

2023 LSBC 47
Hearing File No.: HE20200095
Decision Issued: November 17, 2023
Citation Issued: November 26, 2020
Citation Amended: May 10, 2022

THE LAW SOCIETY OF BRITISH COLUMBIA TRIBUNAL
HEARING DIVISION

BETWEEN:

THE LAW SOCIETY OF BRITISH COLUMBIA

AND:

RONALD NORMAN PELLETIER

RESPONDENT

**DECISION OF THE HEARING PANEL
ON DISCIPLINARY ACTION**

Written materials: August 23, 2023

Panel: Geoffrey McDonald, Chair
Douglas Chiu, Lawyer
Michael Dungey, Public representative

Discipline Counsel: William B. Smart, KC,
Susan J. Humphrey

No one appearing on behalf of the
Respondent

Written reasons of the Panel by: Geoffrey McDonald

OVERVIEW

- [1] This Citation, issued against the Respondent on November 26, 2020, is novel as it appears to be the first time a lawyer has been disciplined for money laundering – purposely using his status as a lawyer and his trust account to assist his clients to hide the illegal proceeds of their securities fraud. The Respondent utterly abandoned any pretense of acting ethically. He actively enabled his clients to benefit from their crimes. The Respondent knowingly assisted in or encouraged dishonesty, crime or fraud. The Respondent’s conduct is a gross dereliction of his duties as a lawyer and arguably made him a party after the fact to his clients’ frauds. For the reasons set out below the Respondent must be disbarred.
- [2] The parties consented to this disciplinary action hearing proceeding by way of a hearing in writing and consented to a schedule for submitting written materials. The Law Society submitted its written materials on July 28, 2023. The Respondent’s materials were due on August 11, 2023. The Respondent requested and was granted an extension to file his materials by August 18, 2023. On August 18, 2023, the Respondent wrote to the Tribunal by email to advise that he was aware his materials were due, but he was unable to meet the deadline due to a medical issue and provided a doctor’s note. The Respondent indicated that he hoped to submit his materials over the weekend. On August 22, 2023, the Tribunal wrote by email to the parties and advised that if the Respondent’s materials were not received by 4pm on that day, the Law Society’s materials would be provided to the Panel. The Respondent failed to submit his materials on that date and the Tribunal has received no further communications from the Respondent. The Panel conducted the hearing in writing on August 23, 2023.

FACTS

- [3] The circumstances are set out in the Panel’s facts and determination decision at *Law Society of BC v. Pelletier*, 2023 LSBC 3. The Respondent was nominally retained in relation to an investigation by American authorities into an elaborate securities fraud. However, he did not provide his clients with any legitimate legal services. Instead, he abused his trust account and the principle of solicitor client privilege to hide proceeds from the American authorities and allow his clients to benefit from their illicit funds. The Respondent was well paid for hiding the fruits of his clients’ securities frauds, receiving approximately \$900,000 in “legal fees.” The Respondent also failed to comply with the Law Society client identification rules and made improper payments or withdrawals from his trust account.

DISCUSSION

- [4] The general factors and principles for determining an appropriate disciplinary action are detailed in *Law Society of BC v. Ogilvie*, 1999 LSBC 17 at paragraph 10. *Ogilvie* provides a detailed non-exhaustive list of factors. These factors were summarized into four general categories in *Law Society of BC v. Dent*, 2016 LSBC 5, paragraphs 19 to 23, as follows:
- (a) nature, gravity and consequences of the conduct;
 - (b) character and professional conduct record of the respondent;
 - (c) acknowledgement of the misconduct and remedial action; and,
 - (d) public confidence in the legal profession including public confidence in the disciplinary process.
- [5] These four generalized factors encapsulate the *Ogilvie* factors and provide a framework to assist in determining disciplinary action (see *Law Society of BC v. Lee*, 2022 LSBC 5, paragraph 10; *Law Society of BC v. Lessing*, 2022 LSBC 28, paragraph 21; and *Law Society of BC v. Lau*, 2023 LSBC 15, paragraph 15). The Panel will consider the conduct at issue in light of these factors. The Panel will consider any aggravating or mitigating factors and review similar disciplinary cases (*Law Society of BC v. Faminoff*, 2017 LSBC 4, affirmed 2017 BCCA 373). The Panel is guided by the approach as described in *Law Society of BC v. Gellert*, 2014 LSBC 5, paragraph 37, and will consider the entire scope of the conduct globally and not in a piecemeal fashion. The Panel will determine what steps are necessary to protect the public including confidence in the legal profession (*Law Society of BC v. Fogarty*, 2023 LSBC 21, paragraph 10). Not all the *Ogilvie* factors are applicable to every case and the Panel must prioritize protection of the public as the paramount consideration (*Fogarty*, paragraph 37).
- [6] Decisions where lawyers have been disbarred fall into general categories of conduct as follows:
- (a) misappropriating clients' funds (*Law Society of BC v. Hammond*, 2004 LSBC 32; *Law Society of BC v. McGuire*, 2006 LSBC 20, affirmed 2007 BCCA 442; *Law Society of BC v. Lau*, 2023 LSBC 15; *Law Society of BC v. Hart*, 2022 LSBC 20);
 - (b) taking part in unethical business schemes and misleading clients and/or investors (*Law Society of BC v. McCandless*, 2010 LSBC 9; *Law Society of BC v. Welder*, 2015 LSBC 35);

- (c) undermining or perverting the administration of justice, either knowingly or by acting in obviously suspicious circumstances (*Law Society of BC v. Mastop*, 2013 LSBC 37; *Law Society of BC v. Zoraik*, 2018 LSBC 13; *Law Society of BC v. Fogarty*, 2023 LSBC 21; *Law Society of BC v. Huculak*, 2023 LSBC 5); and
- (d) ungovernability – the lawyer has a history of misconduct and has demonstrated that the lawyer will not abide by the regulation by the Law Society (*Law Society of BC v. Lessing*, 2022 LSBC 7; *Law Society of BC v. Mclean*, 2015 LSBC 30).

[7] All of these cases have a common thread – in every instance the lawyer acted without integrity and with a gross disregard for their duties to their client and/or the public.

[8] Integrity is as the heart of the services lawyers provide to the public. The *Code of Professional Conduct in British Columbia* (the “Code”) defines a lawyer in section 2.1 as follows:

A lawyer is a minister of justice, an officer of the courts, a client’s advocate and a member of an ancient, honourable and learned profession.

[9] Lawyers play an essential role in how society conducts business, settles disputes, interacts with the state, and ensuring respect for the rule of law. Lawyers have a duty to maintain the integrity of the law and are prohibited from aiding, assisting or counselling any person to break the law (*Code*, rule 2.1-1(a)). Lawyers must carry out all of their duties “honourably and with integrity” (*Code*, section 2.2). When serving their client, though they should robustly defend their client’s interests by every lawful means, lawyers are prohibited from unlawful acts.

A lawyer should endeavour by all fair and honourable means to obtain for a client the benefit of any and every remedy and defence that is authorized by law. The lawyer must, however, steadfastly bear in mind that this great trust is to be performed within and not without the bounds of the law. *The office of the lawyer does not permit, much less demand, for any client, violation of law or any manner of fraud or chicanery. No client has a right to demand that the lawyer be illiberal or do anything repugnant to the lawyer’s own sense of honour and propriety.*

[*Code*, rule 2.1-3(e), emphasis added]

- [10] In *Canada (Attorney General) v. Federation of Law Societies of Canada*, 2015 SCC 7, the Supreme Court of Canada emphasized the essential role lawyers play in the administration of justice and noted that lawyers have a duty to not become an accomplice to a crime (paragraph 93).
- [11] The proper administration of justice requires lawyers to act with integrity. When assessing conduct, acts of gross dishonesty which demonstrate a lack of integrity by the lawyer must be viewed as extremely grave regardless of the consequences. Lawyers have a privileged position and must be held to a high ethical standard.
- [12] Applying the *Ogilvie* factors as summarized in *Dent*, the Panel makes the following findings as described in the reasons below.

Nature, gravity and consequences of the conduct

- [13] The Respondent's misconduct in this case is extremely grave. At every stage, the Respondent acted, not to provide legitimate legal services, but rather to enable his clients to benefit from their securities fraud. The Respondent used his position as a lawyer and the principle of solicitor client privilege to hide proceeds of crime in his trust account. This is a gross breach of his duties and his acts must be viewed as extremely serious.
- [14] Moreover, the Respondent profited from his misconduct, receiving nearly \$900,000 in fees despite not providing any substantive legal services. The offending misconduct was prolonged and frequent.

Character and professional conduct record of the respondent

- [15] The Respondent has a professional conduct record consisting of a conduct review from 2016 relating to driving while prohibited, providing the police officer investigating the incident with a false name and date of birth, and failing to report to the Law Society when he was later charged with offences related to the prohibited driving and providing a false name.
- [16] The Respondent was also administratively suspended from September 4, 2018, to November 8, 2018, for failing to file a completed trust report.
- [17] The Law Society suggests that the Panel should view the decision of three Benchers on July 27, 2018, to prohibit the Respondent from operating a trust account as part of his conduct record. However, that decision is based on the facts in this Citation. That cannot be viewed as a prior record. It is simply the Benchers'

decision to protect the public while this matter was investigated and later brought forward as a citation.

- [18] In the Panel's view, the 2016 conduct review is aggravating as it involved illegal driving and an attempt to obstruct a police officer.

Acknowledgement of the misconduct and remedial action

- [19] The Respondent has never acknowledged his misconduct. There is no evidence of any remedial actions by the Respondent. This factor is neutral. The absence of evidence is neither aggravating or mitigating on the facts of this case.

Public confidence in the legal profession including public confidence in the disciplinary process

- [20] The public must be able to rely on the integrity of lawyers to correctly carry out their duties. Lawyers have a privileged and essential role in our society and the administration of justice. The public has every right to expect that lawyers who do not carry out their duties ethically will face serious consequences. Lawyers who deliberately take part in or assist illegal frauds and crimes will be prevented from practising law. Public confidence in the Law Society as the regulator requires a severe sanction.

CONCLUSION

- [21] Considering all the above factors, disbarment is the only appropriate sanction. The Respondent knowingly assisted or encouraged dishonestly, crime or fraud. He knowingly assisted individuals to hide and use illegal proceeds from securities and tax fraud. The Respondent accepted or possessed stolen, fraudulent or otherwise illicit funds and carried out transactions which were intended to prevent the American authorities from detecting and/or seizing the illegal funds from the tax and securities frauds. The Respondent purposely abused solicitor client privilege to hide the illegal funds and enable his clients to profit from them.
- [22] A lawyer who knowingly assists in or encourages a crime or fraud cannot be allowed to practice law. This illegal and unethical behaviour must be denounced in the strongest possible way. Just like lawyers who are ungovernable, lawyers who take part in illicit schemes to assist their clients to commit crimes or purposely assist in hiding proceeds of crime must be disbarred. The public must know that illegal activities by lawyers will be severely sanctioned.

- [23] The Panel orders that the Respondent be disbarred.
- [24] The Panel has not received any submissions with respect to costs. If the parties cannot come to an agreement on costs, then either party may make written submissions to this Panel with respect to costs.