

DISCIPLINE DIGEST

The Society of Notaries Public of British Columbia

September 2009

Tom Anderson
Commissioned May 2006

The member was charged with violating his oath of office, and engaging in professional misconduct contrary to Sections 1, 2 and 3 of the Society's Principles for Ethical and Professional Conduct (Code of Ethics) by affixing his digital signature and electronically filing a document when he did not have the requisite document in his possession.

The member and the Society entered into an agreed statement of fact in the matter and the member attended at the hearing to give oral clarification of the facts and provide his assurances regarding his understanding of the charge, facts and penalty he may face. The Society also provided information regarding the facts and its view of an anticipated penalty.

Background:

In February 2009, Mr. Anderson was acting for a buyer of a strata property. On the closing date, he registered the required Form A Transfer electronically to transfer title to his client. He inadvertently neglected to file the supporting Form F as required by the Strata Property Act (the "Form F").

Approximately one week after registration, on February 26, 2009, the electronic application for registration of the Transfer was rejected by the Land Title Office for failure to include a Form F. In response to the defect notice, Mr. Anderson prepared, digitally signed, and electronically filed the required corrective declaration and Form F declaration to satisfy the rejection notice, without having the Form F in his possession. By digitally signing the Form F declaration, he was certifying that he had a true copy of the Form F in his possession.

Mr. Anderson admits certifying the statement and affixing his digital signature. He explained that he misinterpreted an explanation he received from an individual at the Land Title Office regarding the timing of filing the corrective declaration and failed to sufficiently turn his mind to the requirement of executing that document. He informed the panel that he accepts he executed the document improperly and understands the seriousness of having done so. Mr. Anderson admits that his conduct was contrary to the best interests of the public and the notarial profession, tended to harm the standing of the notarial profession, and was professional misconduct.

Findings:

On the basis of the agreed facts, the panel accepted the admission of the member.

The panel said that it is difficult to overstate the care that must be taken when certifying many documents that notaries public come into contact with on a daily basis. Notaries are granted the privilege of having their signatures accepted for many purposes, among them several sections of the Land Title Act, without question. With that privilege comes the responsibility to ensure a notary's signature is not used improperly or casually.

In addition, members using electronic signatures by virtue of Juricert's services are reminded that they are under a contractual obligation as to how they make use of that service. Misuse of signatures, electronic or otherwise, will be censured by the Society. The fact that the misuse was not malicious is of some, but little consequence.

Penalty:

In view of the importance of this matter to the member, the agreed statement of facts, and on hearing the member's agreement with the Society regarding penalty, the Board proceeded pursuant to s. 35 of the Notaries Act.

After deciding the issue of liability, the Board considered a joint recommendation on penalty. Mr. Anderson has no discipline history and is a relatively new member. Given his acceptance of responsibility for the breach, the panel is satisfied that his practice in future will accord with his professional requirements. Nevertheless, the nature of this breach requires a substantial response.

Fine:	\$1,000
Suspension:	5 business days
Costs:	\$750

Mr. Anderson and the Society agreed that the member's suspension would be served during the period September 14th through 18th, 2009.