



The toll fraud takes

A discipline counsel perspective

In more than 20 years of representing lawyers at the Law Society, Bill Trudell has heard many tales of woe: But common to them all, he says, is the shame/ego dichotomy that prevents lawyers from being able to admit they've made a mistake – the same shame that then leads to misappropriation and to investigative and disciplinary action by the Law Society.

“Every lawyer who gets called has altruistic ambitions: We all want to change the world. And the world looks at us this way – we're not supposed to make mistakes, we're not supposed to fail,” says the Toronto-based practitioner.

“So when we do make a mistake, shame stands in the way of being able to admit we have erred. We try to ‘fix’ things – but that only compounds the problem because we only dig ourselves in deeper.”

His experience representing both high profile lawyers and those assigned as part of a new duty roster system at the Law Society indicates that very few lawyers set out to deliberately defraud clients. “More than 90 per cent of the time the lawyer has all the right intentions, but makes just one mistake, or has just one bounced cheque. Without anyone to ask, without proper book-keeping (most sole practitioner lawyers do their own books even though we're not all well equipped to run a business), they just get into more and more trouble.

“And then stress takes over: We have to keep going because we cannot admit to anyone – not to our family,

our peers, not even to the person closest to us – that we have failed. So we go into denial: We fail to respond to the Law Society inquiries. We're afraid to call for help. We struggle on – frozen by fear and shame. It's this overblown notion that we cannot admit that we are wrong that gets lawyers into trouble.”

A devastating toll

The toll that disciplinary action by the Law Society takes on lawyers, adds Trudell, is devastating. “The lawyers I see at discipline are truly shell-shocked: they try to slide in and out without being noticed.” And realistically, even a minimal suspension can spell the death of a law practice. “In six months, you can lose all of your clients, contacts, sometimes even your family – everything.”

The solution? Lawyers, he says, need a sounding board, someone to bounce around ideas with, an ombudsman at the Law Society – “a lifeline that they can turn to early on to prevent them from getting into more trouble than they may already be in.” Mentors for young lawyers and sole practitioners can play such a role, he says. It's a role he'd also like to see the Law Society play. “Lawyers should not be afraid to call on the Law Society for help. We need to find creative solutions to this problem – because the more complex law practice becomes, the more complex the problems that we'll see facing lawyers.”