



DISCIPLINE CASE *DIGEST*

Case 13-05

Member:	Dennis George Wawrykow
Jurisdiction:	Winnipeg, Manitoba
Called to the Bar:	June 25, 1974
Particulars of Charges:	Professional Misconduct (4 Counts): <ul style="list-style-type: none">▪ Breach of c. 1 of the <i>Code</i> [integrity]▪ Breach of c. 6 of the <i>Code</i> [conflict of interest with client] [x2]▪ Breach of c. 3 of the <i>Code</i> [allowed self to be the tool of unscrupulous client]
Plea:	Guilty
Date of Hearing:	June 5, 2013
Panel:	<ul style="list-style-type: none">▪ Douglas Bedford (Chair)▪ James McLandress▪ Jim Wolfe (Public Representative)
Counsel:	<ul style="list-style-type: none">▪ Rocky Kravetsky for the Law Society of Manitoba▪ Gavin Wood for the Member
Disposition:	<ul style="list-style-type: none">▪ Fine of \$5,000.00▪ Costs of \$10,000.00

Integrity / Conflicting Interests

Facts

During the period from 2000 to 2009 Mr. Wawrykow acted for G.K. and his wife Mrs. S.L.K. on a number of matters, including real estate and commercial transactions.

In 2003 Mr. Wawrykow facilitated the completion of a purchase of a home by G.K. and Mrs. S.L.K. by lending them \$94,000.00 over three weeks. He withdrew the funds from his line of credit and received back from his clients the principle amount plus the interest on the line of credit. He did not benefit from the loan. Mr. Wawrykow failed to advise his clients to obtain independent legal advice with respect to the loan.

In 2006 commercial property was registered in the name of a corporation controlled by G.K., but whose sole officer, director and shareholder was Mr. Wawrykow. In order to facilitate a sale of the

property, Mr. Wawrykow caused the corporation to enter into a mortgage for \$200,000.00. The mortgagee was shown as Mr. Wawrykow's then law partner, when in fact the funds advanced came personally from Mr. Wawrykow and members of his family. Mr. Wawrykow did not advise G.K., Mrs. S.L.K. or the corporation to obtain independent legal advice in respect of the transaction.

G.K. and Mrs. S.L.K. separated from one another in October 2008 and in January 2009 G.K. initiated divorce proceedings. Immediately following the separation Mr. Wawrykow was instructed to register on the title to the marital home a \$700,000.00 mortgage that had been prepared and signed in 2005. No independent legal advice was provided to Mrs. S.L.K., the sole registered owner of the marital home, when the mortgage was signed. The mortgagee was the same corporation that was controlled by G.K., and the sole director, officer and shareholder of the corporation was Mr. Wawrykow. On December 31, 2008, Mr. Wawrykow resolved in his role as a director of the corporation to have shares in the corporation issued to Mrs. S.L.K. with the intent that they be the consideration for the mortgage on the marital home signed three years earlier. The corporation in fact had little value. In 2006 the corporation took a mortgage back from the purchaser of a piece of land. After the purchaser defaulted on the mortgage, the debt was resolved by G.K. with Mr. Wawrykow's assistance, when the purchaser transferred the secured assets to another corporation in which G.K. was the only shareholder. Mrs. S.L.K. was not advised of the transaction, the effect of which was that the assets of the corporation in which Mrs. S.L.K. had an interest became beneficially owned by G.K without consideration being paid to Mrs. S.L.K.

In January 2009, acting upon the instructions of G.K., Mr. Wawrykow wrote to Mrs. S.L.K. demanding payment of the \$700,000.00 mortgage, which had only recently been registered on the title to the marital home, and pursuant to which no monies had been advanced by the corporation.

In March 2009, Mr. Wawrykow instructed another lawyer to initiate foreclosure proceedings against Mrs. S.L.K. under the \$700,000.00 mortgage. He then drafted an agreement and a Transfer of Land wherein Mrs. S.L.K. agreed to transfer the marital home to the foreclosing mortgagee, the corporation controlled by G.K. Mr. Wawrykow referred G.K. and Mrs. S.L.K. for independent legal advice, however the counsel who ultimately provided legal advice was not told that Mrs. S.L.K. and G.K. had separated, only that they required legal advice independent of the foreclosing mortgagee corporation. Mr. Wawrykow proceeded to register the Transfer of Land, now signed by Mrs. S.L.K., thus transferring the home to the mortgagee corporation. Immediately thereafter Mr. Wawrykow retained a locksmith to change the locks on the marital home and advised Mrs. S.L.K. that she was no longer allowed on the property. The effect of the transaction was that Mrs. S.L.K. was deprived of ownership and possession of the marital home.

Plea

Mr. Wawrykow entered a guilty plea with respect to four charges of professional misconduct.

Decision and Comments

The Panel of the Discipline Committee found Mr. Wawrykow guilty of the charges based on his admissions and made a finding that he was guilty of professional misconduct.

Penalty

The Panel accepted the joint recommendation made by counsel for the Law Society and for Mr. Wawrykow. In determining the penalty, the Panel considered Mr. Wawrykow's signed

Undertaking to the Society in which he promised to retire from practice within two months and not apply to resume practice for at least two years. The Panel also took into account that in respect of the first two transactions, Mr. Wawrykow was motivated to assist clients who were in difficult straits, and not to take personal advantage of his clients' difficulties. In respect of the third series of transactions relating to the marital home, the Panel noted Mr. Wawrykow's explanation that he was deceived by his client G.K. and was in effect the tool or dupe of an unscrupulous client.

The Panel ordered that Mr. Wawrykow pay a fine of \$5,000.00 and \$10,000.00 towards the costs of the investigation and prosecution of the matter.