

THE LAW SOCIETY OF MANITOBA

IN THE MATTER OF:

DARCY FREDERICK PURVIS

- and -

IN THE MATTER OF:

THE LEGAL PROFESSION ACT

DECISION

THE LAW SOCIETY OF MANITOBA

IN THE MATTER OF:

DARCY FREDERICK PURVIS

- and -

IN THE MATTER OF:

THE LEGAL PROFESSION ACT

Hearing Date: September 20, 2021

Panel: Heather Leonoff, Q.C. – Chair
Jacob Janzen
Carmen Nedohin (Public Representative)

Counsel: Ayli Klein for the Law Society of Manitoba
Stephen Vincent for the Member

DECISION

1. Darcy Purvis is a member of The Law Society of Manitoba (the “Society”), having been called to the Bar on August 13, 2003 and having been entered as a barrister and solicitor in the Rolls of the Society on that date. Mr. Purvis is charged with one count of professional misconduct in a citation dated September 13, 2021. Prior to this event, Mr. Purvis had no discipline history with the Society.
2. The facts that give rise to the citation are not in dispute. They were set out in an Agreed Statement of Facts, filed as exhibit 1 in the hearing. In summary, the facts establish that Mr. Purvis received \$6,500 in cash from a client following completion of the file. He did not issue a statement of account for this money; did not deposit the money into his trust account; did not issue a receipt to the client for the money; did not record the transaction in the records of the law firm; and did not maintain up-to-date trust records.
3. Mr. Purvis’s conduct violated several rules of the Society, specifically:

- Rule 5-43(1) – that requires an up-to-date book of original entry to document each payment into the trust account as well as the requirement for an up-to-date specific trust ledger for each client.
- Rule 5-44(1)(b) – that requires the deposit of money into the trust account as soon as practicable after receipt.
- Rule 5-44(1)(d) – that requires a statement of account to be prepared and sent to the client before any money is withdrawn on account of fees.
- Rule 5-45(2) – that requires a written receipt to be issued to a client for all cash payments.

4. Mr. Purvis pled guilty to the citation and admitted that his conduct amounted to professional misconduct. The Society, and Mr. Purvis through counsel, reached a joint recommendation as to an appropriate penalty.

5. In *R. v. Anthony-Cook*, 2016 SCC 43 the Supreme Court of Canada clarified the process to be followed on joint submissions. While decided in the context of the criminal law, the principles set out in the case are equally applicable to discipline tribunals. The Supreme Court recognized the value of negotiated agreements to the efficient and fair resolution of legal matters. The Court cautioned that joint submissions should generally be followed and should only be departed from in very rare circumstances. In this case two experienced counsel have determined an appropriate disposition is a fine of \$7,500 and the Panel sees no reason to depart from this recommendation.

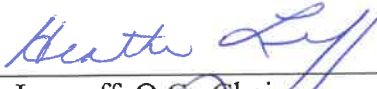
6. The amount of the fine in this case is significant and exceeds the amount of money that was improperly handled by the lawyer. The level of the fine serves both as a general and specific deterrent. A significant fine is necessary to impress on Mr. Purvis, specifically, and the profession more generally, the importance of strict adherence to the accounting rules. Each of these rules serves the purpose of ensuring an effective and transparent system that tracks every client dollar through the law firm. It is only when these rules are followed precisely that clients can obtain accurate documentation respecting their financial transactions with their lawyers and can be confident that their money is secure. The accounting rules, together with regular audits, are the means that the Law Society relies on to fulfill its obligation to protect the public by ensuring the public that their money is safe with their lawyers.

7. While all the accounting rules need to be followed strictly, the requirement for a signed receipt for cash payments is particularly important. Otherwise there is the potential for cash to become totally unaccounted for. This is precisely what happened in the current case. Mr. Purvis was required to amend his income tax return to include the \$6,500 payment as income because when he did his taxes this undocumented fee was excluded.

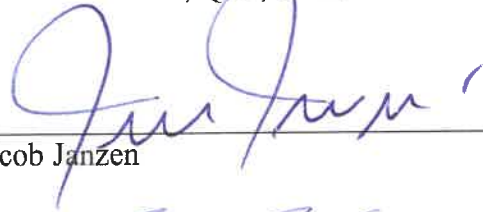
8. In addition to the fine assessed in this matter, the Panel also concurs with the joint recommendation that Mr. Purvis pay costs in the amount of \$5,000 as a contribution to the costs incurred by the Society for the investigation and prosecution of the charges.

9. In summary, the Panel finds Mr. Purvis guilty of one count of professional misconduct. Pursuant to s. 72(1)(d) of *The Legal Profession Act* we order the member to pay a fine in the amount of \$7,500. We also impose costs of \$5,000. The Chief Executive Office of the Society is delegated the authority to provide for a schedule for a payment of the fine and costs.

Dated this 29th day of September, 2021



Heather Leonoff, Q.C., Chair



Jacob Janzen



Carmen Nedohin, Public Representative