

DISCIPLINE DIGEST

The Society of Notaries Public of British Columbia

March 2010

GEORGE TAN
Commissioned: May 3, 2007

The Member was charged with a breach of Section 28 of the Notaries Act by engaging in unprofessional communications and conduct with another professional.

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

Agreed Facts:

1. In November 2009 the Member represented AM in a real estate purchase. The seller was represented by real estate brokerage, W (the "Realtor").
2. During the course of the transaction, the Realtor amended the real estate commission on two occasions, requiring the Member to amend documents he had already prepared in the transaction.
3. In response, the member charged a fee to the Realtor for the work that the Member was required to do to reflect the amendments in the transaction.
4. In written correspondence, the Realtor objected to the fee claimed by the Member.
5. The Member responded to the Realtor's written correspondence by handwriting his replies on the Realtor's letters and returning the letters to the Realtor by fax.

Admission:

6. The Member admits:
 - i. the tone and form of his written communications to the Realtor were discourteous and unprofessional, contrary to Principles 2-G5 and 9-P1 of the Society's Principles for Ethical and Professional Conduct ("Code of Conduct");
 - ii. he breached Section 28 of the Notaries Act in that his conduct is contrary to the best interests of the public, is contrary to the best interests of the notarial profession, tends to harm the standing of the notarial profession, and is professional misconduct.

Findings:

The Inquiry Panel reviewed the Agreed Statement of Facts and Admission and is of the view that the Member breached the *Act* as described in the charge.

The panel understood that the Member was frustrated in being required to perform tasks related to the contract that might ordinarily be considered to be within the role of the seller's agent, but that frustration must not result in a lack of professionalism on a member's part.

The panel was satisfied that the Member has been made aware of the need to exercise restraint and to conduct business on his and his clients' behalves in a professional manner.

Penalty:

Having found the Member in breach of the Act, the panel considered the recommended penalty of the Member and the Society in their joint submission. The member has no discipline history and the joint submission is that the Member be reprimanded and pay costs of the proceeding as a penalty for his breach. Considering the nature of the breach, the effect of the breach on the parties and the panel's understanding that this activity is unlikely to be repeated by the Member in future, the panel recommended acceptance of the agreed penalty.

- a. A reprimand be placed in the Member's file;
- b. The member pay costs of the proceedings.

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.