



# DISCIPLINE CASE *DIGEST*

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Case 13-07

<b>Member:</b>	Joseph Jean Marcel Romuald Gregoire
<b>Jurisdiction:</b>	Roblin, Manitoba
<b>Called to the Bar:</b>	June 25, 1974
<b>Particulars of Charges:</b>	Professional Misconduct (3 Counts): <ul style="list-style-type: none"><li>▪ Breach of c. 1 of the <i>Code</i> [integrity]</li><li>▪ Breach of c. 11 and Rule 2.06(1) of the <i>Code</i> [charged legal fees that were not fully disclosed]</li><li>▪ Breach of Rule 6.02(5) of the <i>Code</i> [failed to answer professional communications with reasonable promptness]</li></ul>
<b>Plea:</b>	Guilty
<b>Date of Hearing:</b>	November 6, 2013
<b>Panel:</b>	<ul style="list-style-type: none"><li>▪ William Gange (Chair)</li><li>▪ Patricia Fraser</li><li>▪ Jim Wolfe (Public Representative)</li></ul>
<b>Counsel:</b>	<ul style="list-style-type: none"><li>▪ Rocky Kravetsky for The Law Society of Manitoba</li><li>▪ Member Self Represented</li></ul>
<b>Disposition:</b>	<ul style="list-style-type: none"><li>▪ Fine of \$7,500.00</li><li>▪ Costs of \$7,500.00</li></ul>

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## Fees / Responsibility to Lawyers and Others / Integrity

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### Facts

In 2010 Mr. Gregoire was retained as the solicitor for an Estate. While acting for the Estate Mr. Gregoire issued five statements of account for fees totalling \$13,000.00 and paid each account out of Estate funds. Mr. Gregoire paid his accounts without providing notice to the beneficiaries or obtaining the consent of the residuary beneficiaries, or the approval of the court. Mr. Gregoire did not deliver Queen's Bench Form 74AA to each residuary beneficiary within 60 days after probate had been granted, nor at any time after that.

In November 2011 the solicitor for one of the residuary beneficiaries wrote to Mr. Gregoire requesting details as to the administration of the Estate and an accounting. When he received no response he sent two additional letters. The residuary beneficiary's solicitor did not receive a response from Mr. Gregoire until February 25, 2012, which was only after the residuary beneficiary's solicitor brought the matter to the attention of The Law Society.

The will drawn by Mr. Gregoire provided that the Executor of the Estate would receive 2% of the gross value of the Estate as an executor's fee. Based on the receipts ultimately received by Mr. Gregoire the fee would have been \$13,733.11. Mr. Gregoire paid out to the Executor a total of \$29,000.00 for executor's fees. Those payments were made without notice to the residuary beneficiaries and without their knowledge or court approval.

Mr. Gregoire was charged with professional misconduct for charging fees that were not fully disclosed, fair and reasonable, failing to answer professional communications with reasonable promptness and paying executor's fees in excess of those provided for in the will without the consent of the residuary beneficiaries.

### **Plea**

Mr. Gregoire entered a plea of guilty to all three counts of professional misconduct.

### **Decision and Comments**

The Panel found that Mr. Gregoire was guilty of professional misconduct.

### **Penalty**

The Panel accepted the joint recommendation made by Mr. Gregoire and counsel for the Law Society and ordered that he pay a fine of \$7,500.00 and \$7,500.00 as a contribution to the costs of the investigation and prosecution of the matter. The Panel further recommended that Mr. Gregoire take a refresher course offered by the Law Society with respect to estate administration.