

DISCIPLINE DIGEST

The Society of Notaries Public of British Columbia

March 2010

TERRY DALE ROBERTS
Commissioned: May 7, 2009

The Member was charged with a breach of Rule 10.01 of the Rules of the Society and Section 28 of the *Notaries Act* by failing to fulfill an undertaking.

The Member and the Society entered into an Agreed statement of Facts and Admission with respect to the charge.

Agreed Facts:

1. In September of 2009 the member acted for the buyer in a real estate transaction.
2. On or about September 14, 2009, the proposed closing date, the seller's notary public provided the seller's documents, including the Form A, Freehold Transfer, to the Member on the following undertaking set out in her letter of September 14, 2009:

"....these documents are forwarded to you on your undertaking that you will not attempt to register the executed Form A Transfer until such time as I am able to provide you with my undertakings."
3. The Member electronically submitted the Form A Freehold Transfer for registration contrary to the undertaking and tendered the sale proceeds to the seller's notary public.
4. The seller's notary public returned the sale proceeds to the Member and informed him that he had breached the undertaking imposed upon him and demanded that he withdraw the Form A Freehold Transfer, which he did.
5. The seller's notary provided the Member with her undertakings and the transaction then completed as anticipated.
6. The seller's notary public lodged the company with the Society.

Admission:

The Member admits and agrees that he breached the undertaking placed upon him by the seller's notary public. The Member also agrees that his conduct is a breach of Section 28 of the *Notaries Act* and as such is contrary to the best interests of the public and the notarial profession, tends to harm the standing of the notarial profession, and is unprofessional conduct.

Findings of the Inquiry:

The Inquiry panel met to review the Agreed Facts and Admission and, on the basis of the admissions and facts presented, was of the view that the Member breached the Act as charged and accepts the facts as agreed. Because undertakings are essential to the practice of notaries in the province, the Society has a policy of disciplining every member that breaches an undertaking.

Penalty:

The Society and the Member agreed upon a recommendation for penalty. The recommendation was considered by the Inquiry Panel.

The Member has no discipline history and was very recently commissioned. The panel was of the view that the penalty he has agreed to is sufficient under the circumstances. The Member admitted his breach and did what he could to rectify it immediately upon being notified.

The Inquiry Panel accepts the Member's Admission and recommends the agreed penalty of a reprimand and a fine of \$1,000.00 inclusive of costs.

- a. A reprimand be placed in the member's file;
- b. The member pay a fine of \$1,000.00 inclusive of costs.

Board of Directors:

The Report of the Inquiry Panel was reviewed and considered by the Board of Directors who accepted the Report and the recommended penalty.