

2004 LSBC 01

Report issued: January 5, 2004

Citation issued: June 19, 2003

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

JAMES DOUGLAS HALL

Respondent

Decision of the Hearing Panel on Penalty

Hearing date: December 13, 2003

Panel: G. Ronald Toews, Q.C., Chair, Patricia Schmit, Q.C., G. Glen Ridgway, Q.C.

Counsel for the Law Society: Luisa Hlus

Appearing on his own behalf: James D. Hall

[1] At a hearing held September 25, 2003, this Panel determined that the Respondent's failure to respond, substantively, to repeated requests from Law Society staff amounted to professional misconduct.

[2] A complaint had been made to the Law Society alleging that the Respondent was in breach of an undertaking given by him to the District of Langford by letter dated November 25, 1998.

[3] Law Society staff made repeated, written requests to the Respondent, seeking his explanation to the complaint to assist them in responding to the complaint.

[4] The Respondent acknowledged receipt of the first enquiry and made a telephone call to Law Society staff promising to respond but, by the date of the hearing, had still not given a substantive response to the request for information.

[5] On November 25, 2003, after this Panel's finding of misconduct, but before the Penalty phase of the hearing, the Respondent did make a substantive reply to Law Society correspondence. He acknowledged his undertaking to file a covenant against property but indicated that it was impossible to comply because his client had been foreclosed from the property.

[6] The Respondent's professional conduct record was filed as an Exhibit. Of particular significance was a similar case of failure to respond to Law Society requests for information regarding a complaint. That matter, indexed as Hall [2003] LSBC 11 was heard on January 9, 2003, as to facts and verdict, and June 20, 2003, as to penalty. While the Respondent was awaiting penalty for one instance of failing to reply to the Law Society, he was failing to reply to the Law Society in the matter before this Panel.

[7] On the previous case of failure to reply to the Law Society, the Respondent was suspended for one week and ordered to pay costs of \$500.

[8] The Panel was also referred to other decisions on penalty by Discipline Panels, including *Dobbin* [2000] LSBC 26, *Tyhurst 97/5*, and *Roberts 97/7*.

[9] The Panel orders that:

1. The Respondent, James Douglas Hall, be suspended for one month, commencing January 24, 2004;
2. The Respondent provide a substantive response to Mr. Caldwell's letter dated November 27, 2003, on or before January 15, 2004;
3. The Respondent provide a written undertaking to the Law Society, within 15 days of the publication of this determination, which undertaking will provide that the Respondent will reply to correspondence from the Law Society Professional Conduct Department within 14 days of the receipt of such correspondence.

[10] The Panel also orders that the Respondent pay the costs of these proceedings. Should the Respondent and the Law Society not agree on costs and their payment, the Panel will receive written submissions to determine the amount and payment of such costs.