

The Law Society of British Columbia



Reply to: Shelley Ion
Direct Line: (604) 443-5732
Please reply to our File No. 20081027

CONFIDENTIAL

February 26, 2009

Mr. Anthony J. Jasich
Barrister and Solicitor
403 – 567 Lonsdale Avenue
North Vancouver, BC
V7M 2G6

Dear Mr. Jasich:

Re: G. Stephen Alsace; Our File No. 20081027

I have assumed conduct of this investigation from Ms. Long.

I acknowledge receipt of your letter dated January 30, 2009, a copy of which I am not providing to Mr. Alsace as it touches on matters beyond the scope of his complaint, and in any event it does not provide a substantive response as required, as well as your letter dated February 26, 2009.

Please note that I have also received from Mr. Alsace, at my request, copies of your letters to CIBC dated February 14, 25, March 3, March 28, April 22, June 20 (2 letters this date), September 29, October 14, October 20, November 17, 2008, all of which essentially repeat your requests for mortgage payout documentation for Mr. Gaffney. Similarly, at my request, Mr. Alsace provided me with copies of CIBC's letters to you dated February 25, April 14, June 11, October 22, November 6 (2 letters this date), and December 18, 2008, in which you are provided a discharge statement and property title search, and in which you are essentially repeatedly advised that CIBC no longer has any interest in the subject property, nor does it have any account in the matter. For your ease of reference in this complaint investigation, I enclose copies of all this correspondence between you and CIBC.

Please note that, pursuant to Rules 2-1(b) and 2-4, you are a member of the Law Society, in the category of 'retired member', and thus you are still governed by the *Legal Profession Act*, the Law Society Rules, and the *Professional Conduct Handbook*. Accordingly, pursuant to Rule 3-5(6) and (7), you are required to provide a response to my inquiries. While not in any way affecting your obligation to provide the required response, I note that when Ms. Long sent you the complaint she provided the relevant communications with the Canadian Imperial Bank ("CIBC") and/or Borden Ladner Gervais as it pertains to this investigation into your conduct.

As I expect you are aware, as a 'retired member', you are not permitted to engage in the "practice of law", pursuant to Rule 2-4(a) (unless you have been released from your undertaking, as set out in that rule). Therefore, as Ms. Long requested, please explain whether in representing Mr. Gaffney you do so "in the expectation of a fee, gain, or reward, direct or indirect" from Mr. Gaffney. I refer you to the definition of the "practice of law" in section 1(h) of the Act.

Even if you have not been engaged in the 'practice of law' (as defined in the Act), as a member of the Law Society you are nonetheless governed by the Law Society Rules, as well as the *Handbook*, Chapter 2, Rule 1, which provides:

Dishonourable conduct

1. A lawyer must not, in private life, extra-professional activities or professional practice, engage in dishonourable or questionable conduct that casts doubt on the lawyer's professional integrity or competence, or reflects adversely on the integrity of the legal profession or the administration of justice.

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In my preliminary view, there appear to be two general categories of concern: 1) your continuing to advance mortgage payments from Mr. Gaffney to CIBC when you knew or ought to have known that the mortgage had been cancelled on January 4, 2008, and 2) your unsubstantiated criticisms of another lawyer (and perhaps the judiciary) in your letter to CIBC dated September 29, 2008.

Please provide your complete written response to the above inquiry regarding your engagement in the 'practice of law', as well as to all of the following, **within two weeks** of the date of this letter:

1. With respect to your continuing to advance mortgage payments to CIBC, I have the following observations and questions. The subject property, located at 312- 450 Bromley Street, Coquitlam (the "Property"), was ordered sold by the Court, and in particular on November 26, 2007 the Court ordered that Mr. Oliver, solicitor for the Petitioner Ms. Gaffney, shall receive in trust the net purchase price after adjustments, and disburse those proceeds as follows:
 - a) "Firstly, to clear all financial charges registered against the title.
 - b) Secondly, to pay one half of the remaining net proceeds to the Petitioner.
 - c) Thirdly, to pay the Petitioner's costs, both here and in the Court of Appeal, after Assessment or agreement of the Respondent.
 - d) Fourthly, to pay the balance remaining, if [redacted] to the Respondent."
2. Mr. Oliver wrote to the Registrar of Land Titles on December 12, 2007 referencing the November 26, 2007 Judgment, and on December 14, 2007 Mr. Cadman, solicitor for the purchasers of the Property, filed a corrected copy of the November 26, 2007 Court Order. All of the Court Orders, including the transfers of title, and in particular the Form C discharge of the mortgage in question, number BW366048 (the "Mortgage"), are all available to you online through BC Online, or, through attendance at the Land Title Office. Please find enclosed copies of the search material the Law Society obtained through BC Online.

All of this publicly available documentation shows that the Property was ordered sold, the net proceeds of the sale were ordered delivered to Mr. Oliver, who was ordered to disburse them as set out above. In particular, it is clear from the Form C that Mortgage discharge was filed on January 2, 2008 (as submitted electronically by Mr. Oliver to the Land Title Office). A current Land Title Search further reveals that the Mortgage, originally registered August 9, 2004, was cancelled January 4, 2008 (I assume the two-day difference relates to the processing time of the paperwork at the Land Title Office).

I am frankly at a loss as to why you and Mr. Gaffney appear to continue to believe that there are monies still owing under the Mortgage, and, why therefore you continue to advance payments on behalf of Mr. Gaffney, particularly when the Property was sold and the Mortgage paid out by Order of the Court. Please explain.

- a. Did you do your own searches to determine the above Court Orders, and the status of the Property and of the Mortgage, and if so, do you discount their veracity or authority in some way? If so, please explain.
 - b. If you did not do your own searches, why not?
 - c. On what basis did you assert that CIBC had any obligation to provide you with the information requested in your September 29, 2008 letter (and in other letters in which you asserted you provided a monthly mortgage payment from Mr. Gaffney), particularly in light of the fact that the Mortgage was paid out pursuant to Court Order, and proof of that is publicly available to you?
3. With respect to your apparently improper comments regarding Mr. Oliver, as Ms. Long previously reminded you, Chapter 11, Rule 13 of the *Professional Conduct Handbook* warns lawyers against making "ill-considered or uninformed criticism of the competence, conduct, advice or charges of other lawyers".

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Therefore, bearing the above provisions in mind, with respect to your September 29, 2008 letter to CIBC written on behalf of and copied to Mr. Gaffney, please explain the basis for your comment:

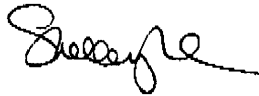
"It is apparent that here that [sic] there is a massive theft of equity in the fraudulent transfer of property transaction that Mr. Oliver is attempting to get CIBC to go along with ..."

As noted above, the Property was sold pursuant to Court Order, and based on the documentation I have seen, I can see nothing whatsoever improper in Mr. Oliver's conduct, and, have seen no evidence of "theft" or a "fraudulent transfer of property".

You may wish to consider consulting counsel to assist you in responding to this complaint, as I expect it may ultimately be referred to the Discipline Committee for their consideration.

Finally, I draw your attention to Rule 3-3 of the Law Society Rules and section 87 of the *Legal Profession Act*. With respect to the latter, please note that this letter and other documents relating to this complaint are not admissible as evidence in any proceedings, except Law Society proceedings, without the consent of the author of the material or the Executive Director required pursuant to section 87 of the *Legal Profession Act*. This letter provides no such consent.

Yours truly,



Shelley Ion
Staff Lawyer - Professional Conduct

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Enclosures
c. G. Stephen Alsace