

John Wilson Dobbin

Vancouver, BC

Called to the Bar: September 13, 1973

Suspended pending hearing: May 28, 2002

Discipline hearing: October 16, 2002

Panel: Anne K. Wallace, Chair, Margaret Ostrowski, QC and James D. Vilvang, QC

Report issued: December 19, 2002; indexed as [2002] LSBC 16

Counsel: Jessica S. Gossen, for the Law Society; Richard R. Sugden, QC, for Mr. Dobbin

Summary

Mr. Dobbin breached his undertaking to the Law Society by failing to respond within 14 days to Law Society correspondence respecting a complaint. On another matter, he failed to take steps on a litigation matter despite repeated requests from his client, thereby failing to serve the client in a conscientious, diligent and effective manner, contrary to Chapter 3, Rule 3 of the *Professional Conduct Handbook*. Mr. Dobbin underwent several practice reviews after causing delays in the scheduling of those reviews. He subsequently failed to follow the recommendations of several practice review reports. The practice reviews revealed that Mr. Dobbin had failed to provide the quality of service to clients that is expected of competent counsel in that he did not maintain adequate office systems or litigate personal injury files in a timely way. With respect to a complaint against him, Mr. Dobbin failed to respond to Law Society correspondence as required by the Rules. Mr. Dobbin admitted, and the hearing panel found, that his conduct amounted to professional misconduct. The panel was not satisfied that Mr. Dobbin, who had been suspended on an interim basis pending his hearing, should be permitted to return to practice until he had time to stabilize emotionally and work with the custodian of his law practice to implement recommended office procedures. The panel accordingly ordered that Mr. Dobbin be suspended for 10 months (May 28, 2002 through March 27, 2003), which includes the period of his interim suspension. The panel ordered that he meet several conditions before being permitted to resume practice, as well as conditions after he resumes practice.

Facts

Breach of undertaking to Law Society

In October, 2000 Mr. Dobbin made an admission of professional misconduct to a discipline hearing panel for having failed to respond to the Law Society respecting a client complaint. The panel accepted this admission and placed conditions on Mr. Dobbin's practice: *see Discipline Case Digest 01/01*. One of these conditions was that

Mr. Dobbin provide, by October 31, his response to the complaint in question and undertake to respond to any further correspondence from the Law Society with respect to that complaint within two weeks of receiving the correspondence. Mr. Dobbin provided his response to the complaint on October 31 and his undertaking on November 2.

On November 7, 2000 a Law Society staff lawyer wrote to Mr. Dobbin for further information respecting the complaint. Dobbin said by telephone that he would provide a response, but he did not do so within 14 days of receiving the correspondence. The staff lawyer couriered a reminder letter to Mr. Dobbin on January 8, asking for his response within 14 days. Mr. Dobbin did not respond.

Failing to serve client in a conscientious manner

In 1995 a California lawyer retained Mr. Dobbin to handle a personal injury matter, which a Calgary law firm had previously handled. Mr. Dobbin received the contents of the Calgary law firm's file and a writ of summons in the matter, but did not file or serve the statement of claim.

In September, 1997 the California lawyer requested documentation on Mr. Dobbin's activities on the file, but Mr. Dobbin did not respond. The Law Society wrote to Mr. Dobbin on September 30, October 15, October 30 and November 14, 1997; Mr. Dobbin responded on November 21. His response was forwarded to the California lawyer. The California lawyer wrote to the Law Society on March 24, 1998 and again on April 10, 1998 to state that Mr. Dobbin had not contacted him as of that date.

Mr. Dobbin acknowledged that he failed to serve his client in a conscientious, diligent and effective manner, contrary to Chapter 3, Rule 3 of the *Professional Conduct Handbook*.

(Mr. Dobbin was previously cited for failing to respond to Law Society correspondence respecting this complaint. Following a Bencher review of a hearing panel decision, he was found guilty of professional misconduct. The panel subsequently reprimanded him and ordered him to pay costs: *see Discipline Case Digest 00/07.*)

Failing to provide quality service to clients

Mr. Dobbin underwent several practice reviews. For two of these reviews the Law Society had difficulty obtaining dates from Mr. Dobbin for the reviews to proceed. In one case, the Chair of the Practice Standards Committee became involved to set the date; in the other case, the Practice Standards Committee had to refer the matter to the Discipline Committee before Mr. Dobbin would permit the review to proceed. Practice review reports were issued in April and December, 1997 and in November, 2000. Mr. Dobbin did not implement the recommendations in those reports.

The practice reviews revealed that Mr. Dobbin failed to provide a quality of service to his clients that would be expected of a competent counsel, contrary to Chapter 3, Rule 3 of the *Professional Conduct Handbook*. In particular, he failed to maintain:

- a master list of all open and closed files;
- an active file list;
- a client index or computer list of clients, addresses, telephone numbers and files;
- an adequate bring-forward system in any area of law except real estate and corporate matters; or
- an adequate limitation system.

Mr. Dobbin further failed to:

- use retainer letters or contingency fee agreements in cases in which he was billing fees on a percentage of recovery basis;
- use a checklist of initial client information or keep notes of telephone conversations with the clients or other people; or
- adequately document client information and instructions in his wills and estates files.

On his personal injury files, Mr. Dobbin failed to litigate in a timely manner. In one instance, Mr. Dobbin represented a minor plaintiff who had sustained a head injury in a motor vehicle accident. Liability or contributory negligence was at issue. Mr. Dobbin took no steps on behalf of the client for 3½ years. Throughout that time, he did not respond to enquiries by ICBC or others in a timely way and did not obtain a medical assessment of the client. He filed the writ at the prompting of the client's new counsel, only two days before the expiry of the limitation period.

On another motor vehicle accident file, Mr. Dobbin filed a writ seven days prior to expiry of the limitation period. He could not file the statement of claim because he had none of the information on file necessary to create the document; there was also no wage loss information. Mr. Dobbin had client authorizations for medical reports but did not request or receive any such reports until six months after the filing of the writ. Mr. Dobbin settled the file and charged his client under a contingency fee arrangement; he did not have a written agreement on file.

On another file involving two motor vehicle accidents, Mr. Dobbin had no notes of the details of either accident or of the client's injuries. He filed one writ one month prior to and the second writ two days prior to their respective limitation dates.

Failing to respond to Law Society

In December, 2001 Ms. L complained to the Law Society about Mr. Dobbin, noting that there had been several delays on his part in responding to Ms. L's lawyer.

Law Society staff wrote to Mr. Dobbin on January 11, 2002 to request his explanation of the matter. The Society sent reminder letters on February 12 and again on February 26, asking that he respond within five days. Mr. Dobbin did not respond to any of these letters. On March 5 Society staff telephoned Mr. Dobbin who advised that, because of his father's hospitalization, he had been unable to respond. He said he hoped to respond within the next two days, and the Society confirmed this with him by letter.

On March 20, Law Society staff sent a letter expressing condolences at the death of Mr. Dobbin's father, noting that the timeline for his response to the complaint would be extended to April 11. The staff advised that, should Mr. Dobbin require additional time, he should request it. In the event that Mr. Dobbin did not respond, or make a request for additional time, the matter would be referred to the Discipline Committee without further notice.

* * *

Mr. Dobbin was cited on these matters on April 24, 2001 and May 28, 2002. A hearing was held on May 29, 2002 during which three Benchers suspended him pending the outcome of the hearing of the citations.

Verdict

Mr. Dobbin admitted that his conduct amounted to professional misconduct.

Penalty

The hearing panel heard psychiatric evidence respecting Mr. Dobbin's personality traits that led to conflict with the Law Society, as well as the family crises he encountered that led to him developing a depressive disorder.

After considering the submissions of counsel and previous discipline decisions, the panel determined that, while disbarment was not appropriate in this case, it was not satisfied that Mr. Dobbin should be allowed to resume practice at this point. While Mr. Dobbin had urged the panel that he was keen and able to return to practice, the panel found his ability to transfer his intentions into action was at issue. The panel stated that Mr. Dobbin needed more time to ensure his emotional stability and to allow him to work with the custodian of his practice on implementing recommended office practices.

The panel also noted that a lengthy suspension was appropriate, given the aggravating factor of Mr. Dobbin's actions towards the Law Society and the need to protect the integrity of the Society's governance.

The panel ordered that Mr. Dobbin be suspended for 10 months (May 28, 2002 through March 27, 2003), which incorporates the period of his interim suspension.

Prior to resuming practice, Mr. Dobbin must continue to see his psychiatrist (who must forward a report to the Society), fulfil all outstanding recommendations arising from the

practice review reports and provide a practice supervision agreement that meets with the approval of the Practice Standards Committee.

Provided he meets these requirements, Mr. Dobbin will be entitled to recommence practice on March 28. His return to practice will be subject to a number of conditions. Specifically, he must:

- practise in association with, and under the supervision of, a lawyer approved by the Practice Standards Committee, and his supervising lawyer must provide the Committee with quarterly reports for the first year of practice;
- provide specified written reports to the Committee confirming that he is adhering to specified practice conditions and the terms of a practice supervision agreement;
- continue in treatment with his psychiatrist, with update reports to the Practice Standards Committee every three months for the first year of practice;
- reply to all Law Society correspondence within seven days of receipt; and
- undergo a practice review in the first two weeks of March, 2004 to determine whether these conditions should be continued.

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