

THE LAW SOCIETY OF BRITISH COLUMBIA

IN THE MATTER OF THE *LEGAL PROFESSION ACT*, SBC 1998, C. 9

AND

MONTE W. PRIOR

RULE 3-7.1 CONSENT AGREEMENT SUMMARY

1. On August 18, 2022, the Chair of the Discipline Committee approved a consent agreement proposal submitted by Monte W. Prior (the “Lawyer”) under Rule 3-7.1 of the Law Society Rules (the “Rules”).
2. Under the proposal, the Lawyer admitted that he committed professional misconduct, pursuant to s. 38(4) of the *Legal Profession Act*, as follows:
 - i. Between approximately February 21, 2018 and March 24, 2020, in relation to 55 client matters, he misused his trust account by (a) failing to withdraw some or all of \$759,934.93 of trust funds as soon as practicable, contrary to Rule [3-58\(4\)](#) of the Law Society Rules; and (b) maintaining more than \$300 of his own funds in his trust account, contrary to Rule [3-60\(5\)](#) of the Law Society Rules.
 - ii. Between approximately March 31, 2018 and April 30, 2020, he collected Goods and Services Tax (“GST”) and Provincial Sales Tax (“PST”) from his clients but failed to remit funds due to the Canada Revenue Agency and the British Columbia Ministry of Finance in payment of GST and PST in a timely way (\$33,895.53 and \$46,812.04, respectively), contrary to rule [7.1-2](#) of the *Code of Professional Conduct for British Columbia*.
3. Under the proposal, the Lawyer agreed to pay a fine of \$20,000.

4. In making their decision, the Chair of the Discipline Committee considered an Agreed Statement of Facts signed by the Lawyer on July 7, 2022, and a letter to the Chair of the Discipline Committee signed by the Lawyer on August 5, 2022.
5. The Chair also considered the Lawyer's Professional Conduct Record, which consisted of one conduct review for permitting his Firm's trust account to be used to receive and disburse funds totaling approximately \$63,000 in circumstances where the Firm was not providing substantive legal services directly related to those funds. The conduct resulting in the conduct review, and the conduct resulting in this consent agreement, arose from the same compliance audit conducted by the Law Society in January 2020.
6. This consent agreement will now form part of the Lawyer's Professional Conduct Record.
7. Pursuant to Rule 3-7.1(5) of the Rules, and subject to Rule 3-7.2 of the Rules, the Law Society is bound by an effective consent agreement, and no further action may be taken on the complaint that gave rise to the agreement.
8. The admitted facts were set out in the Agreed Statement of Facts. They have been summarized below.

Summary of Facts

9. Monte William Prior (the "Lawyer") was called and admitted as a member of the Law Society of British Columbia on May 18, 1990.
10. The Lawyer has been practising with Pearlman Lindholm Law Corporation ("the Firm") in Victoria since 1997.
11. The Lawyer practices primarily in the area of plaintiff personal injury, together with some administrative law.
12. In January 2020, the Law Society's Trust Assurance Department conducted a compliance audit of the Firm for the period October 1, 2018 to January 19, 2020.

13. The compliance audit identified that the Lawyer used his trust account to hold fees, disbursements and taxes for extended periods of time.
14. In addition, the compliance audit identified that the Lawyer had charged Provincial Sales Tax ("PST") and Goods and Services Tax ("GST") to his clients in relation to the matters with the funds held in trust, but had not remitted those funds to the Canada Revenue Agency or to the Minister of Finance, as required.
15. Upon further investigation, the Law Society identified that there were 55 client matters where Mr. Prior held an aggregate of \$759,934.93 in trust (representing \$678,227.36 in legal fees, \$33,895.53 in GST, and \$47,812.04 in PST) between 60 and 565 days past the date of the client's final invoice.
16. The outstanding PST was fully paid by the Lawyer by July 2020. The outstanding GST was paid by August 2020.
17. As a result of being in the trust account for an extended period of time, the legal fees in issue were not included in the Firm's corporate income tax return for the corresponding year in which the legal services were earned. However, they were subsequently included in the Firm's corporate income tax return for the 2020 tax year.
18. The Lawyer is remorseful, and has acknowledged his misconduct. He has assured the Law Society that he will not commit similar misconduct in the future.
19. Additional mitigating considerations in this consent agreement included the following:
 - i. there were no concerns that the Lawyer had misappropriated client funds;
 - ii. at no time were clients' monies involved or exposed to any risk, as all monies were those of the Lawyer or taxes owing thereon;
 - iii. the Lawyer's conduct was not motivated by bad faith; and
 - iv. at all times during the consent agreement resolution process, the Lawyer was cooperative with Law Society counsel and he made early and fulsome admissions.