

2015 : No. 04

John Edward Roberts

Langley, BC

Called to the bar: November 10, 1995

Discipline hearing : July 16, 2014

Panel : Martin Finch, QC, Chair, William Everett, QC and Clayton Shultz

Decision issued : September 8, 2014 (2014 LSBC 42)

Counsel : Kieron Grady for the Law Society; John Edward Roberts on his own behalf

Facts

In October 2013, the Law Society received a complaint from a former client and business partner of John Edward Roberts. The complaint alleged various forms of conflict of interest and failures to advise, misrepresentations regarding the structure of business, unauthorized withdrawal of funds from the business, attempted backdating of loan documents and failure to report a claim promptly to the Lawyers Insurance Fund.

On December 11, the Law Society wrote to Roberts advising him of the complaint and requesting written confirmation as to whether he had notified the Lawyers Insurance Fund of a court action that had been commenced against him by the complainant. Roberts responded by email confirming that he had notified the Lawyers Insurance Fund of the court action.

On December 18, the Law Society emailed Roberts to ask what date he had notified the Lawyers Insurance Fund of the court action. He did not reply to this email; however, he replied to a subsequent email advising that his letter to the Lawyers Insurance Fund was sent on December 12.

On February 19, 2014, the Law Society emailed Roberts to request information related to:

- the establishment of the business with his partner;
- the operation, sale and winding down of the business
- allegations of a backdated signature on a general security agreement; and
- transfer of funds in relation to the business.

When Roberts did not respond by the deadline, the Law Society re-sent the letter. Roberts replied on March 21 indicating that he did not receive the original letter of February 19. He also advised that he was taking steps to close his law practice as a sole practitioner, was seeking part-time status for insurance, and may or may not apply for non-practising status in the future. He intended, in the short-term, to take time off from the practice of law due to personal matters and to evaluate his future.

On April 4, Roberts left a voice message to indicate he would not be able to deal with the letter's substantive matters by the deadline. At the date of hearing, July 16, 2014, Roberts had not responded to the requests contained in the Law Society's letter of February 19.

Admission and disciplinary action

Following a protracted period of time with continued requests, Roberts failed to properly or completely respond to inquiries from the Law Society, even in the face of a citation hearing.

Roberts' failure to comply with the Law Society's requests appeared to the panel to be, in part, the result of his ongoing process of closing his practice and changing his status to either non-practising or part-time. It was not the product of financial incapacity, but rather lack of time and attention. While his heavy commitments to his family and his work in the construction industry may constitute an explanation, it did not constitute an excuse. A lawyer must respond to the requests of the Law Society in a prompt and complete fashion when an investigation is in progress.

The panel considered Roberts' professional conduct record as an aggravating factor. A citation issued in 2011 related to Roberts' taking default judgment against a represented party and failing to respond to communications from opposing counsel.

The panel accepted Roberts' admission of professional misconduct and ordered that he:

1. pay a \$2,000 fine;
2. pay \$1,417.38 in costs; and
3. provide a complete and substantive response to the inquiries made by the Law Society in its letter dated February 19, 2014.