



# DISCIPLINE CASE *DIGEST*

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Case 14-06

<b>Member:</b>	David Michael Bradley
<b>Jurisdiction:</b>	Winnipeg, Manitoba
<b>Called to the Bar:</b>	June 20, 1991
<b>Particulars of Charges:</b>	Professional Misconduct (4 Counts): <ul style="list-style-type: none"><li>▪ Breach of Rule 2.1-1 of the <i>Code of Professional Conduct</i> [integrity] [x2]</li><li>▪ Breach of Rule 3.2-1 of the <i>Code of Professional Conduct</i> [quality of service]</li><li>▪ Breach of Rule 7.2-5 of the <i>Rules of The Law Society of Manitoba</i> [duty to lawyers]</li></ul>
<b>Plea:</b>	Guilty
<b>Date of Hearing:</b>	January 13, 2015
<b>Panel:</b>	<ul style="list-style-type: none"><li>▪ Garth Smorang, Q.C. (Chair)</li><li>▪ Lori Ferguson Sain</li><li>▪ Lorne Gibson (Public Representative)</li></ul>
<b>Counsel:</b>	<ul style="list-style-type: none"><li>▪ Darcia A.C. Senft for The Law Society of Manitoba</li><li>▪ Steve Vincent for the Member</li></ul>
<b>Disposition:</b>	<ul style="list-style-type: none"><li>▪ Suspension for a one year period commencing March 1, 2015</li><li>▪ The member's practicing certificate be cancelled and subject to the following conditions:<ul style="list-style-type: none"><li>(i) Must continue to receive counselling for so long as recommended by his psychologist and comply with any treatment prescribed by his psychologist;</li><li>(ii) Must authorize and direct his psychologist to provide to the Society a written report every 4 months confirming he is complying with the above condition; and</li><li>(iii) Upon resumption of active practice, he must practice under supervision for a period of one year by a supervisor approved by the Law Society, with quarterly reports being provided to the Society and any concerns brought to the Society's immediate attention.</li></ul></li><li>▪ Costs of \$5,988.00</li></ul>

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## **Integrity / Quality of Service / Duty to Lawyers**

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### **Facts**

Mr. Bradley was retained by a client with respect to a civil matter. Over a period of approximately ten years, commencing in June 2002, Mr. Bradley misled his clients and opposing counsel on numerous occasions with respect to the status of his clients' civil matter after filing a Statement of Claim. Mr. Bradley misled his clients by fabricating details of fictitious motions and court orders; he made multiple misleading representations about the causes for delay of the matter; he informed his clients that they had been awarded costs by the court; he repeatedly made representations to his client that he was attending to their matter when he had made no efforts to advance his clients' position before the Court and with opposing counsel; and he ultimately consented to an order dismissing his clients' Statement of Claim without his clients' knowledge while continuing to misrepresent the status of the matter to his clients. Mr. Bradley misled opposing counsel by leading them to believe that his clients knew the status of the case and purporting to be acting on the instructions of his clients when, in fact, he had none.

### **Plea**

Mr. Bradley entered a plea of guilty to the charges.

### **Decision and Comments**

The Panel of the Discipline Committee found Mr. Bradley guilty of the charges based on his admissions and made a finding that he was guilty of professional misconduct. The Panel expressed its view that Mr. Bradley's behavior in this matter, combined with his previous caution for similar behavior, put him on the "brink of disbarment". If there were to be any further charges proven in the future against him evidencing similar behavior there would be a serious question about his fitness to practice law.

### **Penalty**

The Panel accepted the joint recommendation made by Counsel for the Society and Counsel for Mr. Bradley in respect of an appropriate penalty. The Panel made an order that:

- (a) Mr. Bradley be suspended from the practice of law for a period of one year commencing March 1, 2015;
- (b) Mr. Bradley's practicing certificate be cancelled and subject to the following conditions:
  - (i) Mr. Bradley must continue to receive counselling for so long as is recommended by his psychologist and comply with any treatment prescribed by his psychologist;
  - (ii) Mr. Bradley must authorize and direct his psychologist to provide to the Society a written report every 4 months confirming that he continues to receive counselling and is complying with any prescribed treatment and immediately provide to the Society a written report if it appears that he is not complying with recommendations regarding counselling or treatment or if he is no longer receiving counselling or treatment; and
  - (iii) Upon his resumption of active practice, Mr. Bradley must practice

under supervision for a period of one year by a supervisor approved by the Law Society, with quarterly reports being provided to the Society and any concerns being brought to the Society's immediate attention.

- (c) Concurrent with the commencement of his suspension, Mr. Bradley will be required to pay costs to the Society in the amount of \$5,988.00 as a contribution towards the costs associated with the investigation, prosecution, and hearing of this matter.