



DISCIPLINE CASE *DIGEST*

Case 14-02

Member:	Lawrence Ramsay Crane, Q.C.
Jurisdiction:	Winnipeg, Manitoba
Called to the Bar:	June 26, 1968
Particulars of Charges:	Professional Misconduct (1 Count): <ul style="list-style-type: none">▪ Breach of Chapter 11 of the <i>Code of Professional Conduct</i> [failure to disclose fees]
Plea:	Guilty
Date of Hearing:	May 8, 2014
Panel:	<ul style="list-style-type: none">▪ Grant Mitchell, Q.C. (Chair)▪ E. William Olson, Q.C.▪ Jim Wolfe (Public Representative)
Counsel:	<ul style="list-style-type: none">▪ C. Kristin Dangerfield for The Law Society of Manitoba▪ Steve Vincent for the Member
Disposition:	<ul style="list-style-type: none">▪ Fine of \$3,500.00▪ Costs of \$3,000.00

Failure to Disclose Fees

Facts

Mr. Crane's client was a permanent resident of Arizona and the sole beneficiary and executor of his sister's estate. While the executor was in Winnipeg for the funeral in September 2005, he and Mr. Crane entered into a handwritten retainer agreement that appointed Mr. Crane as solicitor of the estate and as his client's 'agent' in respect to the deceased's estate. Mr. Crane provided legal services, performed virtually all of the duties of the executor of the estate and also provided unrelated services to the executor.

Queen's Bench Rule 74.14 sets out the tariff that prescribes the legal fees payable on an estate. Additional fees are to be assessed based on time spent, complexity of the matter, results achieved, and value of the estate. The executor was charged fees in excess of these tariffs. Mr. Crane believed that he provided the executor with Form 74AA and that he had discussed his duties and responsibilities as a solicitor and as agent for the executor of the estate. There is no record in Mr. Crane's file of Form 74AA being provided to or mailed to the executor. All services (legal and non-legal) provided by Mr. Crane were described in statement of accounts and billed at the rate of \$200.00 per hour, which the executor had agreed to pay Mr. Crane. The executor signed Orders to Pay his fees.

Mr. Crane failed to ensure that he obtained the informed consent of the executor in that he charged fees that exceeded those prescribed by the tariff based on the size of the estate, he did not distinguish the types of work billed provided in his Statements of Account, he failed to advise the executor of the maximum amount of legal fees permitted by the tariff on the estate, and he failed to advise the executor in writing of the basis that fees for services performed on an estate are to be assessed.

Plea

Mr. Crane entered a plea of guilty to a single charge of having failed to charge a fee that was not fully disclosed contrary to Chapter 11 of the *Code of Professional Conduct*.

Decision and Comments

The Panel of the Discipline Committee unanimously accepted the joint recommendation submitted by Counsel for the Society and Counsel for Mr. Crane. The Panel noted that a number of mitigating factors led it to accept the joint recommendation even though a harsher penalty might have been imposed on the member in order to protect the public interest.

Penalty

The Panel accepted the joint recommendation made by the parties with respect to penalty and ordered that Mr. Crane:

- (a) pay a fine in the amount of \$3,500.00;
- (b) pay the sum of \$3,000.00 to the Society as a contribution toward the costs associated with the investigation, prosecution and hearing of this matter.