

Discipline Digest

The Law Society
of British Columbia



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Rule 4-21 admissions to the Discipline Committee:

Misappropriation of funds

JAMES EDWIN MARKS

Nanaimo, B.C.

Called to the Bar: January 9, 1987

Ceased membership: January 1, 2000

In October, 1997 Mr. Marks withdrew \$143,000 from funds held in trust for client F. He used the money to purchase five bank drafts for various purposes, and retained \$6,000 for his own personal use. The withdrawal of trust funds was without F's knowledge or consent and constituted misappropriation.

On February 11, 1998 Mr. Marks wrote three trust cheques, totalling \$143,005, to client F to replace the misappropriated funds. Two of these cheques were drawn against funds Mr. Marks held in trust for other clients (\$95,983 from client C and \$30,815 from clients Mr. and Mrs. P) without their knowledge or consent, and these withdrawals constituted misappropriation.

On February 27, 1998 Mr. Marks withdrew \$126,916 from funds held in trust for another client, K Estate. He used these funds to replace the misdirected trust funds of C and P. Mr. Marks' withdrawal of these trust funds from K Estate was without the knowledge or consent of the executor and constituted misappropriation. In

1999 Mr. Marks withdrew for his own use a further \$76,602 of trusts funds held for K Estate. These withdrawals were without the knowledge or consent of the executor and constituted misappropriation.

On January 1, 2000 Mr. Marks ceased as a member of the Law Society for failure to pay his practice fees.

On July 20, 2001 Mr. Marks admitted to the Discipline Committee that his conduct in misappropriating trust funds constituted professional misconduct. The Discipline Committee accepted Mr. Mark's admission, on his undertaking:

- not to apply for reinstatement to the Law Society for five years;
- not to apply for membership in any other law society without first advising the Law Society in writing;
- not to permit his name to appear on the letterhead of any lawyer or law firm without the written consent of the Law Society; and
- to obtain the written consent of the Law Society before working for any lawyer or law firm in British Columbia.

Admissions to the Discipline Committee

When a citation has been directed against a lawyer, the lawyer may tender a conditional admission of a discipline violation to the Discipline Committee under Law Society Rule 4-21.

If the admission is accepted by the Discipline Committee, the Committee will rescind any

outstanding citation, direct that the admission be endorsed on the lawyer's professional conduct record and advise the complainant of the disposition.

Rule 4-38 provides for publication of summaries of these cases. □