



# DISCIPLINE CASE *DIGEST*

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Case 13- 11

<b>Member:</b>	Gordon Walter Katelnikoff
<b>Jurisdiction:</b>	Winnipeg, Manitoba
<b>Called to the Bar:</b>	June 24, 1975
<b>Particulars of Charges:</b>	Professional Misconduct (4 Counts): <ul style="list-style-type: none"><li>▪ Breach of Rules 5-42(1)(b) and 5-42(7) of the <i>Rules of the Law Society of Manitoba</i> [failing to maintain up to date trust records]</li><li>▪ Breach of Rule 5-42(2) of the <i>Rules of the Law Society of Manitoba</i> [failing to maintain monthly trust reconciliations]</li><li>▪ Breach of Rule 5-48.1(1)(a) of the <i>Rules of the Law Society of Manitoba</i> [failing to maintain proper and complete general records]</li><li>▪ Breach of Rule 5-55(a) of the <i>Rules of the Law Society of Manitoba</i> [early payment of real estate commissions]</li></ul>
<b>Plea:</b>	Guilty
<b>Date of Hearing:</b>	January 7, 2014
<b>Panel:</b>	<ul style="list-style-type: none"><li>▪ Lori Ferguson Sain (Chair)</li><li>▪ James Cox</li><li>▪ Neil Cohen (Public Representative)</li></ul>
<b>Counsel:</b>	<ul style="list-style-type: none"><li>▪ C. Kristin Dangerfield 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 \$5,000.00</li><li>▪ Costs of \$5,000.00</li></ul>

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## Breach of Accounting Rules

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### Facts

An Auditor Inspector with the Law Society conducted a spot audit of Mr. Katelnikoff's practice and determined that during the period between August 2009 and January 31, 2010 he had failed to maintain up to date trust records and supporting documentation for his pooled trust account, issued cheques which became stale dated and failed to issue replacements, failed to correct bank errors on bank reconciliations and provide explanations for those bank errors, and failed to properly maintain an accounts receivable ledger or other suitable system. For the months of

March through to August 2010, Mr. Katelnikoff failed to produce monthly trust reconciliations for his pooled trust account. During the period from September 2008 to December 5, 2009 Mr. Katelnikoff failed to maintain proper and complete general records in that he failed to record in his general account book of original entry the receipt of trust cheques payable to him. Mr. Katelnikoff paid real estate commissions on three occasions in 2009 before he was in a position to disburse the sale proceeds contrary to Rule 5-55(a) of the *Rules of the Law Society of Manitoba*.

### **Plea**

Mr. Katelnikoff entered a plea of guilty to each of the charges.

### **Decision and Comments**

The Panel considered the submission and authorities presented and found Mr. Katelnikoff guilty of professional misconduct. The Panel noted that the Law Society's Rules are not merely technical but are part of the Society's mandate to protect the public and must be taken seriously. The public must have confidence that when they entrust their money to lawyers it will be properly handled.

### **Penalty**

The Panel accepted the joint recommendation made by Mr. Katelnikoff and counsel for the Law Society and ordered that he pay a fine in the amount of \$5,000.00 and \$5,000.00 as a contribution to the costs of the investigation and prosecution of the matter.