



The Law Society of
Upper Canada | Barreau
du Haut-Canada

discipline Digest

March 1995, Vol 3, No 3

Attempting to induce false evidence

Hainsworth, Ross
Edmonton, Alberta
Age 42, Called to the Bar 1980

Particulars of Complaint

- Professional misconduct
 - Attempted to induce a witness to give false evidence
 - Offered to accept financial reward

Recommended Penalty

- Disbarment

Convocation's Disposition (3/24/95)

- Disbarment

Counsel for the Solicitor

F. Marrocco

Counsel for the Law Society

Michael Brown

While acting as defence counsel on a court martial proceeding, the Solicitor attempted to induce a witness to give false evidence in that proceeding. The Solicitor also offered to accept a financial reward from the wit-

ness for providing assistance in connection with a claim the witness might have been able to pursue against the Government of Canada.

The Discipline Committee held that in the absence of mitigating factors concerning the actions of the Solicitor, he should be disbarred. The Committee determined, "If lawyers think that it is permissible to fabricate evidence or to have witnesses lie, our system of justice will break down." They recommended that he be disbarred. At Convocation, the Solicitor was disbarred.

Failure to reply

Klaiman, Dave Allen
Thornhill, Ontario
Age 43, Called to the Bar 1986

Particulars of Complaint

- Professional misconduct
 - Failed to reply to the Law Society (3)
 - Breached an undertaking to the Law Society to file forms 2/3
 - Failed to serve his client in a diligent and conscientious manner

Recommended Penalty

- Suspension for one year to continue until the Solicitor has:
 - Completed all filings
 - Responded to all complaints against him
 - Submitted medical reports as to his ability to practice

Convocation's Disposition (3/24/95)

- Disbarment

Counsel for the Solicitor

Not represented

Counsel for the Law Society

Christina Budweth

The Solicitor breached an undertaking to the Law Society to file forms 2/3 for the years ending April 30, 1990 and April 30, 1991. He failed to reply to the Society regarding three different complaints from clients. As well, he failed to return a client's telephone calls and keep the client reasonably informed.

The Discipline Committee was advised that the Solicitor had an alcohol problem and was depressed. They recommended he be suspended for one year, to continue until he has completed the filings in question, responded to the complaints against him, and submitted medical reports to the Law Society insuring his fitness to practice. At Convocation, the Solicitor was disbarred.

Notice

Re: Frederick Bernard Sussman

The January 1995 issue of Discipline Digest (Vol. 3, No.2), reported that Convocation ordered Frederick Sussman to be suspended for one month commencing June 1, 1995, for counselling a client to breach a court order. This is to advise that the Solicitor has commenced an appeal of Convocation's disposition to the Divisional Court in Ottawa.

Cases

- Raymond V. Donohue, Sarnia
- Stanley D. Goldberg, Toronto
- Ross Hainsworth, Edmonton AB
- Gabriele M. Hauser, Toronto
- David A. Klaiman, Thornhill
- David B. Page, Halton Hills
- David M. Rovin, Toronto
- Glenn E.J. Sandberg, Sudbury

Failure to serve clients

Page, David Brian

Halton Hills, Ontario

Age 48, Called to the Bar 1981

Particulars of Complaint

- Professional misconduct
 - Failed to file forms 2/3
 - Failed to serve clients diligently and conscientiously (4)
 - Failed to reply to the Law Society
 - Breached an undertaking to reply to communications from the Law Society (2)
 - Failed to produce his books and records to the Law Society
 - Failed to maintain his books and records

Recommended Penalty

- Suspension for one year with conditions

Convocation's Disposition (3/24/95)

- Suspension for one year with conditions

Counsel for the Solicitor

Not represented

Counsel for the Law Society

Janet Brooks

The Solicitor failed to serve several clients when he failed to report, or reported incorrect information to them. He also failed to account for client's funds held back on a sale of property. He failed to reply to the Law Society and breached an undertaking to the Society to reply promptly to communications regarding a complaint from a client. The Solicitor failed to produce his books and records when a Law Society examiner attended his office. He breached an undertaking to produce them, as he had failed to maintain them. He did not file forms 2/3 for 1992.

The Discipline Committee noted that the Solicitor was suffering from depression. It recommended he be suspended for one year, so the Society could maintain some control over his affairs. The suspension would

continue indefinitely until the Solicitor fulfilled undertakings which included undertakings to release clients' files to the Law Society, co-operate with Staff Trustees, account for monies owed to clients, file forms 2/3 and produce his books and records for October 1991 to present. Convocation adopted this recommendation.

Conduct unbecoming

Sandberg, Glenn Edward Joseph

Sudbury, Ontario

Age 39, Called to the Bar 1990

Particulars of Complaint

- Conduct unbecoming
 - Conviction under Section 368(1)(a) of the *Criminal Code*, uttering a forged document
 - Failed to disclose true state of financial situation on a loan application
 - Failed to disclose true state of financial affairs to Trustee in Bankruptcy

• Professional misconduct

- Failed to file forms 2/3

Recommended Penalty

- Suspension for six months

Convocation's Disposition (3/24/95)

- Suspension for six months

Counsel for the Solicitor

A. Toffoli

Counsel for the Law Society

Michael Brown

Prior to his call to the Bar, the Solicitor altered a prescription for medication by writing in a number of repeats of the drug. He pleaded guilty to one count of uttering a forged document under Section 368(1)(a) of the *Criminal Code* and was sentenced to a fine of \$500 and probation for a period of six months. The Solicitor also failed to fully disclose his financial situation on a loan application and then, later, to the Trustee in Bankruptcy. The Solicitor did not file forms 2/3 from November 1992.

The Committee felt that a suspension was in order because three of the four counts against the Solicitor involved dishonesty. However, in light of a variety of mitigating circumstances which were detailed by the Committee, a suspension of six months was recommended. Convocation accepted this recommendation.

Failure to reply

Hauser, Gabriele Monika

Toronto, Ontario

Age 43, Called to the Bar 1986

Particulars of Complaint

- Professional misconduct
 - Failed to reply to the Law Society regarding clients' complaints (2)
 - Failed to account for client's money entrusted to her

Recommended Penalty

- Suspension for three months
- Costs of \$1,500

Convocation's Disposition (3/24/95)

- Suspension for three months
- Costs of \$1,500

Counsel for the Solicitor

Not represented

Counsel for the Law Society

Christina Budweth

The Solicitor accepted a retainer from a client, then could not account for the money. She then failed to respond to the Law Society regarding the client's complaint against her. She also failed to reply to the Society after an investigation showed inadequacies in her books and records.

The Solicitor has been disciplined by the Law Society on three previous occasions, mainly for failing to reply to the Society. The Discipline Committee suggested that this be the Solicitor's last chance when it recommended she be suspended for three months and pay costs of \$1,500. Convocation accepted this recommendation.

Failure to file forms

Goldberg, Stanley David

Toronto, Ontario

Age 49, Called to the Bar 1972

Particulars of Complaint

- Professional misconduct
 - Failed to file forms 2/3

Recommended Penalty

- Reprimand in Convocation
- Costs of \$1,000

Convocation's Disposition (3/24/95)

- Reprimand in Convocation
- Costs of \$1,000

Counsel for the Solicitor

Not represented

Counsel for the Law Society

Neil Perrier

The Solicitor failed to file his forms 2/3 for the fiscal year ending January 31, 1993. He paid late filing fees in April 1994, but did not file the required forms until the day prior to the discipline hearing.

The Solicitor was reprimanded in committee in 1991 for failing to reply and failing to honour a financial obligation. Later, in the same year, he was reprimanded in committee for failing to reply to the Law Society and breaching an undertaking. The Discipline Committee noted that the Solicitor's discipline problems had only occurred since he became a sole practitioner in 1991. They recommended he be reprimanded in Convocation to underline the seriousness of the issues. Convocation adopted the Committee's recommendations.

Improper use of trust account

Donohue, Raymond Vincent

Sarnia, Ontario

Age 65, Called to the Bar 1956

Particulars of Complaint

- Professional misconduct

- Improperly operated his general account transactions through his trust account for the purpose of avoiding creditors

Recommended Penalty

- Reprimand in Convocation
- Costs of \$2,500

Convocation's Disposition (3/24/95)

- Reprimand in Convocation (in April)
- Costs of \$2,500
- If the Solicitor fails to attend in April, a suspension to continue indefinitely until he attends

Counsel for the Solicitor

David Humphrey

Counsel for the Law Society

Kate Wootton

The Solicitor improperly operated his trust account, using it for general account transactions to avoid creditors. The Discipline Committee noted that there was no question he was entitled to the money at issue, however, the operation of these transactions through his trust account was a serious misuse of the account.

The Discipline Committee recommended the Solicitor be reprimanded in Convocation and pay costs of \$2,500. Convocation accepted this recommendation. However, because the Solicitor was not present, the reprimand will occur in April. Should he fail to attend at that time, Convocation ordered the Solicitor be suspended indefinitely until he appears before them.

Failure to protect client's interests

Rovan, David Mayer

Toronto, Ontario

Age 48, Called to the Bar 1974

Particulars of Complaint

- Professional Misconduct
 - Failed to protect client's interests in mortgage transaction
 - Improperly commissioned affidavits (4)

Recommended Penalty

- Reprimand in Convocation
- Convocation's Disposition (3/24/95)*
- Reprimand in Convocation
- Counsel for the Solicitor*
- Alan Price
- Counsel for the Law Society*
- Georgette Gagnon

The Solicitor failed to properly explain to his client the risks involved in lending money on a second mortgage. He also improperly commissioned four affidavits sworn with respect to a real estate development project where he acted for the investors.

The Solicitor has no previous discipline history. The Discipline Committee recommended that the Solicitor be reprimanded in Convocation. At Convocation, the Solicitor received a reprimand.