



LET RIGHT PREVAIL

The Law Society of
Upper Canada

Barreau
du Haut-Canada

discipline Digest

November 1995, Vol.4, No 3

Misappropriation

Jones, Ralph Stewart

Oshawa, Ontario

Age 73, Called to the Bar 1949

Particulars of Complaint

- Professional Misconduct
 - Failed to file Forms 2/3
 - Made a misrepresentation to a client
 - Acted in a conflict of interest
 - Misappropriated client funds

- Convicted of a *Criminal Code* offence (9)

Recommended Penalty

- Disbarment

Convocation's Disposition (11/23/95)

- Disbarment

Counsel for the Solicitor

Not represented

Counsel for the Law Society

Neil J. Perrier

The Solicitor failed to file Forms 2/3 for his fiscal years ending January 31, 1991 and 1992. He misrepresented to a client that he had assigned a portion of a mortgage as security for investment monies in the sum of \$112,521.92, when, in fact, no assignment had been made. He acted in a conflict of interest by allowing his client to invest in mortgages registered against properties in which the Solicitor had a significant financial interest, without disclosing the interest to the client, or ensuring that he obtained independent legal representation or advice. He misappropriated client funds in excess of \$70,000 when he failed to invest the funds in a mortgage in a development project which investment he led his clients to believe had been secured by a mortgage. On March 31, 1994 the Solicitor was convicted of the following offences contrary to the *Criminal Code*: unlawfully converted with the intent to defraud client trust funds; unlawfully gave, conveyed, sold, transferred or delivered his own property with the intent to defraud creditors (3 counts); unlawfully did by deceit, falsehood or other fraudulent means, defraud certain clients, or beneficiaries of trusts, of

money, property or valuable security of a value exceeding \$5,000 (5 counts). The Law Society has undertaken to pay approximately \$430,000 resulting from the frauds.

In 1991, the Solicitor was reprimanded in Discipline Committee for failing to file Forms 2/3 and for failing to disclose in a timely fashion a shortage in the trust account. The Committee recommended disbarment. At Convocation the Solicitor was disbarred.

Dupe of unscrupulous real estate agent

Allport, David Arthur

Mississauga, Ontario

Age 59, Called to the Bar 1963

Particulars of Complaint

- Professional Misconduct
 - Failed to be on guard against becoming the dupe of another
 - Failed to protect the interests of his clients (2)
 - Failed to serve clients conscientiously and diligently
 - Improperly commissioned affidavits
 - Practised law while suspended
 - Failed to comply with an Undertaking
 - Guaranteed a client's mortgage
 - Swore a false Certificate of Independent Legal Advice (3)
 - Improperly commissioned a Statutory Declaration

Recommended Penalty

- Disbarment

Cases

- Brian F. Adamson, Minden
- David A. Allport, Mississauga
- Arthur Chung, Toronto
- Bruce A. Clark, Ottawa
- Christopher M. Cloutier, Orleans
- Eric J. Dobbs, Windsor
- Peter M. Hollyoake, Burlington
- Ralph S. Jones, Oshawa
- Joo Yung Kang, Etobicoke
- Mary M. P. Kelly, Thunder Bay
- Thomas A. Kelly, Oakville
- Timothy J. Kreutzer, Toronto
- Charles J. Lewonas, Woodstock
- Allan V. Mills, Hamilton
- David E. Nicholson, Nepean
- Hugh G. O'Leary, Thunder Bay
- Pierre Ouellette, St. Catharines
- William Palamar, Toronto
- Gareth Perry, Toronto
- Jay D. Rowatt, North York
- Bernadette K. Roy, Little Current
- George Struk, Brampton
- Wilfrid L. S. Trivett, Orillia

Convocation's Disposition (11/23/95)

- Disbarment

Counsel for the Solicitor

Not represented

Counsel for the Law Society

Janet Brooks

In the period November 1, 1988 to August 1, 1989, the Solicitor acted on the purchase and sale of over 20 condominiums which were being "flipped". In doing so, the Solicitor failed to guard against becoming the tool or dupe of an unscrupulous real estate agent. The real estate agent, who was later convicted of fraud in relation to some of the transactions, controlled or was associated with the companies which were "flipping" the units. The Solicitor acted for those companies as well as the ultimate purchasers of the units, the mortgage companies which were financing the purchases and, in some cases, the original vendors of the condominiums. The Solicitor failed to protect the interests of his clients who were the ultimate purchasers of the units and his clients which provided mortgage financing by not disclosing that he was also acting for the vendor companies which were re-selling the units at a substantial profit. He failed to serve his purchaser clients conscientiously and diligently by failing to ensure that they received what they bargained for by failing to meet or otherwise communicate with them regarding their transactions. The Solicitor improperly commissioned several Land Transfer Tax Affidavits and a Statutory Declaration by not being present when they were signed. He also swore three Certificates of Independent Legal Advice which he knew were false, as he had never given any advice in respect of the mortgages in question. The Solicitor also personally guaranteed a client's mortgage of \$1,500,000. During the two months commencing August 5, 1989, during which time the Solicitor was suspended for professional misconduct, he practised law. He further breached an Undertaking to the Law Society that, during his suspension, he inform all clients in active matters that he could not practise law.

In 1994, the Solicitor received a

reprimand in Committee with \$300 in costs for failing to file Forms 2/3. In 1989, he was suspended for two months from practising law for failing to guard against becoming the tool or dupe of unscrupulous clients in several improper real estate transactions. The Discipline Committee noted the similarity of the Solicitor's prior discipline to the matters before them. The Committee recommended disbarment. At Convocation, the Solicitor was disbarred.

Misappropriation

Chung, Arthur

Toronto, Ontario

Age 54, Called to the Bar 1983

Particulars of Complaint

- Professional Misconduct
 - Failed to maintain books and records (2)
 - Failed to comply with an Undertaking (3)
 - Misappropriated monies from a client (4)
 - Misapplied trust account monies
 - Borrowed money from a client
 - Failed to reply to the Law Society

Recommended Penalty

- Disbarment

Convocation's Disposition (11/23/95)

- Disbarment

Counsel for the Solicitor

Not represented

Counsel for the Law Society

Christina Budweth (at Committee)
Neil Perrier (at Convocation)

The Solicitor failed to maintain his books and records. He failed to comply with his Undertakings to the Law Society, each dated September 13, 1990, to respond to Law Society communications and to submit monthly trust listings and reconciliations. In or about April 1992, the Solicitor misappropriated approximately \$97,384.63 from his client. He misappropriated various amounts totalling approximately \$47,000 from a number of clients by failing to deposit retainers into trust upon receipt. The Solicitor misapplied

approximately \$3,680. from his general mixed trust account in order to make a loan to his secretary. He borrowed \$40,000 from his client without ensuring that the loan was secured or that the client was provided with independent representation. Finally, the Solicitor failed to reply to the Law Society regarding a complaint from a fellow lawyer.

In 1992, the Solicitor received a one-month suspension from Convocation for having personally guaranteed a mortgage for a client, for failing to comply with an Undertaking to a client and another to the Law Society, and for failing to reply to the Law Society. In 1990, the Solicitor received a reprimand in Discipline Committee for failing to produce all his books and records, for breaching his Undertakings and for failing to file Forms 2/3 for 1987 and 1988. On April 22, 1993, Convocation sent the current matter back to the Discipline Committee for the purpose of determining the facts necessary to a conclusion regarding the public interest. The Solicitor did not attend, but it was determined that proper notice was given. The Committee found that although some payment had been made to some of the Solicitor's clients of parts of the money owing to them, there was "...not sufficient mitigation in the light of a course of dishonourable conduct utterly inconsistent with continued membership in the Society." The Committee recommended disbarment. At Convocation the Solicitor was disbarred.

Misappropriation

Struk, George

Brampton, Ontario

Age 48, Called to the Bar 1974

Particulars of Complaint

- Professional Misconduct
 - (two separate hearings)
 - Loaned estate monies to another client without consent or security
 - Misappropriated estate monies for his own use

- Misappropriated funds from his clients
- Failed to properly serve the estate by honouring its financial obligations
- Misled a Law Society examiner
- Failed to reply to the Law Society

Recommended Penalty

(Two Reports)

#1 - Disbarment

#2 - Disbarment

Convocation's Disposition (11/23/95)

#1 - Three-year suspension

#2 - Disbarment

Counsel for the Solicitor

Not represented

Counsel for the Law Society

Christina Budweth (at Committee)

Neil Perrier (at Convocation)

In an April 12, 1994 hearing the following particulars of professional misconduct were found to be established. As sole executor for an estate worth \$40,143.58, the Solicitor loaned \$28,805.17 of estate funds to another client who was a close friend. The Solicitor did not seek the authority of the beneficiary to make the loan, nor did he report it to her. The sole security obtained for the loan advance was a promissory note. At the date of the hearing the loan had still not been repaid. The Solicitor did not honour estate financial obligations toward funeral expenses and misled a Law Society Examiner during a 1992 audit by providing letters indicating the expenses had been paid, when in fact \$5,466.45 more or less of estate monies had been misappropriated by the Solicitor for his own use. Finally, in October, November and December 1994 the Solicitor failed to reply to an Examiner's audit request.

In a September 13, 1995 hearing before another Discipline Committee the Solicitor was found to have misappropriated funds totalling approximately \$37,020.85. The Solicitor failed to discharge his clients' mortgage and instead deposited the monies in his personal account. Also, the Solicitor transferred a client's funds which were to be used to pay out a bank loan from his trust to his general account and did not use the funds to pay out the loan.

The Solicitor had previously received two reprimands in Discipline Committee and one in Convocation for failing to cooperate with an Examiner and misleading an Investigator; for failing to maintain books and records; failing to maintain sufficient balances in his trust account; and failing to make his annual filings. The first Committee noted the evidence of stressful conditions over a 10-year period relating to personal and family illness and expulsion from his law firm but considered the Solicitor to be evasive and misleading. Both Committees recommended disbarment.

At Convocation the Solicitor was suspended for three years with respect to the April 12, 1994 Discipline Committee Report and Decision, on the basis of the second Discipline Committee's Report and Decision, the Solicitor was disbarred.

Misappropriation

Ouellette, Pierre

St. Catharines, Ontario

Age 42, Called to the Bar 1982

Particulars of Complaint

- Professional Misconduct
 - Misappropriated funds
 - Failed to reply to the Law Society
 - Failed to carry out terms of agency retainer

Recommended Penalty

- Disbarment

Convocation's Disposition (11/23/95)

- Disbarment

Counsel for the Solicitor

Not Represented

Counsel for the Law Society

Christina Budweth (at Committee)

Michael Brown (at Convocation)

During the period May 1993 to June 1994 the Solicitor misappropriated \$151,149.13 from a client's estate through the mixed trust account, most of which money went into a family company. The Solicitor failed to carry out the terms of his agency retainer by failing to serve a Statement of Claim and by failing to register a Certificate of Pending Litigation. When the matter

was brought to the attention of the Law Society, the Solicitor failed to reply in a substantive fashion to the Society's communications.

The Solicitor had no discipline history. He failed to attend and was not represented at the hearing before the Discipline Committee. However, the Society received two letters advising that the Solicitor would not appear and that he expected to be disbarred. The Discipline Committee recommended disbarment. At Convocation the Solicitor was disbarred.

Ungovernable solicitor

Nicholson, David Edward

Nepean, Ontario

Age 68, Called to the Bar 1960

Particulars of Complaint

- Professional Misconduct
 - Failed to reply to the Law Society
 - Failed to render an account to a client
 - Failed to reply to a fellow lawyer

Recommended Penalty

- Disbarment

Convocation's Disposition (11/23/95)

- Disbarment

Counsel for the Solicitor

Not Represented

Counsel for the Law Society

Michael Brown

After the Solicitor failed properly to advance litigation on behalf of his client, he failed to render an account to justify his retention of \$7,000 after his client had effected a settlement on his own. The Solicitor failed to reply to his client's new lawyer and failed to reply to the Law Society regarding his client's complaint in the matter.

In 1994, the Solicitor was reprimanded in Discipline Committee for, *inter alia*, failing to inform his client properly and for failing to cooperate with the Law Society. The Solicitor has been under suspension since November 1994 for failure to pay his insurance levy. The Solicitor did not attend at his hearing nor was he represented, and the evidence indicated he had declared his

intention not to cooperate nor participate in the proceedings. The Committee concluded that the Solicitor was ungovernable and recommended disbarment. At Convocation the Solicitor was disbarred.

Practising while suspended

Hollyoake, Peter M.

Burlington, Ontario

Age 47, Called to the Bar 1976

Particulars of Complaint

- Professional Misconduct
 - Practised law while under suspension
 - Failed to cooperate with the Law Society
 - Failed to file Forms 2/3

Recommended Penalty

- Disbarment

Convocation's Disposition (11/23/95)

- Disbarment

Counsel for the Solicitor

Not represented

Counsel for the Law Society

Neil J. Perrier

The Solicitor breached an Order of Convocation by continuing to practise law while under suspension during the period March 6, 1992 to date. The Solicitor failed to cooperate with a Law Society investigation into his conduct regarding a complaint received by the Society by failing to produce his files and records on this matter and by refusing to meet with and answer queries of the Audit & Investigation Department. The Solicitor failed to file Forms 2/3 for his fiscal year ending April 30, 1994.

In 1993, the Solicitor was suspended for one month with conditions for failing to serve his clients conscientiously and diligently, failing to reply to the Law Society, failing to cooperate with the Law Society and failing to file Forms 2/3 for 1990 and 1991. In 1991, the Solicitor was reprimanded in Convocation for unprofessional communication with a fellow lawyer, for threatening criminal prosecution in

order to secure some civil advantage for his client, for taping a conversation with a fellow lawyer employed by the Law Society without her knowledge or consent and for conduct unbecoming. Before the Discipline Committee the Solicitor made applications for adjournment and disqualification of the panel on account of bias, both of which were denied. Despite the clear communication on the record that counsel for the Society would be putting forward the position that the Solicitor was ungovernable warranting disbarment the Solicitor chose to leave and not contest the matter further in person nor did he suggest inadequate notice. The Committee recommended disbarment. At Convocation the Solicitor was disbarred.

Failure to reply

Kelly, Thomas Alan

Oakville, Ontario

Age 48, Called to the Bar 1981

Particulars of Complaint

- Professional Misconduct
 - Failed to comply with an Undertaking (2)
 - Failed to reply to a fellow lawyer (2)
 - Failed to reply to the Law Society (2)

Recommended Penalty

- Disbarment

Convocation's Disposition (11/23/95)

- Disbarment

Counsel for the Solicitor

Not represented

Counsel for the Law Society

Kate Wootton (at Committee)

Rhonda Cohen (at Convocation)

The Solicitor failed to comply with an Undertaking on one real estate transaction which was given to the purchaser and his lawyer to discharge two mortgages and to register those discharges. The Solicitor failed to reply to communications from the purchaser's lawyer and from the Law Society. The Solicitor also failed to comply with an Undertaking given to another purchaser and her lawyer in another real estate

transaction that involved, among other things, failure to obtain and register two death certificates. The Solicitor again failed to respond to correspondence from the lawyer and the Law Society.

By Order of Convocation dated June 22, 1995, the Solicitor was suspended for one month and indefinitely thereafter until he made his filings and attended before Convocation. In 1994, the Solicitor was reprimanded in Discipline Committee with costs for failing to reply to the Law Society and for failing to honour accounts. In 1993, the Solicitor was reprimanded in Committee with \$500 in costs for failing to file Forms 2/3. On October 27, 1995, Convocation suspended the Solicitor for three months and indefinitely thereafter until he replies and cooperates with the Society for failing to reply to the Society and for failing to comply with a Society audit. The immediate Committee recommended disbarment. The Solicitor did not attend the hearing nor was he represented. The Committee noted a lack of mitigating circumstances and the clear and convincing proof that the Solicitor is ungovernable. Reference was made to the *Hartley* case and the *Wickham* case where disbarment was imposed without a finding of misappropriation. At Convocation the Solicitor was disbarred.

Unprofessional behaviour

Clark, Bruce Allan

Ottawa, Ontario

Age 51, Called to the Bar 1971

Particulars of Complaint

- Professional Misconduct
 - Attempted to perform a citizen's arrest on the charges of treason and complicity to genocide while appearing before the British Columbia Court of Appeal
 - Unlawfully assaulted a member of the Ontario Provincial Police
 - Unlawfully trespassed upon certain property in an unjustified

and illegal attempt to carry out a citizen's arrest

Recommended Penalty

- Permission to resign and disbarment if the resignation is not tendered to Convocation

Convocation's Disposition (11/23/95)

- Reprimand in January 1996 Special Convocation
- If Solicitor fails to appear before Convocation, he shall be suspended until such time as he appears to receive the Reprimand

Counsel for the Solicitor

Not represented

Counsel for the Law Society

Michael Brown

The Discipline Committee found the Solicitor guilty of several particulars of professional misconduct including those particulars noted above. The Discipline Committee concluded that the Solicitor was ungovernable and recommended to Convocation that the Solicitor be permitted to resign and if he failed to tender his resignation to Convocation, that he be disbarred.

Convocation reviewed the recommendations of the Discipline Committee and found the Solicitor guilty of only those particulars of professional misconduct noted above. Convocation did not find the Solicitor guilty of professional misconduct regarding the balance of the particulars in the complaint nor did they find him to be ungovernable. Convocation found the Solicitor guilty of professional misconduct in relation to his attempt to perform a citizen's arrest of a panel of the British Columbia Court of Appeal while the Solicitor was appearing before that Court. In addition, Convocation found the Solicitor guilty of professional misconduct in regard to his technical assault on a member of the Ontario Provincial Police Force which occurred while the Solicitor unlawfully trespassed upon property in an unjustified and illegal attempt to carry out a citizen's arrest of an individual who resided there.

Convocation imposed a penalty of a Reprimand in the January 1996 sitting of Special Convocation. If the Solicitor fails to appear before

Convocation, he shall be suspended until such time as he appears to receive the Reprimand. Reasons of Convocation are forthcoming.

Failure to file forms

Roy, Bernadette Kelly

Little Current, Ontario

Age 37, Called to the Bar 1989

Particulars of Complaint

- Professional Misconduct

- Failed to file Forms 2/3

Recommended Penalty

- Reprimand in Convocation if Forms filed beforehand
- Otherwise, a one-month suspension to continue until filings are made
- \$450 in costs

Convocation's Disposition (11/23/95)

- One-month suspension to continue until filings are made
- \$450 in costs

Counsel for the Solicitor

Not represented

Counsel for the Law Society

Lesley M. Cameron

The Solicitor failed to file Forms 2/3 for her fiscal year ending June 30, 1994. The Discipline Committee recommended a reprimand in Convocation if the Solicitor made her filings before Convocation, failing which a suspension to continue indefinitely until filings are made, and that the Solicitor pay \$450 in costs, payable within 30 days of Convocation. At Convocation the Solicitor was suspended for one month to commence at the end of the current suspension and to continue until her filings are made, plus costs of \$450, to be paid in instalments.

Failure to file forms

Cloutier, Christopher Marc

Orleans, Ontario

Age 37, Called to the Bar 1984

Particulars of Complaint

- Professional Misconduct

- Failed to file Forms 2/3

Recommended Penalty

- Reprimand in Convocation if Forms filed beforehand
- Otherwise, a one-month suspension to continue until filings are made
- \$400 in costs

Convocation's Disposition (11/23/95)

- One-month suspension to continue until filings are made
- \$400 in costs

Counsel for the Solicitor

Not Represented

Counsel for the Law Society

Georgette Gagnon (at Committee)

Rhonda Cohen (at Convocation)

On November 1, 1994, the Solicitor was suspended administratively for non-payment of his annual fees. The Solicitor remains administratively suspended by Order of Convocation dated March 23, 1995, the Solicitor was suspended for a period of eight months for practicing while under suspension. That suspension shall commence at the conclusion of the Solicitor's administrative suspension. The Solicitor then failed to file Forms 2/3 for his fiscal year ending January 31, 1994. The Discipline Committee recommended a reprimand in Convocation and \$400 in costs if the Solicitor makes his filings prior to the hearing before Convocation, failing which the Committee recommended a one-month suspension, commencing on the expiry of the current suspension, to continue until the filings are made. At Convocation the Solicitor was suspended for one month with \$400 in costs, commencing on the expiry of the current suspension, and to continue until his filings are made.

Failure to reply

O'Leary, Hugh Gordon

Thunder Bay, Ontario

Age 48, Called to the Bar 1978

Particulars of Complaint

- Professional Misconduct

- Failed to reply to the Law Society
- Failed to file Forms 2/3 (2)

Recommended Penalty

- Suspension until replies and filings are made

Convocation's Disposition (11/23/95)

- Suspension until replies and filings are made

Counsel for the Solicitor

Not represented

Counsel for the Law Society

Neil J. Perrier

The Solicitor failed to file Forms 2/3 for his fiscal years ending April 30, 1993 and April 30, 1994. The Solicitor failed to reply to three letters from the Law Society regarding inadequacies discovered in his books and records during an audit examination on June 15, 1993. The Discipline Committee determined that the Solicitor had received proper notice of the proceedings and noted that it appears that the Solicitor's practice has been abandoned though there was no evidence of any harm to his clients. The Committee recommended that the Solicitor be suspended until he replies to the Society and files his Forms. At Convocation the Solicitor was suspended commencing at the conclusion of his current suspension and until he replies to the Society and makes his filings.

Failure to file forms

Adamson, Brian Francis

Minden, Ontario

Age 44, Called to the Bar 1979

Particulars of Complaint

- Professional Misconduct
 - Failed to file Forms 2/3

Recommended Penalty

- Reprimand in Convocation if filings made beforehand
- Otherwise, a one-month suspension to continue until filings are made

Convocation's Disposition (11/23/95)

- One-month suspension to continue until filings are made

Counsel for the Solicitor

Not represented

Counsel for the Law Society

Lesley M. Cameron

The Solicitor failed to file Forms 2/3 for his fiscal year ending April 30, 1994. The Discipline Committee recommended a reprimand in Convocation if the Solicitor makes his filings before Convocation, failing which a one-month suspension to continue indefinitely until the filings are made. At Convocation the Solicitor was suspended for one month to continue indefinitely until his filings are made, such suspension to commence at the end of his current administrative suspension.

Failure to file forms

Kreutzer, Timothy John

Toronto, Ontario

Age 53, Called to the Bar 1976

Particulars of Complaint

- Professional Misconduct
 - Failed to file Forms 2/3
 - Failed to produce books and records

Recommended Penalty

- Reprimand in Convocation if filings made and books and records produced beforehand
- Otherwise, a one-month suspension to continue indefinitely until the Law Society requirements are met

Convocation's Disposition (11/23/95)

- One-month suspension, commencing at end of administrative suspension, to continue until books and records produced and filings made

Counsel for the Solicitor

Not represented

Counsel for the Law Society

Kate Wootton (at Committee)

Glenn Short (at Convocation)

The Solicitor failed to file Forms 2/3 for his fiscal year ending December 31, 1993. In addition, the Solicitor failed to respond to the Law Society's communications requesting that he produce his books and records. The Discipline Committee determined that the Solicitor had been properly served, although he was not served personally, and recommended a reprimand in Convocation if the Solicitor files his

Forms and produces his books and records before Convocation, failing which he should be suspended for one month to continue indefinitely until the Society's requirements are met. The Committee noted that it appears that the Solicitor has not practised law since at least December 31, 1993. At Convocation, the Solicitor was suspended for one month to commence at the conclusion of the current suspension and to continue until books and records are produced and filings are made.

Failure to file forms

Mills, Allan Vincent

Hamilton, Ontario

Age 43, Called to the Bar 1978

Particulars of Complaint

- Professional Misconduct
 - Failed to file Forms 2/3

Recommended Penalty

- Reprimand in Convocation if filings are made beforehand
- Otherwise, one-month suspension to continue until filings are made

Convocation's Disposition (11/23/95)

- One-month suspension to continue until filings are made

Counsel for the Solicitor

Not represented

Counsel for the Law Society

Lesley M. Cameron

The Solicitor failed to file Forms 2/3 for his fiscal year ending May 31, 1994. The Discipline Committee recommended a reprimand in Convocation if the Solicitor made his filings before Convocation, failing which a suspension of one month to continue indefinitely until the filings are made. At Convocation the Solicitor was suspended for one month to commence at the end of his current suspension and to continue until filings are made.

Failure to file forms

Palamar, William

Toronto, Ontario

Age 70, Called to the Bar 1953

Particulars of Complaint

- Professional Misconduct
 - Failed to file Forms 2/3

Recommended Penalty

- One-month suspension

Convocation's Disposition (11/23/95)

- One-month suspension

Counsel for the Solicitor

Janet Leiper (at Committee)

William Horkins, duty counsel
(at Convocation)

Counsel for the Law Society

Janet Brooks

The Solicitor failed to file Forms 2/3 for his fiscal year ending June 30, 1993. The Solicitor had a previous discipline record of three reprimands in Committee, a one-month suspension and a reprimand in Convocation; all of those matters included a finding or findings of failure to file forms Forms 2/3. The Discipline Committee recommended a one-month suspension. The Committee noted that were it not for the Solicitor's age and that his practice is winding down, a substantial suspension might have been recommended. At Convocation, the Solicitor was suspended for one-month commencing December 15, 1995.

Failure to file forms

Rowatt, Jay Duncan

North York, Ontario

Age 57, Called to the Bar 1978

Particulars of Complaint

- Professional Misconduct
 - Failed to file Forms 2/3

Recommended Penalty

- One-month suspension to continue until filings are made

Convocation's Disposition (11/23/95)

- One-month suspension to continue until filings are made

Counsel for the Solicitor

Not represented

Counsel for the Law Society

Jane Ratchford

The Solicitor failed to file Forms 2/3 for his fiscal year ending April 30, 1994. The Solicitor has been suspended administratively since June 5, 1994 for failure to pay his Errors & Omissions levy. The Discipline Committee which heard this matter recommended a one-month suspension to continue until the Forms are filed. At Convocation, the Solicitor was suspended for one month to commence at the conclusion of the current suspension and to continue until filings are made.

Failure to file forms

Dobbs, Eric James

Windsor, Ontario

Age 48, Called to the Bar 1993

Particulars of Complaint

- Professional Misconduct
 - Failed to file Forms 2/3

Recommended Penalty

- Reprimand in Convocation if filings made
- Otherwise, a 30-day suspension to continue until filings are made

Convocation's Disposition (11/23/95)

- 30-day suspension to continue until filings are made

Counsel for the Solicitor

Not represented

Counsel for the Law Society

Jane Ratchford

The Solicitor failed to file Forms 2/3 since his call to the Bar. The Discipline Committee recommended a reprimand in Convocation if the filings were made by the date for Convocation, and, if not, a minimum 30-day suspension to continue thereafter until the filings are completed. At Convocation, since the Solicitor had not filed, the Solicitor was suspended for 30 days commencing at the conclusion of the current suspension, such suspension to continue thereafter until filings are made.

Failure to file forms

Kang, Joo Yung

Etobicoke, Ontario

Age 32, Called to the Bar 1993

Particulars of Complaint

- Professional Misconduct
 - Failed to file Forms 2/3

Recommended Penalty

- Reprimand in Convocation if filings are made beforehand
- Otherwise, a 30-day suspension to continue until the filings are made

Convocation's Disposition (11/23/95)

- 30-day suspension to continue until filings are made

Counsel for the Solicitor

Not represented

Counsel for the Law Society

Jane Ratchford

The Solicitor failed to file Forms 2/3 since his call to the Bar. The Discipline Committee recommended a reprimand in Convocation if the filings were made by the date for Convocation, and, if not, a minimum 30-day suspension to continue thereafter until the filings are completed. At Convocation, since the Solicitor had not filed, the Solicitor was suspended for 30 days commencing at the conclusion of the current suspension, such suspension to continue thereafter until filings are made.

Failure to file forms

Kelly, Mary Margaret Patricia

Thunder Bay, Ontario

Age 46, Called to the Bar 1980

Particulars of Complaint

- Professional Misconduct
 - Failed to file Forms 2/3

Recommended Penalty

- Reprimand in Convocation if filings are completed beforehand
- Otherwise, a 30-day suspension to continue until filings are made

Convocation's Disposition (11/23/95)

- 30-day suspension to continue until filings are made

Counsel for the Solicitor
Not represented
Counsel for the Law Society
Jane Ratchford

The Solicitor failed to file Forms 2/3 for her fiscal year ending February 28, 1994. The Discipline Committee recommended a reprimand in Convocation if the filings were made by the date for Convocation, and, if not, a minimum 30-day suspension to continue thereafter until the filings are completed. At Convocation, since the Solicitor had not filed, the Solicitor was suspended for 30 days commencing at the conclusion of the current suspension, such suspension to continue thereafter until filings are made.

Failure to file forms

Lewonas, Charles John
Woodstock, Ontario
Age 54, Called to the Bar 1970

Particulars of Complaint

- Professional Misconduct
 - Failed to file Forms 2/3

Recommended Penalty

- Reprimand in Convocation if filings are made beforehand
- Otherwise, a 30-day suspension to continue until the filings are made

Convocation's Disposition (11/23/95)

- 30-day suspension to continue until filings are made

Counsel for the Solicitor

Not represented

Counsel for the Law Society

Audrey Cado (at Committee)
Jane Ratchford (at Convocation)

The Solicitor failed to file Forms 2/3 for his fiscal year ending March 31, 1994. The Discipline Committee recommended a reprimand in Convocation if the filings were made by the date for

Convocation, and, if not, a minimum 30-day suspension to continue thereafter until the filings are completed. At Convocation, since the Solicitor had not filed, the Solicitor was suspended for 30 days commencing at the conclusion of the current suspension, such suspension to continue thereafter until filings are made.

Failure to file forms

Perry, Gareth
Toronto, Ontario
Age 53, Called to the Bar 1982

Particulars of Complaint

- Professional Misconduct
 - Failed to file a certificate

Recommended Penalty

- Reprimand in Convocation if filings are made beforehand
- Otherwise, a 30-day suspension to continue until filings are made

Convocation's Disposition (11/23/95)

- 30-day suspension to continue until filings are made

Counsel for the Solicitor

Not represented

Counsel for the Law Society

Jane Ratchford

The Solicitor failed to file Forms 2/3 for his fiscal year ending November 30, 1993. The Discipline Committee recommended a reprimand in Convocation if the filings were made by the date for Convocation, and, if not, a minimum 30-day suspension to continue thereafter until the filings are completed. At Convocation, since the Solicitor had not filed, the Solicitor was suspended for 30 days commencing at the conclusion of the current suspension, such suspension to continue thereafter until filings are made.

Failure to file forms

Trivett, Wilfrid Leonard Samuel
Orillia, Ontario
Age 72, Called to the Bar 1956

Particulars of Complaint

- Professional Misconduct
 - Failed to file Forms 2/3

Recommended Penalty

- Reprimand in Convocation if filings made beforehand
- Otherwise, a 30-day suspension to continue until filings are made

Convocation's Disposition (11/23/95)

- 30-day suspension to continue until filings are made

Counsel for the Solicitor

Not represented

Counsel for the Law Society

Jane Ratchford

The Solicitor failed to file Forms 2/3 for his fiscal year ending January 31, 1994. The Discipline Committee recommended a reprimand in Convocation if the Solicitor made his filings before Convocation, failing which, a 30-day suspension to continue until the filings are made. At Convocation the Solicitor was suspended for 30 days commencing at the conclusion of the current suspension and to continue until his filings are made.

discipline Digest

is published six times annually by
The Law Society of Upper Canada
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