his client that contained a statement that he knew was false.

## Determination

The panel found that Vlug had committed professional misconduct in respect of all 11 allegations arising from three separate complaints, all by lawyers. He knowingly misrepresented facts while appearing before judges of the BC Supreme Court and the Court of Appeal, misled the Law Society, attached documents to an affidavit after it had been sworn, and acted with incivility in dealing with fellow lawyers.

The panel found Vlug’s conduct was egregious and beneath the standards expected of members of the profession. It was of significant concern to the panel that Vlug failed to acknowledge his misconduct.

Vlug’s professional conduct record includes one prior citation, four conduct reviews and a practice review.

## Disciplinary Action

The panel determined it was critically important that Vlug, the legal profession in general and the public understand that Vlug’s behaviour – particularly his lying to the court, the Law Society and the panel – was not acceptable and should result in significant sanctions.

The panel found Vlug’s conduct amounted to professional misconduct and ordered that he:

1. be suspended from the practice of law for six months; and
2. pay \$20,000 in costs.

During final submissions, Vlug argued that the Law Society had delayed its investigation and prosecution of six of the allegations against him, a matter on which the panel decided the parties could provide written submissions after the conclusion of the oral hearing.

The panel found that the delay was not inordinate or unacceptable, did not prejudice Vlug and was, in large part, caused by Vlug himself. The application to dismiss the citation as a result of an abuse of process involving delay in proceeding on six of the allegations was dismissed.

Vlug has applied for a review of the decision, and a stay of suspension has been granted until April 30, 2015.

