

DISCIPLINE DIGEST

The Society of Notaries Public of British Columbia

March 2010

STEVEN LE

Commissioned: May 3, 2007

The Member was charged with professional misconduct and a breach of Section 28 of the Notaries Act by engaging in unprofessional communications with the professional regulator of a client and in charging fees as disbursements.

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

Agreed Facts:

1. In June of 2009 the member represented CMK in a real estate conveyance transaction relating to the purchase of property.
2. The Member agreed to complete the services and quoted a total price inclusive of fees and disbursements.
3. The Member's statement of account failed to properly disclose that charges claimed as disbursements totaling approximately \$200 (and described as "agent's fees, couriers, and searches incurred in the conveyance transaction) were not the actual costs incurred in the course of the conveyance transaction.
4. During the course of his representation of CMK, the Member learned that CMK was a teacher at a school and a member of the BC College of Teachers.
5. During the course of the retainer, the Member and CMK had a number of acrimonious communications, both verbally and written, regarding the transaction including documentation, fees, scheduling of meetings, qualification for Home Owner Grant and Property Transfer Tax first time home buyer exemption, etc.
6. Following the completion of his retainer, the Member filed a written complaint with the BC College of Teachers and sent a copy to the principal of the school where CMK was employed. The complaint alleged that CMK was mentally unfit, emotionally unstable, and unprofessional and suggested that she should not be permitted to be a teacher. In the written complaint, the Member disclosed information acquired from and about CMK in the course of his professional relationship with CMK.
7. The letter the Member wrote to lodge the complaint with the BC College of Teachers was on his letterhead and confirmed his retainer as notary public.

By way of Agreed Admissions, the Member agreed and admitted that:

8. Although the total amount of the account was the amount he quoted to his client, by expressly identifying disbursements for agent's fees, courier costs, and searches in his account,

he failed to fully disclose that he had not actually incurred those costs and that they would be transferred to his benefit as fees. In doing so he violated Principles 1, 2 and 8 of the Society's Principles of Ethical and Professional Conduct and 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.

9. The Member further admits that:

- a. the allegations that he made regarding CMK's mental and emotional capacity to be an Educator in his complaint to BC College of Teachers were unwarranted and unprofessional;
- b. in the complaint, he breached his privacy policy by disclosing information acquired in the course of his professional relationship concerning the business and affairs of CMK;
- c. he violated Principles 2, 6 and 11 of the Principles of Ethical and Professional Conduct of the Society;
- d. his conduct was contrary to the best interests of the public, was contrary to the best interests of the notarial profession, tends to harm the standing of the notarial profession, and was professional misconduct.

Findings of the Inquiry:

The Inquiry panel met to review the Agreed Facts and Admission and found that the Member did breach the *Act* as charged.

The panel understood that the Member's actions regarding his client's occupation resulted from his emotions running high during the discussions between him and his client. While notaries are only human, it must be borne in mind that admission to the profession carries with it an obligation to consider the interests of the client and the rest of the profession before giving into thoughts other persons might give rein to. In addition, the profession is reminded that estimates of disbursements or fees ought to be communicated to clients in advance to avoid the issues raised in this Inquiry.

Penalty:

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

The Member has no discipline history and has not been a notary public for long. In recognition of his co-operation and admission, the panel recommends the agreed penalty as follows:

1. The member be reprimanded;
2. The member pay a fine of \$1,000;
3. The member pay a contribution to costs of \$500; and
4. The member undertake to write an apology to CMK, provide a copy of that apology to the Society and to send a copy of the apology to the BC College of Teachers with a request that it form part of CMK's complaint record.

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.